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LEGISLATIVE ASSEMBLY
OF ONTARIO

SECOND SESSION
THIRTY-FOURTH PARLIAMENT

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

SESSION

April 25 to July 26, 1989
October 10 to December 20, 1989
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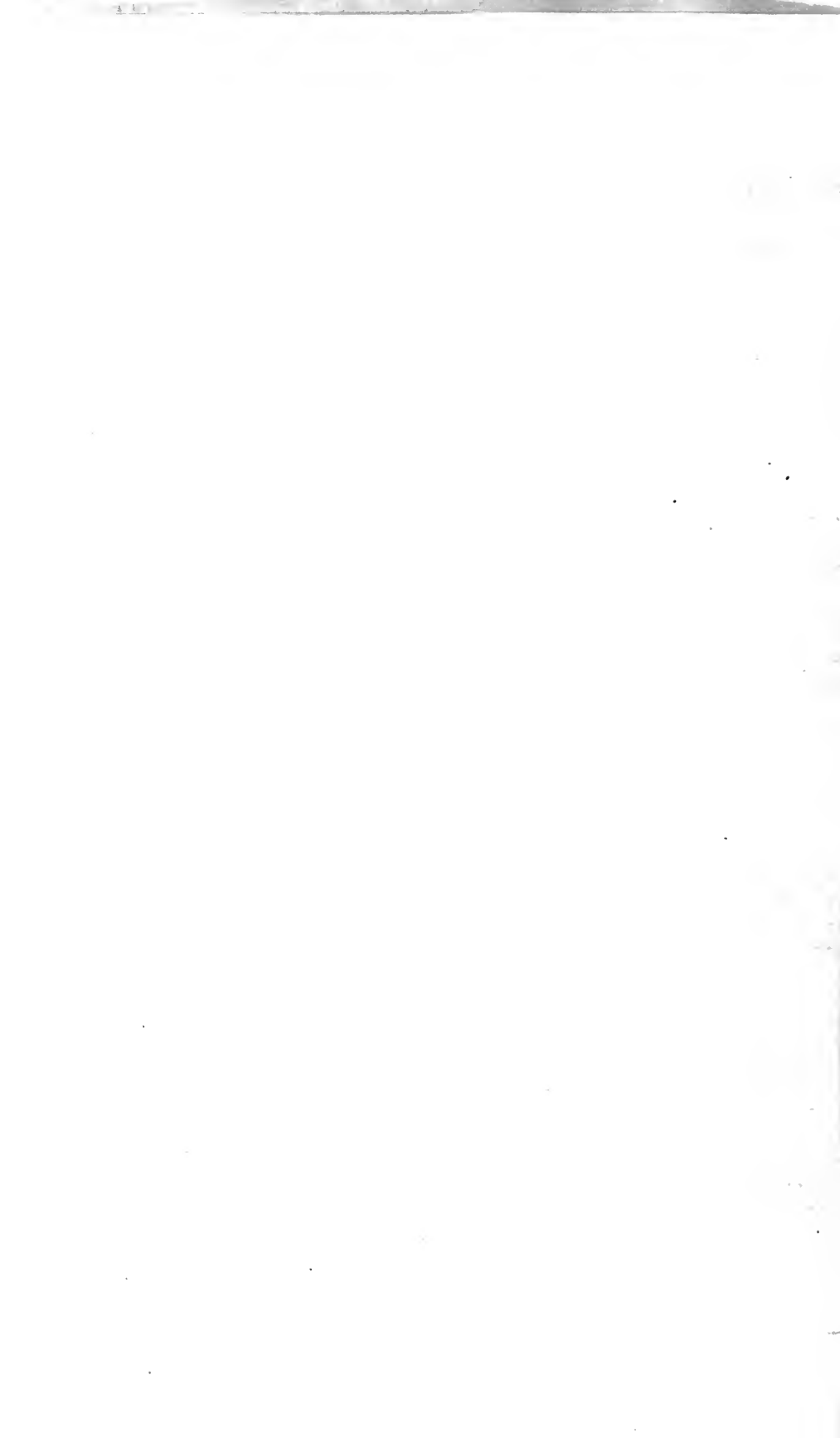
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Bill 69

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

1st Reading October 23rd, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Section 90 of the Act authorizes the Rules Committee of the Supreme and District Courts to make practice and procedural rules. The new clauses set out other areas in respect of which rules can be made.

Subsection 2. Self-explanatory.

SECTION 2. The new section 128a of the Act is a codification of the current practice.

SECTION 3. Section 129 of the Act provides for periodic (structured) payments if all parties consent and for a review and revision of an order for such payments. The section is rewritten retaining the current concepts while providing structured payments to be imposed where the plaintiff requests a gross up to compensate for income tax payable.

SECTION 4. The new section 130a of the Act allows trial judges in jury cases to express an opinion to the jury as to the range of compensation. The new section 130b allows an appeal court to substitute its assessment of damages for that of a jury. The new section 130c permits payments to a plaintiff without prejudice to the defendant either as an admission of liability or otherwise.

SECTION 5. Clause 137 (1) (d) is amended so that the prejudgment interest rate is the bank rate rounded up or down to the nearest tenth of a percentage point.

SECTION 6. Subsections 138 (1) and (1a) of the Act provide for the payment of prejudgment interest. This subsection is amended to remove the distinction as to whether the claim is for a liquidated or an unliquidated amount. Subsection 138 (2) has been reworded to clarify the meaning. Subsection 138 (3) sets out when prejudgment interest is not to be paid. The new clause is self-explanatory.

SECTION 7. Section 140 of the Act gives the court a discretion in allowing interest. The revised section sets out matters for the court to consider when considering interest payments.

Bill 69

1989

**An Act to amend the
Courts of Justice Act, 1984**

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

1.—(1) Subsection 90 (1) of the *Courts of Justice Act, 1984*, being chapter 11, as amended by the Statutes of Ontario, 1984, chapter 64, section 7, is further amended by adding thereto the following clauses:

- (va) the method of calculating the amount to be included in an award of damages for future care to offset liability for income tax;
- (vb) the discount rate with respect to the rate of interest on damages for non-pecuniary loss.

(2) Section 90 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 7, is further amended by adding thereto the following subsection:

(3) Rules made under clauses (1) (q), (va) and (vb) shall be reviewed at least once in every four-year period. Idem

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

128a. A court, when making an award for damages for future care, shall include an amount to offset liability for income tax on income from investment of the award. Future care

3. Section 129 of the said Act is repealed and the following substituted therefor:

129.—(1) In a proceeding where damages are claimed for personal injuries or under Part V of the *Family Law Act, 1986* for loss resulting from the injury to or death of a person, the court, Periodic payment and review of damages
1986, c. 4

- (a) if all affected parties consent, may order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just; and
- (b) if the plaintiff requests an increase in the award to compensate for income tax payable on the award, shall order the defendant to pay all or part of the award periodically on such terms as the court considers just.

No order

(2) An order under clause (1) (b) shall not be made if the parties otherwise consent or if the court is of the opinion that the order would not be in the best interest of the plaintiff, having regard to all the circumstances of the case.

Future review

(3) In an order made under this section, the court may, with the consent of all the affected parties, order that the award be subject to future review and revision in such circumstances and on such terms as the court considers just.

4. The said Act is further amended by adding thereto the following sections:

Guidance and submissions

130a. In an action for damages for personal injury, the court may give guidance to the jury on the amount of damages and the parties may make submissions to the jury on the amount of damages.

Power of court on appeal

130b. On an appeal from an award for damages for personal injury, the court may, if it considers it just, substitute its own assessment of the damages.

Advance payments

130c.—(1) If a defendant makes a payment to a plaintiff who is or alleges to be entitled to recover from the defendant, the payment constitutes, to the extent of the payment, a release by the plaintiff or the plaintiff's personal representative of any claim that the plaintiff or the plaintiff's personal representative or any person claiming through or under the plaintiff or by virtue of Part V of the *Family Law Act, 1986* may have against the defendant.

1986, c. 4

Idem

(2) Nothing in this section precludes the defendant making the payment from demanding, as a condition precedent to such payment, a release from the plaintiff or the plaintiff's personal representative or any other person to the extent of such payment.

Payment to be taken into account

(3) The court shall adjudicate upon the matter first without reference to the payment but, in giving judgment, the pay-

ment shall be taken into account and the plaintiff shall only be entitled to judgment for the net amount, if any.

(4) The fact of any payment shall not be disclosed to the judge or jury until after judgment but before formal entry thereof.

Disclosure

5. Clause 137 (1) (d) of the said Act is repealed and the following substituted therefor:

(d) "prejudgment interest rate" means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the proceeding was commenced, rounded to the nearest tenth of a percentage point.

6.—(1) Subsections 138 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) A person who is entitled to an order for the payment of money is entitled to claim and have included in the order an award of interest thereon at the prejudgment interest rate, calculated from the date the cause of action arose to the date of the order.

Prejudgment interest

(1a) Despite subsection (1), the rate of interest on damages for non-pecuniary loss in an action for personal injury shall be the discount rate determined by the Rules of Civil Procedure.

Exception for non-pecuniary loss on personal injury

(2) If the order includes an amount for past pecuniary loss, the interest calculated under subsection (1) shall be calculated on the total past pecuniary loss at the end of each six-month period and at the date of the order.

Special damages

(2) Subsection 138 (3) of the said Act is amended by adding thereto the following clause:

(da) with respect to the amount of any advance payment that has been made towards settlement of the claim, for the period after the advance payment has been made.

7. Section 140 of the said Act is repealed and the following substituted therefor:

140.—(1) The court may, where it considers it just to do so, in respect of the whole or any part of the amount on which interest is payable under section 138 or 139,

Discretion of court

(a) disallow interest under either section;

- (b) allow interest at a rate higher or lower than that provided in either section;
- (c) allow interest for a period other than that provided in either section.

Idem

(2) For the purpose of subsection (1), the court shall take into account,

- (a) changes in market interest rates;
- (b) the circumstances of the case;
- (c) the fact that an advance payment was made;
- (d) the circumstances of medical disclosure by the plaintiff;
- (e) the amount claimed and the amount recovered in the proceeding;
- (f) the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding;
- (g) the fact that a step in the proceeding was improper, vexatious or unnecessary;
- (h) the fact that a step in the proceedings was taken through negligence, mistake or excessive caution;
- (i) the fact that a party denied or refused to admit anything that should have been admitted; and
- (j) any other relevant consideration.

Transition

8. The amendments to the *Courts of Justice Act, 1984*, enacted by this Act, apply to causes arising after the 23rd day of October, 1989.

Commence-
ment

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

Short title

10. The short title of this Act is the *Courts of Justice Amendment Act, 1989*.

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1848 68

Bill 69

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

1st Reading October 23rd, 1989
2nd Reading December 11th, 1989
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

SECTION 1. Continues the amendments made to section 90 after the coming into force of the Statutes of Ontario, 1989, chapter 55.

SECTION 2.—Subsection 1. Section 90 of the Act authorizes the Rules Committee of the Supreme and District Courts to make practice and procedural rules. The new clauses set out other areas in respect of which rules can be made.

Subsection 2. Self-explanatory.

SECTION 3. Section 129 of the Act provides for periodic (structured) payments if all parties consent and for a review and revision of an order for such payments. The section is rewritten retaining the current concepts while providing structured payments to be imposed where the plaintiff requests a gross up to compensate for income tax payable.

SECTION 4. The new section 130a of the Act allows trial judges in jury cases to express an opinion to the jury as to the range of compensation. The new section 130b allows an appeal court to substitute its assessment of damages for that of a jury. The new section 130c permits payments to a plaintiff without prejudice to the defendant either as an admission of liability or otherwise.

SECTION 5. Clause 137 (1) (d) is amended so that the prejudgment interest rate is the bank rate rounded up or down to the nearest tenth of a percentage point.

SECTION 6. Subsections 138 (1) and (1a) of the Act provide for the payment of prejudgment interest. This subsection is amended to remove the distinction as to whether the claim is for a liquidated or an unliquidated amount. Subsection 138 (2) has been reworded to clarify the meaning. Subsection 138 (3) sets out when prejudgment interest is not to be paid. The new clause is self-explanatory.

SECTION 7. Section 140 of the Act gives the court a discretion in allowing interest. The revised section sets out matters for the court to consider when considering interest payments.

Bill 69

1989

**An Act to amend the
Courts of Justice Act, 1984**

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

1.—(1) Subsection 65 (2) of the *Courts of Justice Act, 1984*, being chapter 11, as enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clauses:

- (ua) the method of calculating the amount to be included in an award of damages to offset any liability for income tax on income from investment of the award;
- (ub) the discount rate with respect to the rate of interest on damages for non-pecuniary loss.

(2) Section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following subsection:

(4) Rules made under clauses (1) (p), (ua) and (ub) shall be reviewed at least once in every four-year period. Idem

2.—(1) Subsection 90 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 7, is further amended by adding thereto the following clauses:

- (va) the method of calculating the amount to be included in an award of damages to offset any liability for income tax on income from investment of the award;
- (vb) the discount rate with respect to the rate of interest on damages for non-pecuniary loss.

(2) Section 90 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 7, is further amended by adding thereto the following subsection:

Idem

(3) Rules made under clauses (1) (q), (va) and (vb) shall be reviewed at least once in every four-year period.

3. Section 129 of the said Act is repealed and the following substituted therefor:

Periodic
payment and
review of
damages
1986, c. 4

129.—(1) In a proceeding where damages are claimed for personal injuries or under Part V of the *Family Law Act, 1986* for loss resulting from the injury to or death of a person, the court,

- (a) if all affected parties consent, may order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just; and
- (b) if the plaintiff requests that an amount be included in the award to compensate for income tax payable on the award, shall order the defendant to pay all or part of the award periodically on such terms as the court considers just.

No order

(2) An order under clause (1) (b) shall not be made if the parties otherwise consent or if the court is of the opinion that the order would not be in the best interest of the plaintiff, having regard to all the circumstances of the case.

Best interest

(3) In considering the best interest of the plaintiff, the court shall take into account,

- (a) whether the defendant has sufficient means to fund an adequate scheme of periodic payments;
- (b) whether the plaintiff has a plan or a method of payment that is better able to meet the interests of the plaintiff than periodic payments by the defendant; and
- (c) whether a scheme of periodic payments is practicable having regard to all the circumstances of the case.

Future
review

(4) In an order made under this section, the court may, with the consent of all the affected parties, order that the award be subject to future review and revision in such circumstances and on such terms as the court considers just.

(5) If the court does not make an order for periodic payment under subsection (1), it shall make an award for damages that shall include an amount to offset liability for income tax on income from investment of the award.

Amount to offset liability for income tax

4. The said Act is amended by adding thereto the following sections:

130a. In an action for damages for personal injury, the court may give guidance to the jury on the amount of damages and the parties may make submissions to the jury on the amount of damages.

Guidance and submissions

130b. On an appeal from an award for damages for personal injury, the court may, if it considers it just, substitute its own assessment of the damages.

Power of court on appeal

130c.—(1) If a defendant makes a payment to a plaintiff who is or alleges to be entitled to recover from the defendant, the payment constitutes, to the extent of the payment, a release by the plaintiff or the plaintiff's personal representative of any claim that the plaintiff or the plaintiff's personal representative or any person claiming through or under the plaintiff or by virtue of Part V of the *Family Law Act, 1986* may have against the defendant.

Advance payments

1986, c. 4

(2) Nothing in this section precludes the defendant making the payment from demanding, as a condition precedent to such payment, a release from the plaintiff or the plaintiff's personal representative or any other person to the extent of such payment.

Idem

(3) The court shall adjudicate upon the matter first without reference to the payment but, in giving judgment, the payment shall be taken into account and the plaintiff shall only be entitled to judgment for the net amount, if any.

Payment to be taken into account

(4) The fact of any payment shall not be disclosed to the judge or jury until after judgment but shall be disclosed before formal entry thereof.

Disclosure

5. Clause 137 (1) (d) of the said Act is repealed and the following substituted therefor:

(d) "prejudgment interest rate" means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the proceeding was commenced, rounded to the nearest tenth of a percentage point.

6.—(1) Subsections 138 (1) and (2) of the said Act are repealed and the following substituted therefor:

Prejudgment
interest

(1) A person who is entitled to an order for the payment of money is entitled to claim and have included in the order an award of interest thereon at the prejudgment interest rate, calculated from the date the cause of action arose to the date of the order.

Exception for
non-pe-
cuniary loss
on personal
injury

(1a) Despite subsection (1), the rate of interest on damages for non-pecuniary loss in an action for personal injury shall be the discount rate determined by the Rules of Civil Procedure.

Special
damages

(2) If the order includes an amount for past pecuniary loss, the interest calculated under subsection (1) shall be calculated on the total past pecuniary loss at the end of each six-month period and at the date of the order.

(2) Subsection 138 (3) of the said Act is amended by adding thereto the following clause:

(da) with respect to the amount of any advance payment that has been made towards settlement of the claim, for the period after the advance payment has been made.

7. Section 140 of the said Act is repealed and the following substituted therefor:

Discretion of
court


140.—(1) The court may, where it considers it just to do so, in respect of the whole or any part of the amount on which interest is payable under section 138 or 139,

- (a) disallow interest under either section;
- (b) allow interest at a rate higher or lower than that provided in either section;
- (c) allow interest for a period other than that provided in either section.

Idem

(2) For the purpose of subsection (1), the court shall take into account,

- (a) changes in market interest rates;
- (b) the circumstances of the case;
- (c) the fact that an advance payment was made;

- (d) the circumstances of medical disclosure by the plaintiff;
- (e) the amount claimed and the amount recovered in the proceeding;
- (f) the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding; and
- (g) any other relevant consideration. 

8.—(1) The amendments to the *Courts of Justice Act, 1984*, as enacted by this Act, except for the amendments enacted by section 1, section 4 and subsection 6 (2), apply to causes of action arising after the 23rd day of October, 1989. Transition

(2) The amendments to the *Courts of Justice Act, 1984*, as enacted by section 4 and subsection 6 (2) of this Act, apply to, Idem

- (a) actions commenced but not settled or adjudicated upon before this Act comes into force; and
- (b) causes of action arising after this Act comes into force.

(3) Section 1 comes into force on the day that section 2 of the *Courts of Justice Amendment Act, 1989*, being chapter 55, is proclaimed in force. Commencement, section 1

2. Subject to subsection 8 (3), this Act comes into force on the day it receives Royal Assent. Commencement, general

10. The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title



Bill 69

*(Chapter 67
Statutes of Ontario, 1989)*

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	October 23rd, 1989
<i>2nd Reading</i>	December 11th, 1989
<i>3rd Reading</i>	December 14th, 1989
<i>Royal Assent</i>	December 14th, 1989

Bill 69

1989

**An Act to amend the
Courts of Justice Act, 1984**

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

1.—(1) Subsection 65 (2) of the *Courts of Justice Act, 1984*, being chapter 11, as enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clauses:

(ua) the method of calculating the amount to be included in an award of damages to offset any liability for income tax on income from investment of the award;

(ub) the discount rate with respect to the rate of interest on damages for non-pecuniary loss.

(2) Section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following subsection:

(4) Rules made under clauses (1) (p), (ua) and (ub) shall be reviewed at least once in every four-year period. ^{Idem}

2.—(1) Subsection 90 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 7, is further amended by adding thereto the following clauses:

(va) the method of calculating the amount to be included in an award of damages to offset any liability for income tax on income from investment of the award;

(vb) the discount rate with respect to the rate of interest on damages for non-pecuniary loss.

(2) Section 90 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 7, is further amended by adding thereto the following subsection:

Idem

(3) Rules made under clauses (1) (q), (va) and (vb) shall be reviewed at least once in every four-year period.

3. Section 129 of the said Act is repealed and the following substituted therefor:

Periodic
payment and
review of
damages
1986, c. 4

129.—(1) In a proceeding where damages are claimed for personal injuries or under Part V of the *Family Law Act, 1986* for loss resulting from the injury to or death of a person, the court,

- (a) if all affected parties consent, may order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just; and
- (b) if the plaintiff requests that an amount be included in the award to compensate for income tax payable on the award, shall order the defendant to pay all or part of the award periodically on such terms as the court considers just.

No order

(2) An order under clause (1) (b) shall not be made if the parties otherwise consent or if the court is of the opinion that the order would not be in the best interest of the plaintiff, having regard to all the circumstances of the case.

Best interest

(3) In considering the best interest of the plaintiff, the court shall take into account,

- (a) whether the defendant has sufficient means to fund an adequate scheme of periodic payments;
- (b) whether the plaintiff has a plan or a method of payment that is better able to meet the interests of the plaintiff than periodic payments by the defendant; and
- (c) whether a scheme of periodic payments is practicable having regard to all the circumstances of the case.

Future
review

(4) In an order made under this section, the court may, with the consent of all the affected parties, order that the award be subject to future review and revision in such circumstances and on such terms as the court considers just.

(5) If the court does not make an order for periodic payment under subsection (1), it shall make an award for damages that shall include an amount to offset liability for income tax on income from investment of the award.

Amount to offset liability for income tax

4. The said Act is amended by adding thereto the following sections:

130a. In an action for damages for personal injury, the court may give guidance to the jury on the amount of damages and the parties may make submissions to the jury on the amount of damages.

Guidance and submissions

130b. On an appeal from an award for damages for personal injury, the court may, if it considers it just, substitute its own assessment of the damages.

Power of court on appeal

130c.—(1) If a defendant makes a payment to a plaintiff who is or alleges to be entitled to recover from the defendant, the payment constitutes, to the extent of the payment, a release by the plaintiff or the plaintiff's personal representative of any claim that the plaintiff or the plaintiff's personal representative or any person claiming through or under the plaintiff or by virtue of Part V of the *Family Law Act, 1986* may have against the defendant.

Advance payments

1986, c. 4

(2) Nothing in this section precludes the defendant making the payment from demanding, as a condition precedent to such payment, a release from the plaintiff or the plaintiff's personal representative or any other person to the extent of such payment.

Idem

(3) The court shall adjudicate upon the matter first without reference to the payment but, in giving judgment, the payment shall be taken into account and the plaintiff shall only be entitled to judgment for the net amount, if any.

Payment to be taken into account

(4) The fact of any payment shall not be disclosed to the judge or jury until after judgment but shall be disclosed before formal entry thereof.

Disclosure

5. Clause 137 (1) (d) of the said Act is repealed and the following substituted therefor:

(d) "prejudgment interest rate" means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the proceeding was commenced, rounded to the nearest tenth of a percentage point.

6.—(1) Subsections 138 (1) and (2) of the said Act are repealed and the following substituted therefor:

Prejudgment
interest

(1) A person who is entitled to an order for the payment of money is entitled to claim and have included in the order an award of interest thereon at the prejudgment interest rate, calculated from the date the cause of action arose to the date of the order.

Exception for
non-pe-
cuniary loss
on personal
injury

(1a) Despite subsection (1), the rate of interest on damages for non-pecuniary loss in an action for personal injury shall be the discount rate determined by the Rules of Civil Procedure.

Special
damages

(2) If the order includes an amount for past pecuniary loss, the interest calculated under subsection (1) shall be calculated on the total past pecuniary loss at the end of each six-month period and at the date of the order.

(2) Subsection 138 (3) of the said Act is amended by adding thereto the following clause:

(da) with respect to the amount of any advance payment that has been made towards settlement of the claim, for the period after the advance payment has been made.

7. Section 140 of the said Act is repealed and the following substituted therefor:

Discretion of
court

140.—(1) The court may, where it considers it just to do so, in respect of the whole or any part of the amount on which interest is payable under section 138 or 139,

- (a) disallow interest under either section;
- (b) allow interest at a rate higher or lower than that provided in either section;
- (c) allow interest for a period other than that provided in either section.

Idem

(2) For the purpose of subsection (1), the court shall take into account,

- (a) changes in market interest rates;
- (b) the circumstances of the case;
- (c) the fact that an advance payment was made;

- (d) the circumstances of medical disclosure by the plaintiff;
- (e) the amount claimed and the amount recovered in the proceeding;
- (f) the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding; and
- (g) any other relevant consideration.

8.—(1) The amendments to the *Courts of Justice Act, 1984*, as enacted by this Act, except for the amendments enacted by section 1, section 4 and subsection 6 (2), apply to causes of action arising after the 23rd day of October, 1989. Transition

(2) The amendments to the *Courts of Justice Act, 1984*, as enacted by section 4 and subsection 6 (2) of this Act, apply to, Idem

- (a) actions commenced but not settled or adjudicated upon before this Act comes into force; and
- (b) causes of action arising after this Act comes into force.

(3) Section 1 comes into force on the day that section 2 of the *Courts of Justice Amendment Act, 1989*, being chapter 55, is proclaimed in force. Commencement,
section 1

9. Subject to subsection 8 (3), this Act comes into force on the day it receives Royal Assent. Commencement,
general

10. The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title

The following table shows the results of the experiment. The first column is the number of trials, the second column is the number of correct responses, and the third column is the percentage of correct responses.

Number of Trials	Number of Correct Responses	Percentage of Correct Responses
10	8	80%
20	15	75%
30	22	73.3%
40	28	70%
50	35	70%
60	42	70%
70	48	68.6%
80	55	68.8%
90	62	68.9%
100	68	68%

As can be seen from the table, the percentage of correct responses remains relatively constant, fluctuating between 68% and 80%. This suggests that the subjects were able to maintain a consistent level of performance throughout the experiment.

Bill 70

An Act to amend the Evidence Act

The Hon. I. Scott
Attorney General

1st Reading October 23rd, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Section 52 of the *Evidence Act* is re-enacted so that it applies to a wide range of health practitioners.

A report of a practitioner that is intended to be put in evidence will now be automatically given to all parties to the action together with all other reports of the practitioner that relate to the action. These additional reports will also be admissible in evidence in the action.

The section also provides that all practitioners who give evidence in court are subject to the same rules.

Bill 70

1989

An Act to amend the Evidence Act

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

1. Section 52 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

52.—(1) In this section,

Definition

“practitioner” means,

- | | |
|---|------------------------|
| (a) a person licensed to practise under the <i>Health Disciplines Act</i> , | R.S.O. 1980,
c. 196 |
| (b) a drugless practitioner registered under the <i>Drugless Practitioners Act</i> , | R.S.O. 1980,
c. 127 |
| (c) a denture therapist under the <i>Denture Therapists Act</i> , | R.S.O. 1980,
c. 115 |
| (d) a chiropodist registered under the <i>Chiropody Act</i> , | R.S.O. 1980,
c. 72 |
| (e) a registered psychologist under the <i>Psychologists Registration Act</i> , or | R.S.O. 1980,
c. 404 |
| (f) a person licensed or registered to practise in another part of Canada under an Act that is similar to an Act referred to in clause (a), (b), (c), (d) or (e). | |

(2) A report obtained by or prepared for a party to an action and signed by a practitioner is, with leave of the court and after at least seven days notice has been given to all other parties, admissible in evidence in the action.

Medical reports

(3) Unless otherwise ordered by the court, a party to an action is entitled, upon notice being given under subsection

Entitlement

(2), to a copy of the report together with any other report of the practitioner that relates to the action.

Other reports (4) A report that is produced under subsection (3) is, with leave of the court, admissible in evidence in the action.

Report required (5) Except by leave of the judge presiding at the trial, a practitioner who signs a report with respect to a party shall not give evidence at the trial unless the report is given to all other parties in accordance with subsection (2).

If practitioner called unnecessarily (6) If a practitioner is required to give evidence in person in an action and the court is of the opinion that the evidence could have been produced as effectively by way of a report, the court may order the party that required the attendance of the practitioner to pay as costs therefor such sum as the court considers appropriate.

Transition **2. The amendments to the *Evidence Act*, enacted by this Act, apply to causes of action arising after the 23rd day of October, 1989.**

Commencement **3. This Act comes into force on the day it receives Royal Assent.**

Short title **4. The short title of this Act is the *Evidence Amendment Act, 1989*.**

Bill 70

An Act to amend the Evidence Act

The Hon. I. Scott
Attorney General

1st Reading October 23rd, 1989
2nd Reading December 11th, 1989
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

Section 52 of the *Evidence Act* is re-enacted so that it applies to a wide range of health practitioners.

A report of a practitioner that is intended to be put in evidence will now be automatically given to all parties to the action together with all other reports of the practitioner that relate to the action. These additional reports will also be admissible in evidence in the action.

The section also provides that all practitioners who give evidence in court are subject to the same rules.

Bill 70

1989

An Act to amend the Evidence Act

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

1. Section 52 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

52.—(1) In this section,

Definition

“practitioner” means,

- | | |
|---|------------------------|
| (a) a person licensed to practise under the <i>Health Disciplines Act</i> , | R.S.O. 1980,
c. 196 |
| (b) a drugless practitioner registered under the <i>Drugless Practitioners Act</i> , | R.S.O. 1980,
c. 127 |
| (c) a denture therapist under the <i>Denture Therapists Act</i> , | R.S.O. 1980,
c. 115 |
| (d) a chiropodist registered under the <i>Chiropody Act</i> , | R.S.O. 1980,
c. 72 |
| (e) a registered psychologist under the <i>Psychologists Registration Act</i> , or | R.S.O. 1980,
c. 404 |
| (f) a person licensed or registered to practise in another part of Canada under an Act that is similar to an Act referred to in clause (a), (b), (c), (d) or (e). | |

(2) A report obtained by or prepared for a party to an action and signed by a practitioner and any other report of the practitioner that relates to the action are, with leave of the court and after at least ten days notice has been given to all other parties, admissible in evidence in the action.

Medical reports

(3) Unless otherwise ordered by the court, a party to an action is entitled, at the time that notice is given under sub-

Entitlement

section (2), to a copy of the report together with any other report of the practitioner that relates to the action. ▲

Report
required

◆ (4) Except by leave of the judge presiding at the trial, a practitioner who signs a report with respect to a party shall not give evidence at the trial unless the report is given to all other parties in accordance with subsection (2).

If practi-
tioner called
unnecessarily

(5) If a practitioner is required to give evidence in person in an action and the court is of the opinion that the evidence could have been produced as effectively by way of a report, the court may order the party that required the attendance of the practitioner to pay as costs therefor such sum as the court considers appropriate.

Transition

▼ **2. The amendments to the *Evidence Act*, as enacted by this Act, apply to,**

- (a) actions commenced but not settled or adjudicated upon before this Act comes into force; and
- (b) causes of action arising after this Act comes into force. ▲

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 *Evidence Amendment Act, 1989*.

Bill 70

*(Chapter 68
Statutes of Ontario, 1989)*

An Act to amend the Evidence Act

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	October 23rd, 1989
<i>2nd Reading</i>	December 11th, 1989
<i>3rd Reading</i>	December 14th, 1989
<i>Royal Assent</i>	December 14th, 1989

Bill 70

1989

An Act to amend the Evidence Act

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

1. Section 52 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

52.—(1) In this section,

Definition

“practitioner” means,

- (a) a person licensed to practise under the *Health Disciplines Act*, R.S.O. 1980, c. 196
- (b) a drugless practitioner registered under the *Drugless Practitioners Act*, R.S.O. 1980, c. 127
- (c) a denture therapist under the *Denture Therapists Act*, R.S.O. 1980, c. 115
- (d) a chiroprapist registered under the *Chiropody Act*, R.S.O. 1980, c. 72
- (e) a registered psychologist under the *Psychologists Registration Act*, or R.S.O. 1980, c. 404
- (f) a person licensed or registered to practise in another part of Canada under an Act that is similar to an Act referred to in clause (a), (b), (c), (d) or (e).

(2) A report obtained by or prepared for a party to an action and signed by a practitioner and any other report of the practitioner that relates to the action are, with leave of the court and after at least ten days notice has been given to all other parties, admissible in evidence in the action.

Medical reports

(3) Unless otherwise ordered by the court, a party to an action is entitled, at the time that notice is given under sub-

Entitlement

section (2), to a copy of the report together with any other report of the practitioner that relates to the action.

Report required

(4) Except by leave of the judge presiding at the trial, a practitioner who signs a report with respect to a party shall not give evidence at the trial unless the report is given to all other parties in accordance with subsection (2).

If practitioner called unnecessarily

(5) If a practitioner is required to give evidence in person in an action and the court is of the opinion that the evidence could have been produced as effectively by way of a report, the court may order the party that required the attendance of the practitioner to pay as costs therefor such sum as the court considers appropriate.

Transition

2. The amendments to the *Evidence Act*, as enacted by this Act, apply to,

- (a) actions commenced but not settled or adjudicated upon before this Act comes into force; and
- (b) causes of action arising after this Act comes into force.

Commencement

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

Short title

4. The short title of this Act is the *Evidence Amendment Act, 1989*.

Bill 71

An Act to amend the Mining Act

The Hon. H. O'Neil

Minister of Mines

1st Reading October 24th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The following is a summary of the proposed changes to the Act:

1. Prospector's Licences

It will no longer be necessary to hold a prospector's licence to hold or acquire an interest in a mining claim. Licences will be valid for a five-year period, renewable on the prospector's birth date. At present, licences are valid for one year and expire on the 31st day of March. In future only individuals will be eligible for a licence. Claim tags will no longer expire with the prospector's licence and may be used by any licensee. The provision allowing for free assay coupons will be repealed. [Sections 1 (6), 9 to 15, 18, 19, 32 (2), 33, 34 (1), 37, 39, 41, 44 (2), 50, 51, 52 (2), 52 (5), 56 (1), 70 (1) and 108 (1)].

2. Staking Practices

Provisions setting out the size, form and manner that a mining claim shall be staked will be put in regulations. The priority of staking will be based on the completion time and will determine priority of recording where two or more licensees make application to record the staking of all or part of the same lands. [Sections 24, 25, 26 (1), 28 and 30 to 33].

3. Security of Tenure

Disputes challenging the validity of a mining claim will not be allowed after one year of the recording of the mining claim or after the first prescribed unit of assessment work has been performed and filed, and, where necessary, approved. A transferee who has acquired a mining claim in good faith will be allowed to re-stake the claim at any time without any loss of assessment work. All provisions in the *Mining Act* dealing with Certificates of Record will be repealed. The definition of "substantial compliance" will be broadened. [Sections 29, 34, 35, 37, 51, 55, 56 (2), 59 (1), 70 (2), 70 (3), 70 (4), 72 (2), 108 (3) and 108 (4)].

4. Assessment Work

The holder of a mining claim will be required to perform annual units of assessment work, measured in terms of dollars spent, subject to details defined in regulations. Certain types of assessment work (prospecting and regional surveys) performed prior to the staking of a mining claim, and assessment work performed on contiguous leased or patented lands will be eligible for credit. Authority to grant extensions of time to perform assessment work will be moved from the Mining and Lands Commissioner to the mining recorders. The Bill repeals all provisions dealing with the power to grant relief from forfeiture, except in the circumstances of administrative error on the part of the Crown. [Sections 1 (1), 36, 46, 47, 52 (3), 53 and 54].

5. Surface Rights Compensation

A claim holder will be required to give notice to a surface rights holder prior to first performing ground assessment work. A claim holder, lessee, or owner of mining rights will be required to compensate the surface rights holder for damages sustained to the surface rights. Any person who damages mineral exploration workings will also have an obligation to compensate the claim holder. [Sections 57 and 58].

6. Mining Leases and Patents

Mining leases will be issued at the claim holder's option at any time after the first prescribed unit of assessment work has been performed and filed (and where necessary, approved). Leases will only be renewed where the production of minerals has occurred continuously for more than one year in the previous term of the lease or where the lessee has demonstrated a reasonable effort to bring the property into production. The provision allowing for the issuance of freehold patents will be repealed. All references to

"Acreage Tax" in Part XIV of the Act will be changed to "Mining Land Tax" and the rates will be prescribed in regulations. [Sections 52 (4), 59 to 62, 92, 93 and 108 (5)].

7. Discretionary Grants of Mineral Tenure

The various provisions in the *Mining Act* respecting discretionary grants of mineral tenure will be consolidated into subsection 190 (3) of the Act. [Sections 22, 68, 82 and 91].

8. Operation of Mines

Part IX of the Act is re-enacted. These provisions will expand the legislative framework to cover all stages of mining activity including advanced exploration, development and closure. Complementary amendments will be made to other parts of the Act. [Sections 1 (7), 1 (8), 77 and 79].

The following is a summary of the more significant features of the new Part IX as set out in section 77 of the Bill:

- (a) There will be new requirements for notice to the public and government of advanced exploration and mine development activity. (Proposed sections 161a and 161b of the Act).
- (b) Closure plans with related financial assurances will be required before development or production commences to ensure that adequate mine rehabilitation is completed. (Proposed sections 161d and 161e of the Act).
- (c) Directors of Mine Rehabilitation and Rehabilitation Inspectors will be appointed to regulate mine rehabilitation. Decisions of the Director will be appealable to the Mining and Lands Commissioner. (Proposed sections 161 (2), 161f and 161-l of the Act).
- (d) Mineral Development Officers will be appointed to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario. (Proposed section 161 (1) of the Act).
- (e) Owners of existing mines will be required to give notice to the government and the Minister will determine the period of time within which a closure plan (which includes a financial assurance) is to be submitted. (Proposed section 161g of the Act).
- (f) Owners who abandon a mine before or after the day Part IX comes into force will still have a duty to give notice to the government and will be required to rehabilitate the site. (Proposed sections 161h and 161i of the Act).
- (g) Owners of mining lands will be required to rehabilitate before the surrender of those lands to the Crown. (Proposed section 161j of the Act).
- (h) The cost of rehabilitation measures carried out by the Crown on behalf of a mine owner will be a debt due to the Crown. (Proposed section 161k of the Act).
- (i) The penalties for contravening the Part IX provisions will include fines and court injunctions to prevent further activity on a mining site. (Proposed section 176 of the Act as set out in section 79 of the Bill).

9. Surface Mining of Non-Metallic Minerals

All surface mining of non-metallic minerals on private land (e.g. mining leases or patents) outside of designated areas under the *Aggregate Resources Act, 1989* will be regulated under the new Part IX. [Proposed sections 1, 118 and 160 (2) (c)].

10. The Mining and Lands Commissioner

Certain procedural matters with respect to the Mining and Lands Commissioner will be amended, for example a fee will be required when applying for an appointment for hearing to cover the recording of any orders in the matter and the Commissioner may order any party to be examined before the official examiner or to file a pre-hearing statement setting out the evidence that will be relied upon. Section 161-1 of the re-enacted Part IX of the Act will provide for appeals from the Director of Mine Rehabilitation to the Commissioner. [Sections 72 (1) and 73 to 77].

11. Regulations

The regulation-making powers set out in the Act will be re-enacted. There will be increased use of regulations for such matters as the structure of fees, approved staking methods, assessment work requirements, and the operation of mines. [Section 82].

12. Miscellaneous

Inconsistencies and outdated references will be corrected. [Sections 1 (2) to 1 (10), 2 to 8, 16, 17, 20, 21, 23, 27, 38, 40, 42, 43, 44 (1), 44 (3), 45, 48, 49, 59 (5), 61, 63 to 67, 71, 77 (Parts IX-A and IX-B), 78, 80, 81 and 83 to 107].

Bill 71

1989

An Act to amend the Mining Act

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

1.—(1) Paragraph 1 of section 1 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. “anniversary date”, when referring to a mining claim, means the date that occurs at annual intervals after the recording of a mining claim, or such other date as results from the application of subsection 79 (2).

(2) Paragraphs 4 and 5 of the said section 1 are repealed and the following substituted therefor:

4. “Crown land” does not include,
 - i. land, the surface rights, mining rights or the mining and surface rights of which are under lease or licence of occupation from the Crown,
 - ii. land in the actual use or occupation of the Crown, the Crown in right of Canada, or of a department of the Government of Canada or a ministry of the Government of Ontario,
 - iii. land the use of which is withdrawn or set apart or appropriated for a public purpose, or
 - iv. land held by a ministry of the Government of Ontario;
5. “Deputy Minister” means the Deputy Minister of Mines.

(3) Paragraph 6 of the said section 1 is repealed.

(4) Paragraph 7 of the said section 1 is repealed and the following substituted therefor:

7. "holder", when referring to the holder of an unpatented mining claim, a boring permit or a licence of occupation issued under this Act, means the holder of record.

(5) Paragraph 9 of the said section 1 is repealed and the following substituted therefor:

9. "inspector" includes a geologist on the staff of the Ministry and any other officer or agent designated by the Minister to carry out an inspection or investigation of the mining industry.

(6) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

11. "licensee" means a person holding a prospector's licence issued under this Act or a renewal thereof.

(7) Paragraphs 14, 15 and 16 of the said section 1 are repealed and the following substituted therefor:

14. "mine", when used as a noun, means any opening or excavation in, or working of the ground, for the purpose of winning any mineral or mineral bearing substance, and all ways, works, machinery, plant, buildings and premises below or above the ground belonging to or used in connection with such activity, and any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any of such substances and includes mines that have been temporarily suspended, rendered inactive, closed out or abandoned as well as lands where tailings, or wasterock, or both, or any other prescribed substances from any opening or excavation or working of the ground have been deposited;
15. "mine", when used as a verb, means the performance of any work in or about a mine, as defined in paragraph 14;
16. "minerals" means all naturally occurring metallic and non-metallic minerals, including natural gas, petroleum, coal, salt, quarry and pit material, gold,

silver and all rare and precious metals, but does not include sand, gravel and peat;

- 16a. "mining claim" means a parcel of land, including land under water, that has been staked and recorded in accordance with this Act and the regulations.

(8) Paragraphs 18, 19, 20, 21 and 22 of the said section 1 are repealed and the following substituted therefor:

18. "mining rights" means the right to minerals on, in or under any land;
19. "Minister" means the Minister of Mines, except that in Parts IV and IX-A "Minister" means the Minister of Natural Resources;
20. "Ministry" means the Ministry of the Minister;
21. "owner", when used in Parts IX, IX-B and XI, includes every person, being the immediate proprietor, lessee or occupier of a mine, or a part thereof, or of any land located, patented or leased as mining land, and includes an agent, or a person designated by the owner or agent as responsible for the control, management and direction of a mine, or a part thereof, but does not include a person receiving merely a royalty from a mine, or mining lands, or the owner of the surface rights only;
22. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 4, 28, 97, 100 to 108, 190, 194, 197 and 204, the meaning is limited to freehold patents.

(9) Paragraph 23 of the said section 1 is repealed and the following substituted therefor:

23. "prescribed" means prescribed by the regulations;
- 23a. "prospecting" means the investigating of, or searching for, minerals.

(10) Paragraphs 26 and 29 of the said section 1 are repealed.

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

Purpose of
Act

1a. The purpose of this Act is to encourage prospecting, staking and exploration for the development of mineral resources and to minimize adverse effects on the environment through rehabilitation of mining lands in Ontario.

3. Section 3 of the said Act is repealed.

4. Section 4 of the said Act is amended by adding thereto the following subsections:

Immunity for
acts done in
good faith

(3) No action or other proceeding for damages shall be instituted against the Minister, the Deputy Minister or any officer or employee of the Ministry or any one acting under the authority of the Minister or Deputy Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
liability
R.S.O. 1980,
c. 393

(4) Subsection (3) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (3) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (3) had not been enacted.

Delegation of
Minister's
powers, etc.

(5) Where under this Act a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, conditions and requirements as the Minister sets out in the delegation.

Employees
authorized to
take
affidavits

(6) The Minister may empower such employees of the Ministry as the Minister designates to administer oaths and take and receive affidavits, declarations and affirmations authorized by law, for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of such oath, affidavit, declaration or affidavit, all the powers of a commissioner for taking affidavits under the *Commissioners for taking Affidavits Act*.

R.S.O. 1980,
c. 75

5.—(1) Subsection 6 (1) of the said Act is repealed and the following substituted therefor:

Mining
recorder

(1) The Minister may appoint an employee of the Ministry as mining recorder for each mining division.

(2) Subsection 6 (3) of the said Act is repealed.

6. Section 7 of the said Act is amended by inserting after "such" in the first line "record".

7.—(1) Section 9 of the said Act is amended by striking out "any of such books" in the first and second lines and inserting in lieu thereof "a record book".

(2) The said section 9 is further amended by adding thereto the following subsections:

(2) Where a copy of or extract from an entry in a record book or any document filed in the recorder's office is recorded electronically or on a magnetic medium, any writing that,

Computer
printout,
etc.,
admissible
evidence

(a) represents the entry in the record book or the filed document;

(b) is generated or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the original book or filed document.

(3) Where a record in a recorder's office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

Idem

(a) represents the record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

8.—(1) Subsection 12 (1) of the said Act is amended by striking out "and any such purchase or interest is void" in the fourth and fifth lines.

(2) Subsection 12 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Deputy Minister is satisfied that an officer has in good faith acquired an interest referred to in subsection

Waiver by
Deputy
Minister

(1) for other than mining purposes, the Deputy Minister may in writing waive the application of subsection (1) to the officer.

Penalty

(3) Any officer contravening subsection (1) forfeits his or her office.

9. Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

Licence required

(1) No person shall prospect on Crown lands or stake out, record or apply to record the staking of a mining claim unless the person is the holder of a prospector's licence issued under this Act.

10. Section 19 of the said Act is repealed and the following substituted therefor:

Who may receive licence

19.—(1) Any natural person who is of the age of eighteen years or over is entitled to obtain a prospector's licence upon application therefor made in the prescribed form and upon payment of the prescribed fee.

Date and term of licence

(2) A licence shall be dated on the day of its issue and expires at midnight on the day of the fifth anniversary of the licensee's birth date that follows the issue of the licence.

Not valid unless signed

(3) A licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

Licence not transferrable

(4) A licence is not transferrable.

Who may issue

(5) A licence may be issued by any recorder.

Service

(6) Any notice or document relating to a licensee is sufficiently served upon the licensee if delivered or sent by prepaid first class mail to the address shown on the application for the prospector's licence or to the address given under subsection (8), if applicable.

Idem

(7) Where service is made by prepaid first class mail under subsection (6) it shall be deemed to have been made on the fifth day after the day of mailing.

Notice of change of address

(8) A licensee shall notify, in the prescribed form, the recorder of any change in the address of the licensee.

11. Section 21 of the said Act is repealed.

12.—(1) Subsection 22 (1) of the said Act is repealed and the following substituted therefor:

(1) A licensee is entitled to a renewal of his or her licence upon making application therefor in the prescribed form and paying the prescribed fee within sixty days of its expiration. Renewal of licence

(1a) Notice of the expiration of a licence shall be given by the recorder to the holder of the licence not later than sixty days before the expiry date. Notice of expiration of licence

(2) Subsections 22 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A licence may be renewed by any recorder. Who may renew

(3) The renewal shall bear date on the day following the expiration of the licence or renewal of licence of which it is the renewal and shall take effect immediately upon the expiration of that licence, or renewal thereof, as the case may be. Date and term of renewal

(3) Subsection 22 (4) of the said Act is amended by adding at the end thereof "and shall expire at 12 o'clock midnight on the day that is the fifth anniversary of the licensee's birth date following the effective date of the renewal".

(4) Subsection 22 (5) of the said Act is repealed and the following substituted therefor:

(5) The Minister shall renew without fee the licence of a person who has held a licence continuously for twenty-five years, and the licence shall remain in good standing during the lifetime of the licensee. Lifetime renewal by Minister

(6) The Minister may, at his or her discretion, renew the licence of a person without fee and order that the licence remain in good standing during the lifetime of the licensee. Idem

13. Subsection 24 (1) of the said Act is repealed and the following substituted therefor:

(1) No person shall apply for or hold more than one prospector's licence. Not more than one licence

14.—(1) Subsection 27 (5) of the said Act is repealed and the following substituted therefor:

(5) While a licence is suspended under subsection (3), the licensee may renew the licence but the licensee may not stake out or apply to record a mining claim. Rights of licensee under suspension

Where holder
of mining
claim
contravenes
Act

(5a) Where the recorder finds, after a hearing, that a holder of a mining claim has contravened any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the recorder, order that such holder may not acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or to apply for lease on any unpatented mining claim recorded in the name of the holder.

Cancellation
of mining
claims

(5b) Where the Commissioner finds, after a hearing, that a holder of a mining claim has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, declare any mining claims of the holder to be cancelled and thereupon all rights of the holder in or to mining claim lands cease.

Order
pending
hearing

(5c) Pending the holding of a hearing on any matter under this section, the Commissioner or the recorder, as the case may be, before whom the hearing will be held, may order that any mining claim of the licensee or holder whose conduct is in question shall not, before the conclusion of the hearing and final disposition of the matter, be transferred to any other person.

Prohibition
against
staking out
claims, etc.

(5d) Where mining claims are cancelled under subsection (5b), the former holder of the mining claims may not stake out or apply for a mining claim or acquire an unpatented mining claim or interest therein through transfer for such period of time as the Minister determines, and the Minister shall notify the former holder of the period of time so determined.

(2) Subsection 27 (6) of the said Act is repealed and the following substituted therefor:

Appeal

(6) A finding by the Commissioner that a licensee or holder of a mining claim has wilfully contravened this Act or the regulations or by a recorder that a licensee or holder of a mining claim has contravened this Act or the regulations, as the case may be, may be appealed in like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal.

15. Section 29 of the said Act is amended by striking out "licensee" in the fourth line and inserting in lieu thereof "person".

16.—(1) Clause 30 (b) of the said Act is repealed and the following substituted therefor:

(b) upon any land laid out on a registered plan of subdivision.

(2) Clause 30 (d) of the said Act is repealed.

17.—(1) Clause 31 (b) of the said Act is repealed and the following substituted therefor:

(b) for which an application brought in good faith is pending in the Ministry of Natural Resources under the *Public Lands Act* or otherwise, and the applicant may acquire the minerals; or

R.S.O. 1980,
c. 413

(2) Clause 31 (c) of the said Act is amended by inserting after "Ministry" in the third line "of Natural Resources".

(3) Clause 31 (d) of the said Act is amended by striking out "and Communications" in the second line.

18. Subsection 33 (1) of the said Act is amended by striking out "or company" in the second and third lines.

19. Section 34 of the said Act is amended by striking out "licensee" in the fifth line and inserting in lieu thereof "holder of the mining claim".

20. Section 35 of the said Act is amended by striking out "and Communications" in the third line.

21.—(1) Subsection 36 (1) of the said Act is amended by striking out "or an officer appointed under this Act and designated by the Minister" in the first and second lines.

(2) Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Minister makes an order under subsection (1), the Minister shall, within twenty-four hours of the date of the order, mail a copy of the order to the recorder.

Copy of
order sent to
recorder

(3) Subsection 36 (4) of the said Act is repealed and the following substituted therefor:

(4) Lands, mining rights or surface rights withdrawn under this section, until re-opened by the Minister, shall remain withdrawn and shall not be prospected or staked out.

Lands
withdrawn
not to be
prospectied,
etc.

22. Section 38 of the said Act is repealed.

23. Section 39 of the said Act is repealed and the following substituted therefor:

Permit under R.S.O. 1980, cc. 173, 413

39. Before beginning or carrying on any prescribed assessment work on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling the holder to do so as provided in the *Forest Fires Prevention Act* or the *Public Lands Act*.

24. Section 40 of the said Act is repealed and the following substituted therefor:

Manner of staking mining claim

40. A mining claim shall be staked in such size, form and manner as is prescribed and may be staked on any day.

25. Section 42 of the said Act is repealed.

26.—(1) Subsections 43 (1), (2) and (3) of the said Act are repealed.

(2) Subsection 43 (5) of the said Act is amended by striking out "and Communications" in the third line.

27.—(1) Subsection 44 (1) of the said Act is repealed and the following substituted therefor:

Rates for licences of occupation

(1) Notwithstanding the provisions of a licence of occupation, there shall be paid, in advance, the prescribed annual rental for the licence of occupation.

(2) Subsection 44 (6) of the said Act is repealed and the following substituted therefor:

Lease may be issued under s. 94

(6) The holder of a licence of occupation, upon application in writing therefor and upon the surrender of the licence of occupation, may be issued a lease under section 94 and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

28. Sections 45, 46, 47 and 48 of the said Act are repealed.

29. Section 50 of the said Act is amended by adding thereto the following subsection:

Deemed substantial compliance

(2) The staking out of a mining claim shall be deemed to be in substantial compliance with the requirements of this Act and the regulations even if there is a failure to comply with a number of specific staking requirements if,

- (a) the failure to comply is not likely to mislead any licensee desiring to stake a claim in the vicinity; and
- (b) it is apparent that an attempt has been made in good faith by the licensee to comply with the requirements of this Act and the regulations.

30. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) A licensee who has staked out a mining claim shall make an application in the prescribed form to the recorder accompanied by the prescribed fee and a sketch or plan showing the prescribed information to record the claim not later than thirty-one days after the day on which staking was completed.

Application to record mining claim

(2) Priority of completion of staking shall prevail where two or more licensees make application to record the staking of all or a part of the same lands.

Priority of completion prevails

(3) Where one of the applications made by two or more licensees to record the staking of a mining claim is entitled to priority under subsection (2), the recorder shall cancel the other application or applications and shall by registered letter mailed not later than the following day notify the other licensee or licensees of the recorder's action and the reason therefor.

Notice to other licensee or licensees

31. Section 52 of the said Act is repealed.

32.—(1) Subsection 54 (1) of the said Act is amended by striking out "unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights" in the fourth, fifth and sixth lines.

(2) Subsection 54 (2) of the said Act is amended by inserting after "claim" in the fourth line "that has priority under subsection 51 (2)" and by striking out "licensee" in the twelfth line and inserting in lieu thereof "person".

(3) Subsections 54 (5), (6), (7) and (8) of the said Act are repealed.

(4) Subsection 54 (9) of the said Act is repealed and the following substituted therefor:

(9) There shall be added to each claim number the prefix allotted to the mining division in which the claim is situate.

Division prefix added

33. Section 55 of the said Act is repealed and the following substituted therefor:

Metal tags

55.—(1) Metal tags and duplicate tags shall be provided by the Ministry on payment of the prescribed fee and may be used by any licensee in staking out claims in the prescribed manner and within the prescribed time.

Transfer of tags

(2) Metal tags and duplicate tags do not expire but may not be re-used.

Cancellation of claim where tags not affixed

(3) Upon receipt of a written report of an inspector or other officer appointed under this Act that the metal tags have not been affixed in the prescribed manner or within the prescribed time the recorder shall cancel the claim and shall by registered letter mailed not later than the day following the cancellation notify the claim holder of the recorder's action and the reason therefor.

34.—(1) Subsection 56 (1) of the said Act is amended by inserting after "by" in the first line "a detailed statement of claim and an" and by striking out "licensee" in the third line and in the fifth line and inserting in lieu thereof in each instance "person".

(2) Subsection 56 (2) of the said Act is repealed and the following substituted therefor:

Copy to be sent to recorded holder

(2) A copy of the dispute, statement of claim and affidavit shall be left by the disputant with the recorder who shall, not later than the next day after the filing of the dispute, transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant the prescribed fee per page for making the copy.

(3) Subsection 56 (5) of the said Act is repealed and the following substituted therefor:

When not to be received

(5) A dispute shall not be received or entered against a claim,

- (a) after one year from the recording of the claim;
- (b) after the first prescribed unit of assessment work has been performed and filed and, where necessary, approved; or
- (c) except by leave of the Commissioner,

- (i) after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or
- (ii) after it has been on record for sixty days and has already had a dispute entered against it.

(5a) Where a dispute is entered against a claim after the first prescribed unit of assessment work has been performed and filed but before the assessment work has been approved, where approval is necessary, the dispute shall be deemed to have been resolved in favour of the holder or holders of the claim if the assessment work is subsequently approved and the note of the dispute entered on the record of the claim shall be struck out by the recorder who shall by registered letter mailed not later than the following day notify the disputant of the recorder's action and the reason therefor.

Where
assessment
work
subsequently
approved

(4) Section 56 of the said Act is amended by adding thereto the following subsections:

(7) Notwithstanding clause 28 (c), a transferee who has acquired a mining claim in good faith may re-stake or cause to be re-staked the claim or any part thereof at any time and, upon filing with the recorder a notice in the prescribed form of re-staking, the recorder may, upon notice to all interested parties, order that the re-staked claim shall be deemed to have been recorded on the date of the recording of the original claim or any part thereof that has been re-staked.

Re-staking
claim

(8) In an order made under subsection (7), the recorder may include such provisions as he or she considers proper to provide that orders, assessment work reports, instruments or other notations which had been entered against the original claim be entered in the record book in respect of the re-staked mining claim.

Entry of
orders, etc.,
against re-
staked claim

35. Sections 57, 58 and 59 of the said Act are repealed.

36.—(1) Subsection 59a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(1) A recorder may by order relieve an unpatented mining claim that is subject to forfeiture as a result of an administrative error on the part of the Crown from the forfeiture.

Relief from
forfeiture

(2) Subsection 59a (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

Extension of
time

(4) An order under subsection (1) or (3) may grant an extension of time for performing and reporting any work required to be performed or for applying and paying for a lease in respect of the claim or provide for the payment of any fees in respect of the claim.

37. Subsections 60 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Rights in
claim

(1) The staking out or the filing of an application for or the recording of a mining claim, or the acquisition of any right or interest in a mining claim by any person or all or any of such acts, does not confer upon that person,

- (a) any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to perform the prescribed assessment work or to obtain a lease from the Crown and, prior to the performance, filing and approval of the first prescribed unit of assessment work, the person is merely a licensee of the Crown and after that period and until he or she obtains a lease the person is a tenant at will of the Crown in respect of the mining claim; or
- (b) any right to take, remove or otherwise dispose of any minerals found in, upon or under the mining claim.

38. Section 62 of the said Act is repealed and the following substituted therefor:

Permission to
test mineral
content

62.—(1) The Minister may give written permission, subject to such conditions as are prescribed, to mine, mill and refine mineral bearing substance from an unpatented mining claim for the purpose of testing mineral content.

Conditions

(2) Permission granted under subsection (1) shall be for a specified time and shall cover a specified quantity of mineral bearing substance.

Sale of end
product

(3) The end product of mining, milling and refining permitted under subsection (1), except as provided in subsection (4), shall not be sold or otherwise disposed of until the mining claim from which the minerals were taken is leased under this Act.

Disposition
of proceeds

(4) Subsection (3) does not apply where the Minister gives written permission for the sale or disposition and where the

Minister does so, the sale or disposition shall be in accordance with such terms as the Minister may impose.

39. Section 63 of the said Act is repealed.

40. Subsection 64 (2) of the said Act is amended by adding at the commencement thereof "Unless ordered otherwise by the Minister".

41. Section 70 of the said Act is amended by striking out "may" in the second line and inserting in lieu thereof "shall".

42.—(1) Section 71 of the said Act is amended by striking out "nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument" in the eighth, ninth, tenth and eleventh lines.

(2) The said section 71 is further amended by adding thereto the following subsections:

(2) Any such instrument shall not be recorded unless an affidavit in the prescribed form, attached thereto or endorsed thereon, is made by a subscribing witness to the instrument. Affidavit of execution

(3) Subsection (2) does not apply to the execution of an instrument by a corporation under its seal. Corporations

43. Subsection 74 (3) of the said Act is repealed.

44.—(1) Subsection 75 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate is of no effect and does not constitute notice to any person of the proceeding until it is filed. Not to constitute notice until filed

(2) Subsection 75 (6) of the said Act is amended by striking out "upon the latter becoming, if he is not before, a licensee" in the fifteenth and sixteenth lines.

(3) Subsection 75 (7) of the said Act is amended by striking out "a fee of \$1, which" in the second and third lines and inserting in lieu thereof "any required fee and such".

45. The heading preceding section 76 of the said Act is struck out and the following substituted therefor:

ASSESSMENT WORK

46. Section 76 of the said Act is repealed and the following substituted therefor:

Assessment
work

76.—(1) The holder of a mining claim shall, following the recording of the claim, perform such annual units of assessment work as are prescribed.

Report

(2) Subject to subsection (3), every mining claim holder shall, not later than the anniversary date, file in the office of the recorder or such other location as is prescribed a report in the prescribed form of the assessment work done for the purpose of complying with subsection (1), together with such other information as may be prescribed.

Idem

(3) The report mentioned in subsection (2) shall, in respect of any specified type of assessment work, be filed not later than such date earlier than the anniversary date as may be prescribed for that type of assessment work.

Credits
measured in
dollars spent

(4) For the purpose of subsection (1), assessment work credits shall be measured in terms of dollars spent.

47. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

Types of
work eligible
for credits,
etc.

77.—(1) The types of work that are eligible for assessment work credits, the method of calculating and approving the credits for work performed and the distribution of credits for work performed to mining claims shall be determined in such manner as is prescribed.

Prospecting
and regional
surveys

(2) Prospecting and regional surveys performed on Crown lands before the staking of a mining claim are eligible for assessment work credits in such manner as is prescribed.

Work on
patented
mining claims

(3) Exploration work performed on patented mining claims may be allocated as assessment work to contiguous unpatented mining claims in the prescribed manner.

48. Section 79 of the said Act is repealed and the following substituted therefor:

Computing
time for
performance
of assessment
work

79.—(1) In computing the time within which work upon a mining claim is required to be performed or within which application and payment for a lease may be made,

R.S.O. 1980,
cc. 173, 413

(a) if a permit under the *Forest Fires Prevention Act* or the *Public Lands Act* that is necessary for the begin-

ning or carrying on of work under this Act is refused or the performance of such work is prohibited under those Acts or any other Act, or the holder defers the start of work or is delayed in its performance at the request, or by the actions, of the Crown, the time during which such refusal, prohibition, deferment or delay subsists, if the holder provides the Commissioner with satisfactory evidence of such refusal, prohibition, deferment or delay; or

- (b) the time during which proceedings in respect of the mining claim are pending before the Supreme Court, the Commissioner or the recorder, where the Commissioner is satisfied that any delay in settling the matter is not the fault of the holder,

shall be excluded, and the Commissioner may make an order fixing the date or dates by which the next or any prescribed units of work shall be performed and reported or by which an application and payment for lease may be made.

(2) Where the time for doing something under this Act is excluded, the next anniversary date after the exclusion in respect of the mining claim involved shall be deemed to be the date that falls after the anniversary date that would have occurred, except for this provision, by the number of days that equals the number of days of the exclusion, and all subsequent anniversary dates shall be adjusted accordingly.

Anniversary
date changed

(3) Notwithstanding anything in this Act, where in the opinion of the Minister special circumstances exist, the Minister may exclude the time within which work upon a mining claim is required to be performed or within which application and payment for lease may be made, and may by order fix the anniversary date or dates by which the next or any subsequent periods of work shall be performed and reported or by which application and payment for lease may be made.

Special
circumstances

49. Section 80 of the said Act is repealed.

50.—(1) Subsection 83 (1) of the said Act is repealed and the following substituted therefor:

(1) The holder of a mining claim may abandon the claim at any time by giving notice in writing in the prescribed form to the recorder of the holder's intention to do so.

Right of
mining claim
holder to
abandon
claim

(2) Subsection 83 (2) of the said Act is amended by striking out "licensee" in the sixth line and inserting in lieu thereof "holder".

51. Section 84 of the said Act is repealed and the following substituted therefor:

Deemed
abandonment
of claim

84.—(1) Non-compliance by the licensee or holder of a mining claim with any requirement of this Act or the regulations as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out.

Saving

(2) Subsection (1) does not apply after one year from the recording of the claim, or where the first prescribed unit of assessment work has been performed and filed and, where necessary, approved.

52.—(1) Subsection 85 (1) of the said Act is amended by striking out “patent” in the second line and inserting in lieu thereof “lease”.

(2) Clause 85 (1) (a) of the said Act is repealed.

(3) Clause 85 (1) (c) of the said Act is repealed and the following substituted therefor:

(c) if the prescribed work is not duly performed and reported as required by section 76 unless an application and payment for a lease of the mining claim is made under section 94.

(4) Clauses 85 (1) (d) and (e) of the said Act are repealed.

(5) Subsection 85 (2) of the said Act is amended by striking out “licensee” in the second line and inserting in lieu thereof “person”.

53. Sections 86 and 87 of the said Act are repealed and the following substituted therefor:

Extension of
time by
recorder

86.—(1) On application therefor being made to the recorder within thirty days before the expiration of the time for filing a report of assessment work, the recorder may allow an extension of time for performing and filing the report of the assessment work on such conditions as are prescribed.

Re-staking

(2) Where forfeiture or loss of rights has occurred, the lands, mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immedi-

ately following that upon which forfeiture or loss of rights occurred.

(3) An order made by the recorder under this section comes into effect and shall be deemed to have been recorded at the time that the application was received in the office of the recorder, notwithstanding that such order may not have been immediately entered in the record book.

When order
takes effect

(4) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record "Cancelled", and shall post up forthwith in the recorder's office a notice of cancellation.

Cancellation
of record

54. Section 88 of the said Act is repealed and the following substituted therefor:

88. Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Commissioner may at any time make such order as the Commissioner considers just for vesting the claim in the representative of such holder and extending the time for performing the work or applying for lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act.

Death of
licensee or
holder

55. Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after one year from the recording of the claim, or after the first prescribed unit of assessment work has been performed, filed and approved, no such inspection shall, unless ordered by the Minister under subsection 90 (5), be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

Inspection by
Commis-
sioner,
recorder or
inspector

56.—(1) Subsection 90 (4) of the said Act is amended by striking out "licensee" in the seventh line and inserting in lieu thereof "holder".

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

Inspection
ordered by
Minister

(5) Notwithstanding subsections 56 (5) and 84 (2), the Minister may challenge the validity of a mining claim at any time during the life of the claim and may direct the recorder to inspect the claim in accordance with section 89.

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

Notice of
intention to
perform
assessment
work

91a.—(1) If there is an owner of the surface rights of the land comprising a mining claim, where a holder of the mining claim first proposes to do ground assessment work on such land, the holder shall give notice in the prescribed form to the owner of the surface rights of the holder's intention to perform the work.

Entry on
land to
perform work

(2) A person who has given notice under this section may enter on the land and perform the work at any time immediately following the day the notice is given.

Where work
not to be
recorded

(3) A recorder shall not record ground assessment work unless,

- (a) the holder files with the recorder a certificate in the prescribed form establishing that the required notice was given; or
- (b) the recorder determines that it is not feasible in the circumstances to give notice to the owner of the surface rights.

58. Section 92 of the said Act is repealed and the following substituted therefor:

Definition

92.—(1) In this section and in section 91a, "owner of the surface rights" means a person to whom the surface rights of land have been granted, sold, leased or located.

Right of
owner of
surface rights
to compen-
sation

(2) Where there is an owner of surface rights of land or where land is occupied by a person who has made improvements thereon that, in the opinion of the Minister, entitles that person to compensation, a person who,

- (a) prospects, stakes out or causes to be staked out a mining claim or an area of land for a boring permit;

- (b) formerly held a mining claim or an area of land for a boring permit that has been cancelled, abandoned or forfeited;
- (c) is the holder of a mining claim or an area of land for a boring permit and who performs assessment work; or
- (d) is the lessee or owner of mining lands and who carries on mining operations,

on such land, shall compensate the owner of the surface rights or the occupant of the lands, as the case may be, for damages sustained to the surface rights by such prospecting, staking out, assessment work or operations.

(3) Every person who damages mineral exploration workings or claim posts, line posts, tags or surveyed boundary markers delineating mining lands shall compensate the holder of the mining claim or the owner or lessee of the mining lands, as the case may be, for damages sustained.

Right of holder of mining claim, etc., to compensation

(4) In default of agreement and upon application made in the prescribed form by either party, the amount and the time and manner of payment of compensation under subsection (2) or (3) shall be determined by the Commissioner after a hearing and, subject to appeal to the Divisional Court where the amount claimed exceeds \$1,000, the Commissioner's order is final.

Determination of compensation by Commissioner

(5) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by any person.

Prohibiting work pending settlement

(6) The compensation is a special lien upon any mining claim or mining lands, as the case may be, and no further prospecting, staking out or performing of work, except by leave of the Commissioner, shall be done by any person after the time fixed for the payment or securing of the compensation, unless the compensation has been paid or secured as directed.

Lien for compensation

(7) The Commissioner, on notice to all interested parties and for good cause shown, on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under this section.

Power of Commissioner to vary, etc., order

Priorities

(8) In a hearing under subsection (4), the Commissioner shall take into account which of the rights was applied for first and, except where injustice would result, shall give the holder of those rights due priority in the consideration of the dispute between the parties.

Filing of agreement or order in office of recorder

(9) Where unpatented mining claims are affected by an agreement entered into in respect of the compensation referred to in subsection (2), or by an order made under subsection (4), the agreement or a certified copy of the order, as the case may be, may be filed by the person to whom the compensation is payable in the office of the recorder upon payment of the prescribed fee.

Registration of order or agreement

(10) Where an unpatented mining claim is subsequently leased, the Minister shall cause any agreement or order filed in the recorder's office under subsection (9) that affects the leased lands to be registered against the lands in the proper land registry office and the person to whom the compensation is payable is entitled to enforce the terms of the agreement or order against the lessee and, subject to the *Registry Act* and the *Land Titles Act*, against any subsequent lessee of the land.

R.S.O. 1980,
cc. 445, 230

59.—(1) Subsections 94 (1), (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

Right to lease of claim

(1) Upon compliance with this Act and the regulations and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim.

Application for lease

(2) The application and payment for a lease may be made to the recorder at any time after the first prescribed unit of assessment work on a mining claim is performed, filed and, if necessary, approved, and the application shall be accompanied by,

- (a) a certificate of performance of the prescribed units of assessment work that are required to be performed as of the time of application;
- (b) a plan of survey where required under section 108 or 109;
- (c) an agreement or an order of the Commissioner indicating that surface rights compensation, if any, has been paid, secured or settled; and
- (d) the prescribed fee.

(3) A lease under this section shall be for a term of twenty-one years at the prescribed rental, payable in advance, for the first year and at the prescribed rate for each subsequent year.

Term of lease

(4) The holder of a mining claim may elect to apply for a lease of the mining rights only.

Lease of mining rights

(5) Where a lease under this section is for mining rights only, the rental shall be at the prescribed rate for such a lease.

Rental

(2) Subsection 94 (6) of the said Act is repealed.

(3) Subsections 94 (8) and (9) of the said Act are repealed and the following substituted therefor:

(8) The annual rental for a renewal lease is the prescribed amount, payable in advance.

Renewal lease rental

(9) The Minister shall refuse to renew a lease unless,

Refusal to renew lease

(a) the production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease; or

(b) the lessee has demonstrated to the satisfaction of the Minister a reasonable effort to bring the property into production.

(4) Subsection 94 (12) of the said Act is amended by striking out "prescribed by" in the second line and inserting in lieu thereof "set out in".

(5) Subsections 94 (16), (17), (18), (19) and (20) of the said Act are repealed and the following substituted therefor:

(16) Any surface rights reserved in a lease or renewal thereof may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

Disposition of surface rights
1989, c. 23
R.S.O. 1980,
c. 413

(17) Where the area of the mining claim exceeds by more than 15 per cent the prescribed size for a mining claim and the claim is not reduced in size under section 110, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

Additional work where area of claim exceeds prescribed size

(18) Where there is a group of contiguous claims held in the name of one claim holder and their average area does not exceed by more than 15 per cent the size prescribed for a min-

Contiguous claims

ing claim, the Minister may direct that subsection (17) does not apply.

Where additional work required

(19) Where additional work is required under subsection (17), the Minister may direct the time within which such work is to be performed and reported.

60.—(1) Subsections 95 (1) and (2) of the said Act are repealed and the following substituted therefor:

Definition

(1) In this section, "lease" means a lease of surface and mining rights or of mining rights issued under,

- (a) section 47, 52 or 100 of *The Mining Act*, being chapter 241 of the Revised Statutes of Ontario, 1960, or a predecessor thereof; or
- (b) subsection 190 (3) of this Act, or a predecessor thereof,

and includes a renewal of such a lease.

Amount of rent

(2) Subject to subsection (3), notwithstanding the provisions of a lease, the annual rental for a lease is the prescribed amount.

(2) Subsection 95 (4) of the said Act is repealed and the following substituted therefor:

Lease not renewable

(4) A lease referred to in this section is not renewable.

(3) Subsection 95 (6) of the said Act is amended by striking out "has not been renewed under subsection (4) or" in the first and second lines.

(4) Subsection 95 (9) of the said Act is repealed and the following substituted therefor:

Lease may be issued under s. 94

(9) The holder of a lease, upon application in writing therefor and upon the surrender of the lease and upon meeting the conditions set out in subsection 94 (9), may be issued a lease under section 94 for a term of twenty-one years and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

61. Section 96 of the said Act is repealed and the following substituted therefor:

96.—(1) The holder of a lease issued under this Act, upon application in the prescribed form to the Minister, accompanied by the prescribed fee and upon the surrender of the lease, may be issued in exchange for that lease, on such terms and conditions as the Minister considers appropriate, two or more replacement leases.

Exchange of lease

(2) Replacement leases issued under subsection (1) shall cover together the same lands as were covered by the surrendered lease, shall be for a term equal to the balance of the term of the surrendered lease and shall be at the same rental rate per hectare as that lease.

Terms of replacement leases

62. Subsection 97 (4) of the said Act is repealed and the following substituted therefor:

(4) The annual rental of a lease or renewal under this section is the prescribed amount, payable in advance.

Amount of rent

63. Subsection 102 (2) of the said Act is repealed and the following substituted therefor:

(2) Any surface rights reserved under this section may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

Disposition of surface rights

1989, c. 23
R.S.O. 1980,
c. 413

64.—(1) Subsection 108 (1) of the said Act is amended by striking out "patent" in the first line.

(2) Subsection 108 (2) of the said Act is repealed and the following substituted therefor:

(2) Subject to the *Surveys Act*, the prescribed methods and procedures shall be followed in the surveying of mining claims.

Prescribed methods of surveying

R.S.O. 1980,
c. 493

(3) Subsection 108 (5) of the said Act is repealed.

(4) Subsections 108 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

(6) Where a perimeter survey is made under subsection (3), the rental shall be computed on the total area of the claims within the perimeter survey and, where the average area of the claims within the perimeter survey exceeds by more than 15 per cent the prescribed size for a mining claim, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

Additional work where area exceeds prescribed size

Where
additional
work
required

(7) Where additional work is required under subsection (6), the Minister may set out in an order the time within which such work is to be performed and recorded.

Inspection
before
perimeter
survey made

(8) Before a perimeter survey is made, the Minister may order the inspection of the mining claims proposed to be included in the perimeter survey and an inspector or other officer of the Ministry shall prepare and submit to the Minister a report and plan according to the instructions provided by the Minister and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with.

Fee

(9) The fee for an inspection under subsection (8) is the prescribed amount, payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims.

65.—(1) Subsection 109 (1) of the said Act is amended by striking out “patent” in the first line and by inserting after “claim” in the seventh line “or the perimeter survey of mining claims”.

(2) Subsection 109 (2) of the said Act is repealed.

66.—(1) Subsection 110 (1) of the said Act is amended by striking out “acreage” in the third line and in the fourth line and inserting in lieu thereof in each instance “size”.

(2) Subsection 110 (2) of the said Act is amended by striking out “licensee” in the third line and in the fourteenth line and inserting in lieu thereof in each instance “holder”.

67. The subheading preceding section 112 of the said Act is struck out and the following substituted therefor:

PETROLEUM AND NATURAL GAS

68. Parts V and VI of the said Act are repealed.

69. The said Act is further amended by adding thereto the following Part:

PART VII

SURFACE MINING OF NON-METALLIC MINERALS

Surface
mining of
non-metallic
minerals

118.—(1) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land not in a part of Ontario that

has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, may proceed, R.S.O. 1980,
c. 378
1989, c. 23

- (a) by applying for and obtaining an aggregate permit or a licence under the *Aggregate Resources Act, 1989*; or
- (b) by complying with the requirements of Part II of this Act.

(2) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land in a part of Ontario that has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, in addition to an aggregate permit or a licence issued under the *Aggregate Resources Act, 1989*, may also obtain a lease from the Crown for the lands affected by complying with the provisions of Part II of this Act. Lease of
Crown land

119. Notwithstanding that an aggregate permit or a licence has been obtained under the *Aggregate Resources Act, 1989*, any licensee under this Act may stake out a mining claim or claims on Crown land affected by the permit or licence, in which case the provisions of this Act apply and any question of property damage shall be determined in the manner set out in section 92. Staking out
of mining
claim

70.—(1) Subsection 131 (1) of the said Act is amended by striking out “licensees” in the third line and inserting in lieu thereof “persons”.

(2) Subsection 131 (2) of the said Act is amended by striking out “arising before the issue of a certificate of record of a mining claim” in the first and second lines.

(3) Subsection 131 (6) of the said Act is repealed and the following substituted therefor:

(6) The recorder may make an order directing a holder,

- (a) to move, remove or alter corner posts, line posts or witness posts and the writing or inscribing thereon;
- (b) to blaze, re-blaze, move or alter existing or missing claim lines;

Recorder
may order
the removal
of witness
posts, etc.

- (c) to place or replace metal tags that are missing or have been removed or destroyed after having been affixed to any posts; or
- (d) to place or replace missing or defective posts and to affix tags to such posts,

and the recorder shall set out in the order the time within which the work shall be completed and reported to the recorder.

Claim deemed in compliance with Act

(6a) Where the work set out in an order under subsection (6) has been completed within the time set out in the order, the claim shall thereafter be deemed to be in compliance with this Act.

(4) Subsection 131 (7) of the said Act is repealed and the following substituted therefor:

Recorder may extend time or cancel claim

(7) Where the work set out in an order under subsection (6) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may cancel the claim or claims on which the work was to have been done and shall, in the case of cancellation, by registered letter, mailed not later than the next day after the cancellation, notify the holder of the recorder's action and the reason therefor.

(5) Subsection 131 (8) of the said Act is repealed and the following substituted therefor:

Application

(8) This section applies to the manner in which the metal tags have been affixed to the corner posts notwithstanding that the time prescribed for affixing the tags has not expired.

71. Subsection 133 (2) of the said Act is repealed and the following substituted therefor:

Where public interest affected

(2) Where, in the opinion of the Minister, the public interest is affected by a decision, act or thing mentioned in subsection (1), an officer or employee of the Ministry designated by the Minister for that purpose may,

- (a) be added as a party to an appeal taken under subsection (1); or
- (b) take an appeal under subsection (1), in which case no fee in respect of the appeal is payable.

72.—(1) Subsection 135 (1) of the said Act is repealed and the following substituted therefor:

(1) Application to the Commissioner for an appointment for a hearing may be made in writing by any party to the proceeding upon such notice and to such persons as the Commissioner directs and shall be accompanied by the prescribed fee for recording any order made by the Commissioner in the matter.

Application for appointment for hearing

(2) Subsection 135 (4) of the said Act is repealed and the following substituted therefor:

(4) In any matter or proceeding, other than an appeal, in any case where leave to take the proceeding is necessary, the Commissioner may give leave upon such terms as to security for costs or otherwise as the Commissioner considers just.

Leave for hearing

73.—(1) Clause 137 (1) (b) of the said Act is amended by inserting after "things" in the third line "under oath or otherwise".

(2) Subsection 137 (1) of the said Act is amended by striking out "and" at the end of clause (d) and by adding thereto the following clauses:

(f) upon the application of a party to the proceedings, order the examination of any other party before an official examiner appointed under the *Courts of Justice Act, 1984*; and

1984, c. 11

(g) order any party to the proceedings who intends to present evidence at the hearing to file with the Commissioner and serve on each of the other parties, prior to the appearance of any witness and within such time as the Commissioner directs, a statement indicating the evidence intended to be relied upon.

74.—(1) Section 150 of the said Act is amended by adding thereto the following subsections:

(1a) Every order or judgment of the Commissioner shall take effect immediately upon its signing, subject to any express provision therein.

When order of Commissioner takes effect

(1b) Notwithstanding section 17 of the *Statutory Powers Procedure Act*, the reasons for a decision of the Commissioner may be delivered orally.

Oral reasons R.S.O. 1980, c. 484

Filing of
order

(1c) Any party to a proceeding may cause an order or judgment of the Commissioner to be filed in the office of the recorder.

Notice of
filing

(1d) The recorder shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to the parties not represented by a solicitor.

Filing of
duplicate
order

(1e) Where the order or judgment is not filed with the recorder within fifteen days of the order being signed, the Commissioner shall cause a duplicate thereof to be filed with the recorder.

(2) Subsections 150 (2) and (3) of the said Act are repealed and the following substituted therefor:

Transmission
of evidence,
etc., to
recorder

(2) The Commissioner shall transmit the evidence, the exhibits, the statement, if any, of view or of special knowledge or skill, and the reasons for any order or judgment to the recorder.

75. Section 151 of the said Act is repealed and the following substituted therefor:

Final order
or judgment
sent to
parties

151. Where a decision of the Commissioner finally disposes of the matter in question so far as the Commissioner is concerned, the Commissioner shall send the order or judgment to the parties by registered mail.

76. Section 152 of the said Act is repealed and the following substituted therefor:

Certified
copy of order
or judgment

152. Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment.

77. Part IX of the said Act is repealed and the following substituted therefor:

PART IX

OPERATION OF MINES

Definitions

160.—(1) In this Part,

“abandoned” means the proponent has ceased or suspended indefinitely advanced exploration, mining, or mine production on the site, without rehabilitating the site;

“advanced exploration” means the excavation of an exploratory shaft, adit, or decline, the extraction of material in excess of the prescribed quantity, the installation of a mill for test purposes or any other prescribed work;

“closed out” means that all the requirements of an accepted closure plan have been complied with and is the final stage of closure;

“closure” means the temporary suspension, inactivity or close out of advanced exploration, mining or mine production;

“closure plan” means a plan prepared in the prescribed manner to rehabilitate a project at any stage of closure and includes the information, particulars, maps and plans prescribed, as well as provision in the prescribed manner of financial assurance to the Crown for the performance of the requirements of the closure plan;

“Director” means the Director of Mine Rehabilitation for the mining division or divisions in which is situate the land in respect of which an act, matter or thing is to be done under this Part;

“inactivity” means that advanced exploration, mine production and mining operations on a site have been suspended indefinitely in accordance with a closure plan, and although protective measures are in place on the site, the site is no longer being monitored by the proponent on a continuous basis;

“mine production” means mining that is producing any mineral or mineral-bearing substance either for immediate sale or for stockpiling for ultimate sale;

“progressive rehabilitation” means rehabilitation done continually and sequentially, within a reasonable time, during the entire period that the project continues;

“project” means a mine or the activity of advanced exploration, mining or mine production;

“proponent” means the holder of an unpatented mining claim or licence of occupation or an owner as defined in paragraph 21 of section 1;

“protective measures” means steps taken in accordance with the prescribed standards to prevent personal injury or property damage that is reasonably foreseeable as a result of closure commencing;

“rehabilitate” means measures taken in accordance with the prescribed standards to treat the land or lands on which advanced exploration, mining or mine production has occurred so that the use or condition of the land or lands,

- (a) is restored to its former use or condition, or
- (b) is made suitable for a use that the Director sees fit, and includes taking protective measures;

“site” means the land or lands on which a project is located;

“temporary suspension” means advanced exploration, mining or mine production have been suspended, in accordance with an accepted closure plan, on either a planned or unplanned basis, but the site is being monitored on a continuous basis by the proponent and protective measures are in place.

Application
of Part

(2) For greater certainty, but without restricting the scope of this Part, this Part applies to projects including,

- (a) the underground mining of minerals, excluding natural gas, petroleum and salt by brining method;
- (b) the surface mining of metallic minerals;
- (c) the surface mining of non-metallic minerals, excluding natural gas and petroleum, on land that is neither Crown land nor land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*;
- (d) advanced exploration on mining lands.

R.S.O. 1980,
c. 378
1989, c. 23

DIRECTORS AND MINERAL DEVELOPMENT OFFICERS

Mineral
Development
Officers

161.—(1) The Minister may appoint as Mineral Development Officers such employees of the Ministry as the Minister considers necessary, whose function it is to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario.

Directors

(2) The Minister may appoint an officer or employee of the Ministry as Director of Mine Rehabilitation for each such mining division or group of mining divisions as the appointment specifies.

ADVANCED EXPLORATION

161a.—(1) No proponent shall commence or recommence advanced exploration without providing the Director with notice in the form and manner prescribed and the project may proceed unless, within thirty days of receiving the notice, the Director in writing has required the proponent to,

Closure plan,
advanced
exploration

- (a) give public notice at the prescribed time and in the prescribed form and manner;
- (b) submit a proposed closure plan; or
- (c) comply with both clauses (a) and (b).

(2) Where the Director has required the proponent to give public notice only under clause (1) (a), the project may proceed after public notice has been given.

Where public
notice only
required

(3) Where the Director has required the proponent to submit a proposed closure plan under clause (1) (b),

Changes to
closure plan

- (a) the Director may by written notice require changes to the proposed closure plan; and
- (b) the project shall not proceed until the Director has accepted in writing the closure plan, and the public notice, if required under clause (1) (a), has been given.

MINE PRODUCTION

161b.—(1) No proponent shall commence or recommence mine production without,

Closure plan,
mine
production

- (a) providing the Director with notice in the prescribed form and manner;
- (b) giving public notice at the prescribed time and in the prescribed form and manner;
- (c) submitting a proposed closure plan; and
- (d) receiving the Director's written acceptance of the closure plan required by clause (c).

(2) The Director may require changes to a proposed closure plan required by clause (1) (c) prior to accepting it.

Changes to
closure plan

PROGRESSIVE REHABILITATION

Progressive
rehabilitation

161c. A proponent shall take all reasonable steps to progressively rehabilitate a site whether or not closure has commenced or an accepted closure plan is in place.

CLOSURE PLANS

Compliance
with closure
plan

161d.—(1) Every proponent whose project is subject to a closure plan accepted under this Part shall comply with the closure plan.

Notice
closure has
commenced

(2) Where closure commences on a site, subject to a closure plan, the proponent shall,

- (a) forthwith notify the Director in writing that closure has commenced; and
- (b) comply with the requirements of the closure plan.

Annual
report to
Director

(3) Where a project has commenced or recommenced under section 161a or 161b, within twelve months of the commencement or recommencement, and for every twelve-month period following thereafter while the project continues, the proponent shall submit annually to the Director a report prepared in the prescribed manner.

Submission
of, or
amendments
to, closure
plan

(4) If, on the receipt of the report required under subsection (3) or on the basis of information received from a rehabilitation inspector under subsection 161f (1), the Director has reasonable grounds for believing,

- (a) that the closure plan, including the financial assurance requirement, is inadequate to properly rehabilitate the site because the project has either expanded or other conditions have changed; or
- (b) in the case of an advanced exploration project not currently subject to a closure plan, the project has expanded or other conditions have changed to a point which necessitate a closure plan,

the Director may require by written notice the proponent to submit to the Director a proposed closure plan for the Director's consideration, or, where a closure plan is already in place, to submit proposed amendments to a closure plan, including proposals respecting an increase in the amount of financial assurance required to rehabilitate the site.

(5) Where a proponent plans to expand or alter a project, the proponent shall forthwith give written notice in the prescribed form to the Director.

Notice of expansion or alteration of project

(6) Where the Director has received either proposed amendments to existing closure plans or proposed closure plans under subsection (4), the Director may require changes to the proposed amendments or plan before notifying the proponent that the proposed amendments or plan are acceptable.

Changes to closure plan

(7) Upon receipt of the written notice of the Director that the proposed amendments or plan that may be required under subsection (4) are acceptable, the project shall operate subject to the plan or amended plan, as the case may be.

Project subject to plan or amended plan

FINANCIAL ASSURANCE

161e.—(1) The financial assurance required as part of a closure plan shall be in the form of cash, a letter of credit from a bank named in Schedule A to the *Bank Act* (Canada), a bond of a guarantee company approved under the *Guarantee Companies Securities Act* or another form of security acceptable to the Director and shall be in the amount specified in the closure plan accepted by the Director or any amendment thereto.

Form and amount of financial assurance
R.S.C. 1985, c. B-1
R.S.O. 1980, c. 192

(2) Where the Director has reasonable and probable grounds to believe that any rehabilitation measure required by the accepted closure plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the closure plan, the Director by order may provide for the performance of the rehabilitation measure in the manner set out in subsection (5).

Order providing for performance of rehabilitation measure

(3) The Director shall give the proponent written notice of the Director's intention to issue the order referred to in subsection (2) at least fifteen days prior to the date the order is to be issued.

Notice

(4) Both the notice and the order under this section shall be directed to the proponent to whom the approval for the closure plan was issued or directed and to any person to the knowledge of the Director that has provided the financial assurance for or on behalf of the proponent to whom the approval of the closure plan was issued or shall be directed to the successor or assignee of such person.

Parties affected

(5) Upon the issuance of an order by the Director under subsection (2), the Crown may,

Realization of security

- (a) use any cash;
- (b) realize any bond or letter of credit; and
- (c) enforce any other security,

provided or obtained as the financial assurance for the performance of the rehabilitation measures and may carry out the rehabilitation measures, or appoint an agent to do so, as the Director considers necessary.

Application
for reduction
of financial
assurance

(6) A proponent may apply to the Director for a reduction of the financial assurance to an amount consistent with the financial requirements of the rehabilitation work left to be completed where,

- (a) work has been performed in accordance with the requirements of an accepted closure plan; or
- (b) a reduction in the financial assurance requirement is justified in a report submitted under subsection 161d (3).

REHABILITATION INSPECTORS

Rehabili-
tation
inspectors

161f.—(1) For the purposes of monitoring the closure of projects, including mines that have been abandoned, the Minister may designate in writing any person who may, but need not be, an employee of the Ministry as a rehabilitation inspector.

Inspections
by rehabili-
tation
inspector

(2) For the purpose of carrying out the duties and exercising the powers under this Part, a rehabilitation inspector may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, and in the exercise of that authority may,

- (a) enter into or onto any mining lands or premises connected or associated with any project or abandoned mine, other than a room or place actually used as a dwelling;
- (b) make such inspections, examinations, inquiries or tests considered necessary in order to determine the nature and extent of any existing or potential hazards on mining lands;
- (c) in any inspection, examination, inquiry or test, be accompanied and assisted by any person having special, expert or professional knowledge of any

matter relevant to the inspection, examination, inquiry or test;

- (d) request the production of any drawings, specifications, licence, document, record or report;
- (e) on giving a receipt therefor, remove any drawing, specifications, licence, document, record or report produced in response to a request under clause (d) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them;
- (f) inspect any work related to rehabilitation necessary to complete a report to the Director under subsection (1); and
- (g) make reasonable inquiries of any person, orally or in writing.

(3) A proponent shall forthwith on request permit a rehabilitation inspector to carry out any inspection of any place, other than any room actually used as a dwelling, under subsection (2).

Inspection to be permitted

(4) No person shall hinder or obstruct a rehabilitation inspector in the lawful performance of duties or furnish the rehabilitation inspector with false information or refuse to furnish information required for the purposes of this Part and the regulations.

Obstruction prohibited

(5) Where a provincial judge or justice of the peace is satisfied on evidence upon oath by a rehabilitation inspector that there is reasonable ground for believing that it is appropriate for the administration of this Part or the regulations made thereunder for the rehabilitation inspector to do anything set out in subsection (2), and that the rehabilitation inspector may not be able to effectively carry out the duties assigned without an order under this section because,

Inspection warrant

- (a) a person has prevented the rehabilitation inspector from doing anything set out in subsection (2);
- (b) there is reasonable ground to believe that a person may prevent a rehabilitation inspector doing anything set out in subsection (2); or
- (c) it is impractical because of the remoteness of the place to be inspected or because of any other reason, for the rehabilitation inspector to obtain an

order under this section without delay if access is denied,

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to do anything set out in subsection (2) and specified in the warrant for the period of time set out in the order.

Search
warrant

(6) Where a provincial judge or justice of the peace is satisfied on evidence upon oath of a rehabilitation inspector that there is reasonable and probable ground for believing that,

- (a) an offence under this Part has been committed; and
- (b) the entry into and search of a place actually used as a dwelling will afford evidence as to the commission of the offence,

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to enter and search the room or place with such reasonable assistance as may be necessary and upon giving a receipt therefor to remove from the room or place any document or thing that may afford evidence of the offence for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the room or place from which they were removed.

When to be
executed and
expiry

(7) A warrant under subsection (5) or (6) shall be executed at reasonable times as specified in the warrant and shall state the date upon which it expires, which shall be not later than fifteen days after the warrant is issued.

Admissibility
of copies

(8) Copies of, or extracts from, documents or things removed under this section 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.

Identification

(9) Upon request, a rehabilitation inspector who exercises a power set out in subsection (2) shall identify himself or herself as a rehabilitation inspector either by the production of a copy of the rehabilitation inspector's designation or in some other manner and shall explain the purpose of the inspection.

EXISTING PROJECTS

Notice to
Director

161g.—(1) Within ninety days of the coming into force of this Part, every proponent of a producing mine or of a mine

from which production is temporarily suspended shall give a notice in writing to the Director that contains the prescribed information relating to that mine.

(2) On the Director receiving a notice under subsection (1), the Minister shall determine the period of time within which the proponent must submit to the Director a proposed closure plan in respect of that mine.

Determination of Minister of time for submission of closure plan

(3) The Director shall notify in writing a proponent who has given notice under subsection (1) of the period of time determined by the Minister within which the proponent must submit to the Director a proposed closure plan.

Notice to proponent by Director

(4) A proponent who has received a notice under subsection (3) shall submit the required closure plan to the Director within the period of time specified in the notice.

Submission of closure plan to Director

(5) The Director, within ninety days of the coming into force of this Part, may notify in writing any proponent of advanced exploration that has commenced before and is continuing on the day this Part comes into force of the period of time within which the proponent must submit a proposed closure plan.

Notice to submit closure plan

(6) A proponent who has received a notice under subsection (5) shall submit the required closure plan to the Director within the time specified in the notice.

Submission of closure plan to Director

(7) Prior to the Director informing the proponent that the closure plan required under subsection (4) or (6) is acceptable, the Director may by written notice require changes to the closure plan.

Changes to closure plan

(8) On receiving written notification from the Director that the closure plan required under subsection (4) or (6) is acceptable, the project shall operate subject to the closure plan and sections 161c, 161d, 161e and 161f shall apply.

Mine to operate subject to closure plan

161h.—(1) Notwithstanding section 161g, where a proponent takes steps to abandon the project on either an indefinite or permanent basis after the day this Part comes into force but before the Director informs the proponent that the closure plan required under subsection 161g (4) or (6) is acceptable, the proponent shall give written notice to the Director and shall take all reasonable steps to rehabilitate the site.

Where project abandoned after Part comes into force

(2) Where the Director has reasonable grounds for believing that a proponent has not complied with subsection (1), the Director may order the proponent to rehabilitate the site.

Order to rehabilitate site

Declaration
that mine
abandoned

(3) Where, within a reasonable period of time, a proponent fails to comply with the order of the Director made under subsection (2), the Director may declare the project abandoned and may have the Crown or an agent thereof enter onto or into the site to implement rehabilitative measures.

Notice of
declaration

(4) The Director shall not have the Crown or an agent thereof take the measures referred to in subsection (3) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Declaration
that lease
void

(5) Where under subsection (3) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Notice to
proponent

(6) The Director shall not take the steps referred to in subsection (5) until the Director has given the proponent the prescribed notice required under subsection (4), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (5).

Where
project
abandoned
when Part
comes into
force

161i.—(1) The Director may by written notice require the proponent of a project the Director considers abandoned on the day this Part comes into force to submit within a specified period of time a proposed closure plan to rehabilitate the site.

Changes to
closure plan

(2) Prior to the Director informing the proponent that a closure plan required under subsection (1) is acceptable, the Director may by written notice require changes to the closure plan.

Rehabili-
tation of site

(3) On receiving written notification from the Director that a closure plan required under subsection (1) is acceptable, the proponent shall complete the rehabilitation of the site in accordance with the closure plan.

Declaration
that mine
abandoned

(4) Where the proponent of a site fails to comply with the Director's requirements under subsection (1) or (2), the Director may declare the project abandoned and may have the Crown or an agent of the Crown enter onto or into the site to implement rehabilitative measures.

Notice of
declaration

(5) The Director shall not have the Crown or an agent thereof take the steps referred to in subsection (4) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

(6) Where under subsection (4) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Declaration
that lease
forfeited

(7) The Director shall not take the steps referred to in subsection (6) until the Director has given the proponent the prescribed notice required under subsection (5), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (6).

Notice to
proponent

VOLUNTARY SURRENDER OR ABANDONMENT

161j.—(1) Before accepting the voluntary surrender of lands referred to in section 198, where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the Minister may refuse to accept the surrender of such lands, and, upon such refusal, the Director may order the proponent to comply with the requirements of the accepted closure plan or to rehabilitate the site in accordance with the prescribed standards.

Refusal of
voluntary
surrender

(2) Where the proponent subject to an order under subsection (1) is an owner, the Director may register the order against the land or lands comprising the site in the proper land registry office and may apply to a Justice of the High Court for an injunction preventing the sale of the land or lands comprising the site, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands.

Application
for injunction

(3) Where the proponent subject to an order under subsection (1) is a lessee, the Director may recommend to the Minister that the Minister not consent to the transfer of the lease.

Refusal of
consent to
transfer lease

(4) Where the proponent subject to a Director's order under subsection (1) is a lessee under a lease which expires during the period in which the Director's order is in force, the lessee is not by reason only of the expiry of the lease relieved of the lessee's duties under this section.

Where lease
expires

(5) Where the proponent subject to an order under subsection (1) is the holder of a licence of occupation, the Direc-

Refusal of
consent to
transfer of
licence

tor may recommend to the Minister that the Minister not consent to a transfer of the licence.

Where mining claim not to be abandoned

(6) Notwithstanding section 83, where the proponent is a mining claim holder and where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the holder may not abandon the mining claim and the Director may order the proponent to comply with the requirement of the accepted closure plan, or to rehabilitate the site in accordance with the prescribed standards.

Realization of security

(7) If a person subject to an order under subsection (1) or (6) fails to comply with the order, the Director may,

- (a) where a closure plan applies, proceed and realize on the financial assurance under the provisions of section 161e; or
- (b) where no closure plan is in place, have the Crown, or an agent thereof, carry out rehabilitation measures in accordance with the prescribed standards.

COST OF WORK COMPLETED

Where cost debt due to Crown

161k.—(1) Where under subsection 161h (3) or 161i (4) the Director has the Crown or an agent of the Crown carry out rehabilitation measures, the resulting cost to the Crown is a debt due to the Crown and,

- (a) forms a lien and a charge on the site in favour of the Crown, realizable by action for sale of any part or all of the land or lands subject to it, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Idem

(2) The cost to the Crown of carrying out the rehabilitative measures under clause 161j (7) (b) is a debt due to the Crown recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Idem

(3) Where under subsection 161e (5) the Crown or an agent of the Crown carries out rehabilitation measures and the

financial assurance held by the Crown is insufficient to cover the total cost incurred by the Crown in completing the rehabilitation measures, the extra cost not covered by the financial assurance is a debt due to the Crown which,

- (a) forms a lien and a charge on the site in favour of the Crown realizable by action for sale of any part or all of the land or lands comprising the site subject to the lien, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

(4) Notice of the debt described in subsections (1) and (3) may be registered as a charge in the proper land registry office and no transfer of or other dealing with the site shall take place until the debt is paid and the notice is cancelled.

Registration
as charge

HEARINGS AND APPEALS

161-1.—(1) Where the Director,

Appeal to
Commissioner

- (a) requires a closure plan under clause 161d (4) (b) or subsection 161i (1);
- (b) requires changes to either an existing or proposed closure plan under subsection 161a (3), 161b (2), 161d (6), 161g (7) or 161i (2);
- (c) orders the performance of rehabilitation measures under subsection 161e (2);
- (d) orders the proponent to rehabilitate the site under subsection 161h (2); or
- (e) declares a project abandoned under subsection 161h (3) or 161i (4),

the proponent may appeal the Director's requirement, order or declaration to the Commissioner, if within fifteen days of receiving the notice of the Director requiring the changes or proposed closure plans referred to in clause (a) or (b), receiving a Director's order referred to in clause (c) or (d), or receiving a Director's declaration referred to in clause (e), the proponent serves the Director with the prescribed notice requiring a hearing before the Commissioner, and, within

thirty days of being served, the Director shall refer the matter to the Commissioner for the hearing.

Automatic stay unless removed

(2) On the service of a notice on the Director under subsection (1) requiring a hearing before the Commissioner, the requirement, order or decision of the Director is stayed until the disposition of the appeal by the Commissioner, unless upon application with notice by the Director, the Commissioner removes the stay where the matter relates to,

- (a) changes to either an existing or proposed closure plan referred to in clause (1) (b); or
- (b) an order requiring the performance of rehabilitation measures referred to in clause (1) (c) or (d).

Provision of additional financial assurance

(3) Notwithstanding subsection (2), where the proponent appeals to the Commissioner under subsection (1) from a Director's requirement for changes to an existing closure plan under subsection 161d (4) and one of the changes required is to increase the amount of financial assurance required for the closure plan, the Commissioner shall refuse to hear the appeal unless the proponent has provided to the Director along with the notice required under subsection (1) the extra amount of financial assurance required under the closure plan to be held by the Crown pending the outcome of the proponent's appeal.

Waiver

(4) The Commissioner upon application with notice by the proponent may waive the requirement under subsection (3) if the Commissioner considers it just to do so.

Power of Commissioner on appeal

(5) Upon hearing the appeal of the proponent, the Commissioner may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing.

Application

(6) Sections 135, 136, 137 and 139 to 152 of this Act apply to appeals under this section with necessary modifications.

Appeal to Divisional Court

(7) An appeal lies to the Divisional Court on a question of law from any decision of the Commissioner under subsection (5) in accordance with the Rules of Civil Procedure.

Appeal to Minister

(8) A party to a hearing before the Commissioner may, within thirty days after receipt of the Commissioner's decision or within thirty days after final disposition of an appeal, if any, under subsection (7), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Commissioner as to the matter in appeal as the Minister considers in the public interest.

(9) The person requiring the hearing, the Director and any other person specified by the Commissioner are parties to the hearing.

Parties

SERVICE

161m.—(1) Any notice required to be served under this Part or the regulations made in respect thereto is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address of service appearing on the records of the Ministry.

Service of notice

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes the person did not, acting in good faith, and for a cause beyond that person's control, receive a notice until a later date.

When service deemed made

PART IX-A

BRINE WELLS

162.—(1) In this section,

Definitions

“brine well” means a hole or opening in the ground for use in brining;

“brining” means the extraction of salt in solution by any method;

“chief engineer” means a person designated by the Minister as chief engineer for the purposes of this section.

(2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the chief engineer upon application therefor in the prescribed form.

Permit to bore or drill a brine well

(3) A permit shall not be issued,

Permits not issued

(a) to authorize a person to drill or bore a brine well on property in which the person does not own, hold or lease, or is not otherwise entitled to, the mining rights; or

(b) where the proposed brine well is nearer the boundary of such property than 150 metres.

(4) The chief engineer may reduce or extend the distance referred to in clause (3) (b) where in his or her opinion it is

Location of brine well

advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed.

Condition of permit

(5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit.

Time for issuance of permit

(6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection (4), the permit shall be issued upon the receipt by the chief engineer of the applicant's consent thereto.

Log of drilling operations

(7) Where a person drills or bores a brine well, he or she shall forward a log of the drilling or boring in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the drilling or boring operations, and, upon the person's request in writing, the log shall be confidential for a period of six months.

Protection of water horizons

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations.

Protection of deposits

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water.

Standard of casing and equipment

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected.

Plugging of abandoned wells

(11) Where practicable, all brine wells shall be plugged by the person operating them, before being abandoned, in a manner that will,

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

Report of proposed plugging

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form.

(13) Where a person plugs a brine well, he or she shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations.

Record of
plugging
operations

PART IX-B

STATISTICAL RETURNS

163.—(1) For the purposes of tabulation, every owner of a mine shall, on or before the 31st day of March in each year, send to the Minister on the forms provided a report of activities for the preceding year ending on the 31st day of December showing,

Annual
report

- (a) the nature of the work performed and the sums spent on mining and exploration;
- (b) the sums allocated for capital expenditures and repairs;
- (c) the current state of ore reserves;
- (d) the quantity and value of mineral production;
- (e) the number of employees; and
- (f) the revenues and expenses entailed in mining and exploration activities,

and the report shall be accompanied by such other information, plans and documents as the Minister requires, including, without limiting the scope of the requirement, information, plans and documents respecting,

- (g) inventory;
- (h) fuel and electricity consumed;
- (i) mining supplies and materials used;
- (j) non-mining supplies and materials used;
- (k) mining products, shipments and destinations;
- (l) non-mining products;
- (m) production details; and
- (n) wastes produced.

Monthly or
quarterly
report

(2) The Minister may require an owner to send monthly or quarterly reports within such times as the Minister specifies.

Bankruptcy,
etc.

(3) In the event of the bankruptcy or winding-up of an owner, the trustee or liquidator shall, at the request of the Minister, send the report to the Minister.

Pit or quarry
operations
1989, c. 23

(4) The Minister may require a licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* to send information to the Minister in accordance with this section, and, where the Minister does so, subsections (1), (2) and (3) apply with necessary modifications.

78. Section 175 of the said Act is repealed.

79. Section 176 of the said Act is repealed and the following substituted therefor:

Penalty for
offence
against
Part IX

176.—(1) Every person who contravenes any provision of Part IX or the regulations made in respect thereto is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues.

Failure to
comply with
order of
Director

(2) Every person who is subject to a Director's order under Part IX and who fails to take all reasonable steps to obey the conditions of the order is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues.

Application
for
restraining
order

(3) Where any person fails to,

- (a) comply with section 161a or 161b before commencing or recommencing a project;
- (b) comply with an accepted closure plan as required under subsection 161d (1);
- (c) submit the report required under subsection 161d (3);
- (d) give the Director notice of a planned expansion or alteration as required by subsection 161d (5); or
- (e) give the notice required under subsection 161g (1) or submit a closure plan required under subsection 161g (4) or (6),

the Director may apply at any time to a Justice of the High Court for an order prohibiting advanced exploration, mining or mine production on the site.

(4) Every person who alters, destroys, removes or impairs any rehabilitation work made in accordance with Part IX or an accepted closure plan without the written consent of the Minister is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Destruction, etc., of rehabilitation works

(5) Every director or officer of a corporation that engages in a project under Part IX has a duty to take all reasonable care to ensure that the corporation complies with the requirements of that Part.

Duty of directors and officers

(6) Every person who has a duty under subsection (5) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence

(7) A director or officer of a corporation is liable to conviction under subsection (6) whether or not the corporation has been prosecuted and convicted.

Liability of directors and officers

(8) The court that convicts a person of an offence under Part IX, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of monetary benefit acquired by, or that accrued to, the person as a result of the commission of the offence, notwithstanding the imposition of the maximum fine provided for that offence.

Increase in fine equal to monetary benefit

176a. Every owner of a mine and every licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* who contravenes section 163, or who makes a report under that section that is, to the owner's, licensee's or operator's knowledge, false in any particular, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each day on which the offence occurs or is continued.

Offence
1989, c. 23

80. Clause 177 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) by a rehabilitation inspector.

81. Part XII of the said Act is repealed.

82. Section 190 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 2, is repealed and the following substituted therefor:

Regulations

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

1. governing the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands sold or leased as mining lands or recorded as mining claims or locations under this Act or a predecessor thereof, and for the opening, construction or maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or lands for the conveying and passage of water for mining purposes;
2. prescribing the form of any application, notice, report, log, record, dispute, certificate, permit, statement or other document required, permitted or provided for, by or under this Act;
3. prescribing the amount of any fee required to be paid to the Minister, the Ministry, the Commissioner or a recorder by or under this Act;
4. prescribing the manner of staking and the size and form of mining claims and the time and manner of affixing tags in respect thereto;
5. prescribing the annual rental for a licence of occupation;
6. prescribing the information to be shown on a sketch or plan accompanying an application to record a mining claim;
7. prescribing, for the purposes of subsection 62 (1), the conditions on which permission may be given to mine, mill and refine mineral substance from an unpatented mining claim;
8. prescribing the annual units of assessment work to be performed by the holder of a mining claim;
9. prescribing, for the purposes of subsection 76 (2), locations, other than the office of the recorder, in which may be filed assessment work reports and prescribing the date reports in respect of specified types of assessment work shall be filed;
10. prescribing the types of work eligible for assessment work credits, the method of calculating and approv-

- ing credits for work performed and the manner of distribution of credits to mining claims;
11. prescribing the manner in which prospecting and regional surveys performed before staking are eligible for assessment work credits;
 12. prescribing the manner in which exploration work performed on patented mining claims may be allocated to contiguous unpatented mining claims;
 13. prescribing the conditions on which an extension of time for the performing of and filing a report on assessment work may be allowed by a recorder;
 14. prescribing the annual rental for the first year for a lease of a mining claim, the rate for each subsequent year and the annual rental for a renewal lease;
 15. prescribing the rental rate for the mining rights only in respect of a mining claim;
 16. prescribing the additional assessment work to be performed in respect of any excess area of a mining claim or in respect of excess average area of mining claims within a perimeter survey;
 17. prescribing the annual rental of a lease referred to in section 95;
 18. prescribing the annual rental of a lease or renewal lease of surface rights referred to in section 97;
 19. prescribing the methods and procedures to be followed in the surveying of mining claims;
 20. prescribing the rate of interest to be imposed in the cases mentioned in subsections 196 (2) and 211 (2);
 21. prescribing, for the purposes of section 202, the amount of tax to be paid for each hectare;
 22. prescribing classes of instruments and documents that may be filed through transmission by electronic means in such manner as is prescribed;
 23. defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;

24. prescribing anything that by this Act is to be or may be prescribed.

Idem

(2) The Lieutenant Governor in Council may make regulations relating to Part IX,

1. prescribing the manner of preparing closure plans, their form and content, and the information, particulars, maps and plans to be included therein;
2. prescribing standards for rehabilitation;
3. prescribing standards for the protective measures to be taken in respect of the closure of a mine;
4. prescribing the form and manner and time of giving public notice;
5. prescribing the form and manner in which notice is to be given to the Director and to the proponent;
6. prescribing the manner of preparing the annual report to the Director required under subsection 161d (3);
7. prescribing the form of notice to be given under subsection 161d (5);
8. prescribing, for the purposes of subsection 161f (5), the form of a warrant to enter and inspect and, for the purposes of subsection 161f (6), the form of a warrant to enter and search;
9. prescribing, for the purposes of subsection 161g (1), the information to be contained in the notice to be given to the Director relating to a producing mine or to a mine from which production is temporarily suspended;
10. prescribing quantities of material extracted and other types of work that are to be classified as advanced exploration work;
11. prescribing time periods within which duties under Part IX shall be complied with;
12. prescribing anything that by Part IX is to be or may be prescribed.

(3) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as the Minister considers appropriate.

Minister may
issue licence,
lease or
patent

83. Section 192 of the said Act is repealed.

84.—(1) Subsection 193 (1) of the said Act is amended by striking out “Notwithstanding section 192” in the first line.

(2) Subsection 193 (2) of the said Act is repealed.

85. Section 194 of the said Act is amended by adding thereto the following subsections:

(2) The land registrar of the land titles or registry division in which any lands or rights mentioned in a court order made under subsection (1) are situate shall, upon receipt of the order, register it and the order is absolute and conclusive proof of the vesting in the Crown of the lands or rights affected by the order and the vesting in the Crown is not open to attack in any court by reason of the omission of any act or thing leading up to the order repealing or avoiding the patent or lease.

Registration
of order

(3) Upon registration of the court order in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the lands or rights affected by the order, and the land registrar shall note that fact in the register in red ink.

Non-
application
of
R.S.O. 1980,
cc. 445, 230

(4) The lands and mining rights vested in the Crown under this section are not open for prospecting, staking out or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

Opening
lands for
prospecting,
etc.

86. Section 195 of the said Act is repealed and the following substituted therefor:

195. Where a freehold or leasehold in mining lands or mining rights reverts, other than by transfer to the Crown, the land or rights may be dealt with as unpatented Crown land.

Reversion to
Crown

87.—(1) Subsection 196 (2) of the said Act is amended by striking out “rate of 6 per cent” in the eighteenth and nineteenth lines and inserting in lieu thereof “prescribed percentage rate”.

(2) Subsection 196 (8) of the said Act is repealed and the following substituted therefor:

Fee

(8) An application under subsection (2) shall be accompanied by the prescribed fee.

88. Subsection 197 (5) of the said Act is amended by striking out "purchase or" in the fifth line.

89. Subsection 198 (1) of the said Act is repealed and the following substituted therefor:

Voluntary
surrender of
mining lands

(1) The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may surrender such lands or mining rights to the Crown only upon such terms as are acceptable to the Minister, and thereupon the Minister may cause a notice of determination to be filed in the proper land registry office.

90. Section 199 of the said Act is repealed and the following substituted therefor:

Lands
forfeited,
etc., to
Crown
R.S.O. 1980,
c. 95
1982, c. 4

199.—(1) Where mining lands or mining rights,

- (a) are forfeited to the Crown under the *Corporations Act* or the *Business Corporations Act, 1982*, or any predecessor thereof or are forfeited to the Crown for any other cause; or
- (b) have become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs,

the Minister may cause to be registered in the proper land registry office a notice stating that forfeiture has been effected as mentioned in clause (a) or that the lands or mining rights have become the property of the Crown as mentioned in clause (b), as the case may be, and that by reason thereof the lands or mining rights and every interest therein are forfeited to and vested in, or have become the property of, the Crown, absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture or becoming the property of the Crown, and, subject to subsection (2), such lands shall be dealt with under this Act.

Opening
forfeited,
etc., lands
for
prospecting,
etc.

(2) Mining lands or mining rights so forfeited or that have become the property of the Crown are not open for prospecting, staking out, sale or lease under this Act until a date fixed

by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

91. Section 200 of the said Act and the preceding heading are repealed and the following substituted therefor:

ANNULMENT OF FORFEITURE OR TERMINATION OF LEASE

200.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order revoke, cancel or annul the forfeiture of any lands or mining rights under this Act or revoke, cancel or annul the termination of any lease of mining lands under this Act, and the Deputy Minister shall cause the order to be registered in the proper land registry office and thereupon the lands or mining rights revert in the owner or lessee of the lands or mining rights at the time of forfeiture or termination, his or her heirs, successors or assigns, subject to any lien, mortgage, or charge entered or registered prior to the forfeiture or termination and still outstanding.

Annulment of forfeiture, etc.

(2) Where application is made for an order under subsection (1), the Minister may direct the lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application.

Withdrawal of lands from prospecting, etc.

(3) The Minister may direct an application for an order under subsection (1) to be accompanied by the prescribed fee.

Fee

92. The heading preceding section 201 of the said Act is struck out and the following substituted therefor:

MINING LAND TAX

93. Section 201 of the said Act is repealed and the following substituted therefor:

201. In this section,

Definitions

“municipality” means a city, town, village, township or improvement district;

“tax” means a tax under this Part.

94. Section 202 of the said Act is repealed and the following substituted therefor:

Amount of
tax

202. There shall be paid to the Crown in each year a tax in the prescribed amount for each hectare on any lands or mining rights to which this Part applies.

95. Section 203 of the said Act is amended by striking out “acreage” in the first line.

96.—(1) Subsection 204 (1) of the said Act is amended by striking out “acreage” in the twenty-third line.

(2) Subsection 204 (2) of the said Act is amended by striking out “acreage” in the first line.

97. Clause 205 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) land has been subdivided,

(i) by a registered plan of subdivision, or

(ii) by a reference plan into parts for city, town, village or summer resort purposes,

and there is no severance of the surface and mining rights.

98. Section 207 of the said Act is amended by striking out “acreage” in the third line.

99. Section 208 of the said Act is amended by striking out “acreage” in the fourth line.

100. Section 209 of the said Act is amended by striking out “acreage” in the second line.

101. Subsection 210 (1) of the said Act is amended by striking out “acreage” in the fourth line and in the eighth line.

102.—(1) Subsection 211 (1) of the said Act is amended by striking out “acreage” in the first line.

(2) Subsection 211 (2) of the said Act is repealed and the following substituted therefor:

Fee

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

103.—(1) Subsection 212 (1) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 3, is further amended by striking out “acreage” in the fourth line

and by striking out "certified mail" in the sixth line and inserting in lieu thereof "mail or delivered by courier service".

(2) Subsection 212 (2) of the said Act is amended by striking out "acreage" in the sixth line.

(3) Subsection 212 (3) of the said Act is amended by striking out "acreage" in the first line.

104. Section 214 of the said Act is repealed.

105.—(1) Subsection 215 (1) of the said Act is amended by striking out "acreage" in the first line.

(2) Subsection 215 (2) of the said Act is amended by striking out "acreage" in the second line.

106. Section 217 of the said Act is amended by striking out "acreage" in the second line.

107. The Schedule to the said Act is repealed.

108.—(1) Every prospector's licence issued or renewed under the *Mining Act*, that is in good standing on the day this Act comes into force, expires at midnight on the 31st day of March, 1990, and thereafter, in the case of a licence held by a natural person, may be renewed under section 22 of the *Mining Act*, as amended by section 12 of this Act.

Prospector's
licence
R.S.O. 1980,
c. 268

(2) The expiry provision in subsection (1) does not apply to a prospector's licence that was issued or renewed as a lifetime licence.

Idem

(3) Where, before the 24th day of October, 1989,

Dispute or
court
proceeding

(a) a dispute has been filed under section 56 of the *Mining Act*; or

(b) a proceeding has been commenced in the Supreme Court to declare forfeited or void or to cancel or annul any Crown patent issued for mining lands, mining claims or mining rights,

the provisions of the *Mining Act*, as they existed before the coming into force of this Act, continue to apply to the dispute or proceeding until finally disposed of.

(4) Subsections 56 (7) and (8) of the *Mining Act*, as enacted by section 34 of this Act, apply to any re-staking by or on behalf of a transferee that has been commenced before, on or

Re-staking

after the 24th day of October, 1989, unless, before that day, the matter in dispute has been finally disposed of under the *Mining Act*.

Freehold patent

(5) Section 96 of the *Mining Act*, as it read before its re-enactment by section 61 of this Act, continues in force and applies in respect of any application for a patent made under that section before the 24th day of October, 1989.

Commencement

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

Short title

110. The short title of this Act is the *Mining Amendment Act, 1989*.



Bill 71

An Act to amend the Mining Act

The Hon. H. O'Neil
Minister of Mines

1st Reading October 24th, 1989
2nd Reading November 27th, 1989
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The following is a summary of the proposed changes to the Act:

1. Prospector's Licences

It will no longer be necessary to hold a prospector's licence to hold or acquire an interest in a mining claim. Licences will be valid for a five-year period, renewable on the prospector's birth date. At present, licences are valid for one year and expire on the 31st day of March. In future only individuals will be eligible for a licence. Claim tags will no longer expire with the prospector's licence and may be used by any licensee. The provision allowing for free assay coupons will be repealed. [Sections 1 (6), 9 to 15, 18, 19, 32 (2), 33, 34 (1), 37, 39, 41, 44 (2), 50, 51, 52 (2), 52 (5), 56 (1), 70 (1) and 108 (1)].

2. Staking Practices

Provisions setting out the size, form and manner that a mining claim shall be staked will be put in regulations. The priority of staking will be based on the completion time and will determine priority of recording where two or more licensees make application to record the staking of all or part of the same lands. [Sections 24, 25, 26 (1), 28 and 30 to 33].

3. Security of Tenure

Disputes challenging the validity of a mining claim will not be allowed after one year of the recording of the mining claim or after the first prescribed unit of assessment work has been performed and filed, and, where necessary, approved; this provision comes into force on the day the Act receives Royal Assent. A transferee who has acquired a mining claim in good faith will be allowed to re-stake the claim at any time without any loss of assessment work. All provisions in the *Mining Act* dealing with Certificates of Record will be repealed. The definition of "substantial compliance" will be broadened. [Sections 29, 34, 35, 37, 51, 55, 56 (2), 59 (1), 70 (2), 70 (3), 70 (4), 72 (2), 108 (3), 108 (4) and 111].

4. Assessment Work

The holder of a mining claim will be required to perform annual units of assessment work, measured in terms of dollars spent, subject to details defined in regulations. Certain types of assessment work (prospecting and regional surveys) performed prior to the staking of a mining claim, and assessment work performed on contiguous leased or patented lands will be eligible for credit. Authority to grant extensions of time to perform assessment work will be moved from the Mining and Lands Commissioner to the mining recorders. Relief from forfeiture in respect of an unpatented mining claim may be granted only by the Lieutenant Governor in Council on the recommendation of the Minister, except in the circumstance of administrative error on the part of the Crown, when such relief may be granted by a recorder; for an interim period of eight months after the relevant amendments to the Act come into force however, the Mining and Lands Commissioner may, on application made within that period, continue to grant relief from forfeiture on such conditions as the Commissioner considers just. [Sections 1 (1), 36, 46, 47, 52 (3), 53, 54, 91 and 109].

5. Surface Rights Compensation

A claim holder will be required to give notice to a surface rights holder prior to first performing ground assessment work. A claim holder, lessee, or owner of mining rights will be required to compensate the surface rights holder for damages sustained to the surface rights. Any person who damages mineral exploration workings will also have an obligation to compensate the claim holder. [Sections 57 and 58].

6. Mining Leases and Patents

Mining leases will be issued at the claim holder's option at any time after the first prescribed unit of assessment work has been performed and filed (and where necessary, approved). Leases will only be renewed where the production of minerals has occurred continuously for more than one year in the previous term of the lease or where the lessee has demonstrated a reasonable effort to bring the property into production except that leases issued under predecessor Acts may continue to be renewed in perpetuity for periods of ten years. Provisions are included to provide for the phasing in of the increased rents established by the Bill. Where mining lands or mining rights are surrendered, the owner or lessee may elect to retain an interest in the lands in the form of unpatented mining claims. The provision allowing for the issuance of freehold patents will be repealed. All references to "Acreage Tax" in Part XIV of the Act will be changed to "Mining Land Tax" and the rates will be prescribed in regulations. [Sections 52 (4), 59 to 62, 89, 92, 93, 108 (5) and 110].

7. Discretionary Grants of Mineral Tenure

The various provisions in the *Mining Act* respecting discretionary grants of mineral tenure will be consolidated into subsection 190 (3) of the Act. [Sections 22, 68, 82 and 91].

8. Operation of Mines

Part IX of the Act is re-enacted. These provisions will expand the legislative framework to cover all stages of mining activity including advanced exploration, development and closure. Complementary amendments will be made to other parts of the Act. [Sections 1 (7), 1 (8), 77 and 79].

The following is a summary of the more significant features of the new Part IX as set out in section 77 of the Bill:

- (a) There will be new requirements for notice to the public and government of advanced exploration and mine development activity. (Proposed sections 161a and 161b of the Act).
- (b) Closure plans with related financial assurances will be required before development or production commences to ensure that adequate mine rehabilitation is completed. (Proposed sections 161d and 161e of the Act).
- (c) Directors of Mine Rehabilitation and Rehabilitation Inspectors will be appointed to regulate mine rehabilitation. Decisions of the Director will be appealable to the Mining and Lands Commissioner. (Proposed sections 161 (2), 161f and 161-l of the Act).
- (d) Mineral Development Officers will be appointed to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario. (Proposed section 161 (1) of the Act).
- (e) Owners of existing mines will be required to give notice to the government and the Minister will determine the period of time within which a closure plan (which includes a financial assurance) is to be submitted. (Proposed section 161g of the Act).
- (f) Owners who abandon a mine before or after the day Part IX comes into force will still have a duty to give notice to the government and will be required to rehabilitate the site. (Proposed sections 161h and 161i of the Act).
- (g) Owners of mining lands will be required to rehabilitate before the surrender of those lands to the Crown. (Proposed section 161j of the Act).

- (h) The cost of rehabilitation measures carried out by the Crown on behalf of a mine owner will be a debt due to the Crown. (Proposed section 161k of the Act).
- (i) The penalties for contravening the Part IX provisions will include fines and court injunctions to prevent further activity on a mining site. (Proposed section 176 of the Act as set out in section 79 of the Bill).

9. Surface Mining of Non-Metallic Minerals

All surface mining of non-metallic minerals on private land (e.g. mining leases or patents) outside of designated areas under the *Aggregate Resources Act, 1989* will be regulated under the new Part IX. [Proposed sections 1, 118 and 160 (2) (c)].

10. The Mining and Lands Commissioner

Certain procedural matters with respect to the Mining and Lands Commissioner will be amended, for example a fee will be required when applying for an appointment for hearing to cover the recording of any orders in the matter and the Commissioner may order any party to be examined before an official examiner or to file a pre-hearing statement setting out the evidence that will be relied upon. Section 161-l of the re-enacted Part IX of the Act will provide for appeals from the Director of Mine Rehabilitation to the Commissioner. [Sections 72 (1) and 73 to 77].

11. Regulations

The regulation-making powers set out in the Act will be re-enacted. There will be increased use of regulations for such matters as the structure of fees, approved staking methods, assessment work requirements, and the operation of mines. [Section 82].

12. Miscellaneous

Inconsistencies and outdated references will be corrected. [Sections 1 (2) to 1 (10), 2 to 8, 16, 17, 20, 21, 23, 27, 38, 40, 42, 43, 44 (1), 44 (3), 45, 48, 49, 59 (5), 61, 63 to 67, 71, 77 (Parts IX-A and IX-B), 78, 80, 81 and 83 to 107].

Bill 71**1989****An Act to amend the Mining Act**

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

1.—(1) Paragraph 1 of section 1 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. "anniversary date", when referring to a mining claim, means the date that occurs at annual intervals after the recording of a mining claim, or such other date as results from the application of subsection 79 (2).

(2) Paragraphs 4 and 5 of the said section 1 are repealed and the following substituted therefor:

4. "Crown land" does not include.
 - i. land, the surface rights, mining rights or the mining and surface rights of which are under lease or licence of occupation from the Crown,
 - ii. land in the actual use or occupation of the Crown, the Crown in right of Canada, or of a department of the Government of Canada or a ministry of the Government of Ontario,
 - iii. land the use of which is withdrawn or set apart or appropriated for a public purpose, or
 - iv. land held by a ministry of the Government of Ontario;
5. "Deputy Minister" means the Deputy Minister of Mines.

(3) Paragraph 6 of the said section 1 is repealed.

(4) Paragraph 7 of the said section 1 is repealed and the following substituted therefor:

7. "holder", when referring to the holder of an unpatented mining claim, a boring permit or a licence of occupation issued under this Act, means the holder of record.

(5) Paragraph 9 of the said section 1 is repealed and the following substituted therefor:

9. "inspector" includes a geologist on the staff of the Ministry and any other officer or agent designated by the Minister to carry out an inspection or investigation of the mining industry.

(6) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

11. "licensee" means a person holding a prospector's licence issued under this Act or a renewal thereof.

(7) Paragraphs 14, 15 and 16 of the said section 1 are repealed and the following substituted therefor:

14. "mine", when used as a noun, means any opening or excavation in, or working of the ground, for the purpose of winning any mineral or mineral bearing substance, and all ways, works, machinery, plant, buildings and premises below or above the ground belonging to or used in connection with such activity, and any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any of such substances and includes mines that have been temporarily suspended, rendered inactive, closed out or abandoned as well as lands where tailings, or wasterock, or both, or any other prescribed substances from any opening or excavation or working of the ground have been deposited;
15. "mine", when used as a verb, means the performance of any work in or about a mine, as defined in paragraph 14;
16. "minerals" means all naturally occurring metallic and non-metallic minerals, including natural gas, petroleum, coal, salt, quarry and pit material, gold,

silver and all rare and precious metals, but does not include sand, gravel and peat;

16a. "mining claim" means a parcel of land, including land under water, that has been staked and recorded in accordance with this Act and the regulations.

(8) Paragraphs 18, 19, 20, 21 and 22 of the said section 1 are repealed and the following substituted therefor:

18. "mining rights" means the right to minerals on, in or under any land;

19. "Minister" means the Minister of Mines, except that in Parts IV and IX-A "Minister" means the Minister of Natural Resources;

20. "Ministry" means the Ministry of the Minister;

21. "owner", when used in Parts IX, IX-B and XI, includes every person, being the immediate proprietor, lessee or occupier of a mine, or a part thereof, or of any land located, patented or leased as mining land, and includes an agent, or a person designated by the owner or agent as responsible for the control, management and direction of a mine, or a part thereof, but does not include a person receiving merely a royalty from a mine, or mining lands, or the owner of the surface rights only;

22. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 4, 28, 97, 100 to 108, 190, 194, 197 and 204, the meaning is limited to freehold patents.

(9) Paragraph 23 of the said section 1 is repealed and the following substituted therefor:

23. "prescribed" means prescribed by the regulations;

23a. "prospecting" means the investigating of, or searching for, minerals.

(10) Paragraphs 26 and 29 of the said section 1 are repealed.

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

Purpose of
Act

1a. The purpose of this Act is to encourage prospecting, staking and exploration for the development of mineral resources and to minimize adverse effects on the environment through rehabilitation of mining lands in Ontario.

3. Section 3 of the said Act is repealed.

4. Section 4 of the said Act is amended by adding thereto the following subsections:

Immunity for
acts done in
good faith

(3) No action or other proceeding for damages shall be instituted against the Minister, the Deputy Minister or any officer or employee of the Ministry or any one acting under the authority of the Minister or Deputy Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
liability
R.S.O. 1980,
c. 393

(4) Subsection (3) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (3) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (3) had not been enacted.

Delegation of
Minister's
powers, etc.

(5) Where under this Act a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, conditions and requirements as the Minister sets out in the delegation.

Employees
authorized to
take
affidavits

(6) The Minister may empower such employees of the Ministry as the Minister designates to administer oaths and take and receive affidavits, declarations and affirmations authorized by law, for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of such oath, affidavit, declaration or affidavit, all the powers of a commissioner for taking affidavits under the *Commissioners for taking Affidavits Act*.

R.S.O. 1980,
c. 75

5.—(1) Subsection 6 (1) of the said Act is repealed and the following substituted therefor:

Mining
recorder

(1) The Minister may appoint an employee of the Ministry as mining recorder for each mining division.

(2) Subsection 6 (3) of the said Act is repealed.

6. Section 7 of the said Act is amended by inserting after "such" in the first line "record".

7.—(1) Section 9 of the said Act is amended by striking out "any of such books" in the first and second lines and inserting in lieu thereof "a record book".

(2) The said section 9 is further amended by adding thereto the following subsections:

(2) Where a copy of or extract from an entry in a record book or any document filed in the recorder's office is recorded electronically or on a magnetic medium, any writing that,

Computer
printout,
etc.,
admissible
evidence

(a) represents the entry in the record book or the filed document;

(b) is generated or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the original book or filed document.

(3) Where a record in a recorder's office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

Idem

(a) represents the record;

(b) is generated by or produced from the electronic record or magnetic medium; and

(c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

8.—(1) Subsection 12 (1) of the said Act is amended by striking out "and any such purchase or interest is void" in the fourth and fifth lines.

(2) Subsection 12 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Deputy Minister is satisfied that an officer has in good faith acquired an interest referred to in subsection

Waiver by
Deputy
Minister

(1) for other than mining purposes, the Deputy Minister may in writing waive the application of subsection (1) to the officer.

Penalty

(3) Any officer contravening subsection (1) forfeits his or her office.

9. Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

Licence required

(1) No person shall prospect on Crown lands or stake out, record or apply to record the staking of a mining claim unless the person is the holder of a prospector's licence issued under this Act.

10. Section 19 of the said Act is repealed and the following substituted therefor:

Who may receive licence

19.—(1) Any natural person who is of the age of eighteen years or over is entitled to obtain a prospector's licence upon application therefor made in the prescribed form and upon payment of the prescribed fee.

Date and term of licence

(2) A licence shall be dated on the day of its issue and expires at midnight on the day of the fifth anniversary of the licensee's birth date that follows the issue of the licence.

Not valid unless signed

(3) A licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

Licence not transferrable

(4) A licence is not transferrable.

Who may issue

(5) A licence may be issued by any recorder.

Service

(6) Any notice or document relating to a licensee is sufficiently served upon the licensee if delivered or sent by prepaid first class mail to the address shown on the application for the prospector's licence or to the address given under subsection (8), if applicable.

Idem

(7) Where service is made by prepaid first class mail under subsection (6) it shall be deemed to have been made on the fifth day after the day of mailing.

Notice of change of address

(8) A licensee shall notify, in the prescribed form, the recorder of any change in the address of the licensee.

11. Section 21 of the said Act is repealed.

12.—(1) Subsection 22 (1) of the said Act is repealed and the following substituted therefor:

(1) A licensee is entitled to a renewal of his or her licence upon making application therefor in the prescribed form and paying the prescribed fee within sixty days of its expiration.

Renewal of licence

(1a) Notice of the expiration of a licence shall be given by the recorder to the holder of the licence not later than sixty days before the expiry date.

Notice of expiration of licence

(2) Subsections 22 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A licence may be renewed by any recorder.

Who may renew

(3) The renewal shall bear date on the day following the expiration of the licence or renewal of licence of which it is the renewal and shall take effect immediately upon the expiration of that licence, or renewal thereof, as the case may be.

Date and term of renewal

(3) Subsection 22 (4) of the said Act is amended by adding at the end thereof "and shall expire at 12 o'clock midnight on the day that is the fifth anniversary of the licensee's birth date following the effective date of the renewal".

(4) Subsection 22 (5) of the said Act is repealed and the following substituted therefor:

(5) The Minister shall renew without fee the licence of a person who has held a licence continuously for twenty-five years, and the licence shall remain in good standing during the lifetime of the licensee.

Lifetime renewal by Minister

(6) The Minister may, at his or her discretion, renew the licence of a person without fee and order that the licence remain in good standing during the lifetime of the licensee.

Idem

13. Subsection 24 (1) of the said Act is repealed and the following substituted therefor:

(1) No person shall apply for or hold more than one prospector's licence.

Not more than one licence

14.—(1) Subsection 27 (5) of the said Act is repealed and the following substituted therefor:

(5) While a licence is suspended under subsection (3), the licensee may renew the licence but the licensee may not stake out or apply to record a mining claim.

Rights of licensee under suspension

Where holder
of mining
claim
contravenes
Act

(5a) Where the recorder finds, after a hearing, that a holder of a mining claim has contravened any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the recorder, order that such holder may not acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or to apply for lease on any unpatented mining claim recorded in the name of the holder.

Cancellation
of mining
claims

(5b) Where the Commissioner finds, after a hearing, that a holder of a mining claim has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, declare any mining claims of the holder to be cancelled and thereupon all rights of the holder in or to mining claim lands cease.

Order
pending
hearing

(5c) Pending the holding of a hearing on any matter under this section, the Commissioner or the recorder, as the case may be, before whom the hearing will be held, may order that any mining claim of the licensee or holder whose conduct is in question shall not, before the conclusion of the hearing and final disposition of the matter, be transferred to any other person.

Prohibition
against
staking out
claims, etc.

(5d) Where mining claims are cancelled under subsection (5b), the former holder of the mining claims may not stake out or apply for a mining claim or acquire an unpatented mining claim or interest therein through transfer for such period of time as the Minister determines, and the Minister shall notify the former holder of the period of time so determined.

(2) Subsection 27 (6) of the said Act is repealed and the following substituted therefor:

Appeal

(6) A finding by the Commissioner that a licensee or holder of a mining claim has wilfully contravened this Act or the regulations or by a recorder that a licensee or holder of a mining claim has contravened this Act or the regulations, as the case may be, may be appealed in like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal.

15. Section 29 of the said Act is amended by striking out "licensee" in the fourth line and inserting in lieu thereof "person".

16.—(1) Clause 30 (b) of the said Act is repealed and the following substituted therefor:

(b) upon any land laid out on a registered plan of subdivision.

(2) Clause 30 (d) of the said Act is repealed.

17.—(1) Clause 31 (b) of the said Act is repealed and the following substituted therefor:

(b) for which an application brought in good faith is pending in the Ministry of Natural Resources under the *Public Lands Act* or otherwise, and the applicant may acquire the minerals; or

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c. 413

(2) Clause 31 (c) of the said Act is amended by inserting after "Ministry" in the third line "of Natural Resources".

(3) Clause 31 (d) of the said Act is amended by striking out "and Communications" in the second line.

18. Subsection 33 (1) of the said Act is amended by striking out "or company" in the second and third lines.

19. Section 34 of the said Act is amended by striking out "licensee" in the fifth line and inserting in lieu thereof "holder of the mining claim".

20. Section 35 of the said Act is amended by striking out "and Communications" in the third line.

21.—(1) Subsection 36 (1) of the said Act is amended by striking out "or an officer appointed under this Act and designated by the Minister" in the first and second lines.

(2) Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Minister makes an order under subsection (1), the Minister shall, within twenty-four hours of the date of the order, mail a copy of the order to the recorder.

Copy of
order sent to
recorder

(3) Subsection 36 (4) of the said Act is repealed and the following substituted therefor:

(4) Lands, mining rights or surface rights withdrawn under this section, until re-opened by the Minister, shall remain withdrawn and shall not be prospected or staked out.

Lands
withdrawn
not to be
prospectd,
etc.

22. Section 38 of the said Act is repealed.

23. Section 39 of the said Act is repealed and the following substituted therefor:

Permit under
R.S.O. 1980,
cc. 173, 413

39. Before beginning or carrying on any prescribed assessment work on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling the holder to do so as provided in the *Forest Fires Prevention Act* or the *Public Lands Act*.

24. Section 40 of the said Act is repealed and the following substituted therefor:

Manner of
staking
mining claim

40. A mining claim shall be staked in such size, form and manner as is prescribed and may be staked on any day.

25. Section 42 of the said Act is repealed.

26.—(1) Subsections 43 (1), (2) and (3) of the said Act are repealed.

(2) Subsection 43 (5) of the said Act is amended by striking out “and Communications” in the third line.

27.—(1) Subsection 44 (1) of the said Act is repealed and the following substituted therefor:

Rates for
licences of
occupation

(1) Notwithstanding the provisions of a licence of occupation, there shall be paid, in advance, the prescribed annual rental for the licence of occupation.

(2) Subsection 44 (6) of the said Act is repealed and the following substituted therefor:

Lease may
be issued
under s. 94

(6) The holder of a licence of occupation, upon application in writing therefor and upon the surrender of the licence of occupation, may be issued a lease under section 94 and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

28. Sections 45, 46, 47 and 48 of the said Act are repealed.

29. Section 50 of the said Act is amended by adding thereto the following subsection:

Deemed
substantial
compliance

(2) The staking out of a mining claim shall be deemed to be in substantial compliance with the requirements of this Act and the regulations even if there is a failure to comply with a number of specific staking requirements if,

- (a) the failure to comply is not likely to mislead any licensee desiring to stake a claim in the vicinity; and
- (b) it is apparent that an attempt has been made in good faith by the licensee to comply with the requirements of this Act and the regulations.

30. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) A licensee who has staked out a mining claim shall make an application in the prescribed form to the recorder accompanied by the prescribed fee and a sketch or plan showing the prescribed information to record the claim not later than thirty-one days after the day on which staking was completed.

Application
to record
mining claim

(2) Priority of completion of staking shall prevail where two or more licensees make application to record the staking of all or a part of the same lands.

Priority of
completion
prevails

(3) Where one of the applications made by two or more licensees to record the staking of a mining claim is entitled to priority under subsection (2), the recorder shall cancel the other application or applications and shall by registered letter mailed not later than the following day notify the other licensee or licensees of the recorder's action and the reason therefor.

Notice to
other licensee
or licensees

31. Section 52 of the said Act is repealed.

32.—(1) Subsection 54 (1) of the said Act is amended by striking out "unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights" in the fourth, fifth and sixth lines.

(2) Subsection 54 (2) of the said Act is amended by inserting after "claim" in the fourth line "that has priority under subsection 51 (2)" and by striking out "licensee" in the twelfth line and inserting in lieu thereof "person".

(3) Subsections 54 (5), (6), (7) and (8) of the said Act are repealed.

(4) Subsection 54 (9) of the said Act is repealed and the following substituted therefor:

(9) There shall be added to each claim number the prefix allotted to the mining division in which the claim is situate.

Division
prefix added

33. Section 55 of the said Act is repealed and the following substituted therefor:

Metal tags

55.—(1) Metal tags and duplicate tags shall be provided by the Ministry on payment of the prescribed fee and may be used by any licensee in staking out claims in the prescribed manner and within the prescribed time.

Transfer of tags

(2) Metal tags and duplicate tags do not expire but may not be re-used.

34.—(1) Subsection 56 (1) of the said Act is amended by inserting after “by” in the first line “a detailed statement of claim and an” and by striking out “licensee” in the third line and in the fifth line and inserting in lieu thereof in each instance “person”.

(2) Subsection 56 (2) of the said Act is repealed and the following substituted therefor:

Copy to be sent to recorder holder

(2) A copy of the dispute, statement of claim and affidavit shall be left by the disputant with the recorder who shall, not later than the next day after the filing of the dispute, transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant the prescribed fee per page for making the copy.

(3) Subsection 56 (5) of the said Act is repealed and the following substituted therefor:

When not to be received

(5) A dispute shall not be received or entered against a claim,

- (a) after one year from the recording of the claim;
- (b) after the first prescribed unit of assessment work has been performed and filed and, where necessary, approved; or
- (c) except by leave of the Commissioner,
 - (i) after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or
 - (ii) after it has been on record for sixty days and has already had a dispute entered against it.

(5a) Where a dispute is entered against a claim after the first prescribed unit of assessment work has been performed and filed but before the assessment work has been approved, where approval is necessary, the dispute shall be deemed to have been resolved in favour of the holder or holders of the claim if the assessment work is subsequently approved and the note of the dispute entered on the record of the claim shall be struck out by the recorder who shall by registered letter mailed not later than the following day notify the disputant of the recorder's action and the reason therefor.

Where
assessment
work
subsequently
approved

(4) Section 56 of the said Act is amended by adding thereto the following subsections:

(7) Notwithstanding clause 28 (c) and subsection 84 (1), where a dispute has not been filed against a mining claim a transferee who has acquired the claim in good faith may re-stake or cause to be re-staked the claim or any part thereof at any time and, upon filing with the recorder a notice in the prescribed form of the re-staking, the recorder shall, upon notice to all persons having a recorded interest in the original claim, order that the re-staked claim shall be deemed to have been recorded on the date of the recording of the original claim or any part thereof that has been re-staked.

Re-staking
claim

(8) In an order made under subsection (7), the recorder shall provide that orders, assessment work reports, instruments or other notations which have been entered against the original claim be entered in the record book in respect of the re-staked claim, and may include in the order such provisions as the recorder considers necessary to effect such entry in the record book of the re-staked claim.

Entry of
orders, etc.,
against re-
staked claim

35. Sections 57, 58 and 59 of the said Act are repealed.

36.—(1) Subsection 59a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(1) A recorder may by order relieve an unpatented mining claim that is subject to forfeiture as a result of an administrative error on the part of the Crown from the forfeiture.

Relief from
forfeiture

(2) Subsection 59a (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(4) An order under subsection (1) or (3) may grant an extension of time for performing and reporting any work required to be performed or for applying and paying for a

Extension of
time

lease in respect of the claim or provide for the payment of any fees in respect of the claim.

37. Subsections 60 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Rights in
claim

(1) The staking out or the filing of an application for or the recording of a mining claim, or the acquisition of any right or interest in a mining claim by any person or all or any of such acts, does not confer upon that person,

(a) any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to perform the prescribed assessment work or to obtain a lease from the Crown and, prior to the performance, filing and approval of the first prescribed unit of assessment work, the person is merely a licensee of the Crown and after that period and until he or she obtains a lease the person is a tenant at will of the Crown in respect of the mining claim; or

(b) any right to take, remove or otherwise dispose of any minerals found in, upon or under the mining claim.

38. Section 62 of the said Act is repealed and the following substituted therefor:

Permission to
test mineral
content

62.—(1) The Minister may give written permission, subject to such conditions as are prescribed, to mine, mill and refine mineral bearing substance from an unpatented mining claim for the purpose of testing mineral content.

Conditions

(2) Permission granted under subsection (1) shall be for a specified time and shall cover a specified quantity of mineral bearing substance.

Sale of end
product

(3) The end product of mining, milling and refining permitted under subsection (1), except as provided in subsection (4), shall not be sold or otherwise disposed of until the mining claim from which the minerals were taken is leased under this Act.

Disposition
of proceeds

(4) Subsection (3) does not apply where the Minister gives written permission for the sale or disposition and where the Minister does so, the sale or disposition shall be in accordance with such terms as the Minister may impose.

39. Section 63 of the said Act is repealed.

40. Subsection 64 (2) of the said Act is amended by adding at the commencement thereof "Unless ordered otherwise by the Minister".

41. Section 70 of the said Act is amended by striking out "may" in the second line and inserting in lieu thereof "shall".

42.—(1) Section 71 of the said Act is amended by striking out "nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument" in the eighth, ninth, tenth and eleventh lines.

(2) The said section 71 is further amended by adding thereto the following subsections:

(2) Any such instrument shall not be recorded unless an affidavit in the prescribed form, attached thereto or endorsed thereon, is made by a subscribing witness to the instrument. Affidavit of execution

(3) Subsection (2) does not apply to the execution of an instrument by a corporation under its seal. Corporations

43. Subsection 74 (3) of the said Act is repealed.

44.—(1) Subsection 75 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate is of no effect and does not constitute notice to any person of the proceeding until it is filed. Not to constitute notice until filed

(2) Subsection 75 (6) of the said Act is amended by striking out "upon the latter becoming, if he is not before, a licensee" in the fifteenth and sixteenth lines.

(3) Subsection 75 (7) of the said Act is amended by striking out "a fee of \$1, which" in the second and third lines and inserting in lieu thereof "any required fee and such".

45. The heading preceding section 76 of the said Act is struck out and the following substituted therefor:

ASSESSMENT WORK

46. Section 76 of the said Act is repealed and the following substituted therefor:

76.—(1) The holder of a mining claim shall, following the recording of the claim, perform such annual units of assessment work as are prescribed. Assessment work

Report

(2) Subject to subsection (3), every mining claim holder shall, not later than the anniversary date, file in the office of the recorder or such other location as is prescribed a report in the prescribed form of the assessment work done for the purpose of complying with subsection (1), together with such other information as may be prescribed.

Idem

(3) The report mentioned in subsection (2) shall, in respect of any specified type of assessment work, be filed not later than such date earlier than the anniversary date as may be prescribed for that type of assessment work.

Credits measured in dollars spent

(4) For the purpose of subsection (1), assessment work credits shall be measured in terms of dollars spent.

47. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

Types of work eligible for credits, etc.

77.—(1) The types of work that are eligible for assessment work credits, the method of calculating and approving the credits for work performed and the distribution of credits for work performed to mining claims shall be determined in such manner as is prescribed.

Prospecting and regional surveys

(2) Prospecting and regional surveys performed on Crown lands before the staking of a mining claim are eligible for assessment work credits in such manner as is prescribed.

Work on patented mining claims

(3) Exploration work performed on patented mining claims may be allocated as assessment work to contiguous unpatented mining claims in the prescribed manner.

48. Section 79 of the said Act is repealed and the following substituted therefor:

Computing time for performance of assessment work

79.—(1) In computing the time within which work upon a mining claim is required to be performed or within which application and payment for a lease may be made,

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- (a) if a permit under the *Forest Fires Prevention Act* or the *Public Lands Act* that is necessary for the beginning or carrying on of work under this Act is refused or the performance of such work is prohibited under those Acts or any other Act, or the holder defers the start of work or is delayed in its performance at the request, or by the actions, of the Crown, the time during which such refusal, prohibition, deferment or delay subsists, if the holder provides the Commissioner with satisfactory evidence of such refusal, prohibition, deferment or delay; or

- (b) the time during which proceedings in respect of the mining claim are pending before the Supreme Court, the Commissioner or the recorder, where the Commissioner is satisfied that any delay in settling the matter is not the fault of the holder,

shall be excluded, and the Commissioner may make an order fixing the date or dates by which the next or any prescribed units of work shall be performed and reported or by which an application and payment for lease may be made.

(2) Where the time for doing something under this Act is excluded, the next anniversary date after the exclusion in respect of the mining claim involved shall be deemed to be the date that falls after the anniversary date that would have occurred, except for this provision, by the number of days that equals the number of days of the exclusion, and all subsequent anniversary dates shall be adjusted accordingly.

Anniversary
date changed

(3) Notwithstanding anything in this Act, where in the opinion of the Minister special circumstances exist, the Minister may exclude the time within which work upon a mining claim is required to be performed or within which application and payment for lease may be made, and may by order fix the anniversary date or dates by which the next or any subsequent periods of work shall be performed and reported or by which application and payment for lease may be made.

Special
circumstances

49. Section 80 of the said Act is repealed.

50. Section 83 of the said Act is repealed and the following substituted therefor:

83.—(1) The holder of a mining claim may abandon the claim at any time by filing a notice of abandonment in the prescribed form with the recorder.

Right of
mining claim
holder to
abandon
claim

(2) The holder of a mining claim may abandon any part of the claim at any time on such conditions as are prescribed, by filing a notice of partial abandonment in the prescribed form with the recorder.

Abandonment
of part of
claim

(3) The recorder shall enter a note of the abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in the recorder's office a notice of the abandonment with a sketch of the claim or part thereof to be abandoned.

Notice of
abandonment

(4) Where part of a claim has been abandoned under subsection (2), the recorder shall issue an order directing the

Order by
recorder

moving of posts or tags, the erection of new posts and the identification of new boundary lines and stating the time within which the work is to be completed.

Compliance
with order

(5) Where an order is issued under subsection (4), the mining claim holder affected shall file an affidavit in the prescribed form within the time set out in the order and a copy of the affidavit, marked with the date of the posting shall be posted by the recorder in the recorder's office.

Extension of
time by
recorder or
order of
abandonment

(6) Where the work set out in an order under subsection (4) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may order that the portion of the claim on which the work was to be done is abandoned and shall, in the case where an order of abandonment is made, by registered letter mailed not later than the next day after the making of the order, notify the holder of the recorder's action and the reason therefor, and a copy of the order shall be posted by the recorder in the recorder's office.

When claim
open for
staking

(7) Where part of a mining claim is abandoned under subsection (2) and an order of the recorder is made under subsection (6), the mining claim abandoned is open for staking from 9 o'clock in the forenoon of the eleventh day after the posting of the order of the recorder made under subsection (6).

Idem,
abandonment
of whole
claim

(8) Every mining claim abandoned under subsection (1) is open for staking from 9 o'clock in the forenoon of the eleventh day after the notice of abandonment is filed.

Idem,
abandonment
of part of
claim

(9) Where part of a mining claim is abandoned under subsection (2) and no order is made by the recorder under subsection (6), that part of the claim is open for staking from 9 o'clock in the forenoon of the eleventh day after the posting of the affidavit required under subsection (5). ▲

51. Section 84 of the said Act is repealed and the following substituted therefor:

Deemed
abandonment
of claim

84.—(1) Non-compliance by the licensee or holder of a mining claim with any requirement of this Act or the regulations as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out.

▼
 (2) Notwithstanding subsection (1), where in respect of a ^{Saving} mining claim, no dispute is on file and,

- (a) one year has elapsed since the day of the recording of the claim; or
- (b) the first prescribed unit of assessment work has been performed and filed and, where necessary, approved,

the mining claim shall be conclusively deemed to have been staked out and recorded in compliance with the requirements of this Act and the regulations. ▲

52.—(1) Subsection 85 (1) of the said Act is amended by striking out “patent” in the second line and inserting in lieu thereof “lease”.

(2) Clause 85 (1) (a) of the said Act is repealed.

(3) Clause 85 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) if the prescribed work is not duly performed and reported as required by section 76 unless an application and payment for a lease of the mining claim is made under section 94.

(4) Clauses 85 (1) (d) and (e) of the said Act are repealed.

(5) Subsection 85 (2) of the said Act is amended by striking out “licensee” in the second line and inserting in lieu thereof “person”.

53. Sections 86 and 87 of the said Act are repealed and the following substituted therefor:

86.—(1) On application therefor being made to the recorder within thirty days before the expiration of the time for filing a report of assessment work, the recorder may allow an extension of time for performing and filing the report of the assessment work on such conditions as are prescribed. ^{Extension of time by recorder}

(2) Where forfeiture or loss of rights has occurred, the lands, mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immediately following that upon which forfeiture or loss of rights occurred. ^{Re-staking}

When order
takes effect

(3) An order made by the recorder under this section comes into effect and shall be deemed to have been recorded at the time that the application was received in the office of the recorder, notwithstanding that such order may not have been immediately entered in the record book.

Cancellation
of record

(4) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record "Cancelled", and shall post up forthwith in the recorder's office a notice of cancellation.

54. Section 88 of the said Act is repealed and the following substituted therefor:

Death of
licensee or
holder

88. Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Commissioner may at any time make such order as the Commissioner considers just for vesting the claim in the representative of such holder and extending the time for performing the work or applying for lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act.

55. Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

Inspection by
Commissioner,
recorder or
inspector

(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after one year from the recording of the claim, or after the first prescribed unit of assessment work has been performed, filed and approved, no such inspection shall, unless ordered by the Minister under subsection 90 (5), be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

56.—(1) Subsection 90 (4) of the said Act is amended by striking out "licensee" in the seventh line and inserting in lieu thereof "holder".

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

(5) Notwithstanding subsections 56 (5) and 84 (2), the Minister may challenge the validity of a mining claim at any time during the life of the claim and may direct the recorder to inspect the claim in accordance with section 89.

Inspection
ordered by
Minister

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

91a.—(1) If there is an owner of the surface rights of the land comprising a mining claim, where a holder of the mining claim first proposes to do ground assessment work on such land, the holder shall give notice in the prescribed form to the owner of the surface rights of the holder's intention to perform the work.

Notice of
intention to
perform
assessment
work

(2) A person who has given notice under this section may enter on the land and perform the work at any time immediately following the day the notice is given.

Entry on
land to
perform work

(3) A recorder shall not record ground assessment work unless,

Where work
not to be
recorded

(a) the holder files with the recorder a certificate in the prescribed form establishing that the required notice was given; or

(b) the recorder determines that it is not feasible in the circumstances to give notice to the owner of the surface rights.

58. Section 92 of the said Act is repealed and the following substituted therefor:

92.—(1) In this section and in section 91a, "owner of the surface rights" means a person to whom the surface rights of land have been granted, sold, leased or located.

Definition

(2) Where there is an owner of surface rights of land or where land is occupied by a person who has made improvements thereon that, in the opinion of the Minister, entitles that person to compensation, a person who,

Right of
owner of
surface rights
to compensa-
tion

(a) prospects, stakes out or causes to be staked out a mining claim or an area of land for a boring permit;

(b) formerly held a mining claim or an area of land for a boring permit that has been cancelled, abandoned or forfeited;

- (c) is the holder of a mining claim or an area of land for a boring permit and who performs assessment work; or
- (d) is the lessee or owner of mining lands and who carries on mining operations,

on such land, shall compensate the owner of the surface rights or the occupant of the lands, as the case may be, for damages sustained to the surface rights by such prospecting, staking out, assessment work or operations.

Right of holder of mining claim, etc., to compensation

(3) Every person who damages mineral exploration workings or claim posts, line posts, tags or surveyed boundary markers delineating mining lands shall compensate the holder of the mining claim or the owner or lessee of the mining lands, as the case may be, for damages sustained.

Determination of compensation by Commissioner

(4) In default of agreement and upon application made in the prescribed form by either party, the amount and the time and manner of payment of compensation under subsection (2) or (3) shall be determined by the Commissioner after a hearing and, subject to appeal to the Divisional Court where the amount claimed exceeds \$1,000, the Commissioner's order is final.

Prohibiting work pending settlement

(5) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by any person.

Lien for compensation

(6) The compensation is a special lien upon any mining claim or mining lands, as the case may be, and no further prospecting, staking out or performing of work, except by leave of the Commissioner, shall be done by any person after the time fixed for the payment or securing of the compensation, unless the compensation has been paid or secured as directed.

Power of Commissioner to vary, etc., order

(7) The Commissioner, on notice to all interested parties and for good cause shown, on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under this section.

Priorities

(8) In a hearing under subsection (4), the Commissioner shall take into account which of the rights was applied for first and, except where injustice would result, shall give the holder

of those rights due priority in the consideration of the dispute between the parties.

(9) Where unpatented mining claims are affected by an agreement entered into in respect of the compensation referred to in subsection (2), or by an order made under subsection (4), the agreement or a certified copy of the order, as the case may be, may be filed by the person to whom the compensation is payable in the office of the recorder upon payment of the prescribed fee.

Filing of agreement or order in office of recorder

(10) Where an unpatented mining claim is subsequently leased, the Minister shall cause any agreement or order filed in the recorder's office under subsection (9) that affects the leased lands to be registered against the lands in the proper land registry office and the person to whom the compensation is payable is entitled to enforce the terms of the agreement or order against the lessee and, subject to the *Registry Act* and the *Land Titles Act*, against any subsequent lessee of the land.

Registration of order or agreement

R.S.O. 1980, cc. 445, 230

59.—(1) Subsections 94 (1), (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

(1) Upon compliance with this Act and the regulations and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim.

Right to lease of claim

(2) The application and payment for a lease may be made to the recorder at any time after the first prescribed unit of assessment work on a mining claim is performed, filed and, if necessary, approved, and the application shall be accompanied by,

Application for lease

- (a) a certificate of performance of the prescribed units of assessment work that are required to be performed as of the time of application;
- (b) a plan of survey where required under section 108 or 109;
- (c) an agreement or an order of the Commissioner indicating that surface rights compensation, if any, has been paid, secured or settled; and
- (d) the prescribed fee.

(3) A lease under this section shall be for a term of twenty-one years at the prescribed rental, payable in advance, for the first year and at the prescribed rate for each subsequent year.

Term of lease

Lease of mining rights (4) The holder of a mining claim may elect to apply for a lease of the mining rights only.

Rental (5) Where a lease under this section is for mining rights only, the rental shall be at the prescribed rate for such a lease.

(2) Subsection 94 (6) of the said Act is repealed.

(3) Subsections 94 (8) and (9) of the said Act are repealed and the following substituted therefor:

Renewal lease rental (8) The annual rental for a renewal lease is the prescribed amount, payable in advance.

Refusal to renew lease (9) The Minister shall refuse to renew a lease unless,

- (a) the production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease; or
- (b) the lessee has demonstrated to the satisfaction of the Minister a reasonable effort to bring the property into production.

(4) Subsection 94 (12) of the said Act is amended by striking out "prescribed by" in the second line and inserting in lieu thereof "set out in".

(5) Subsections 94 (16), (17), (18), (19) and (20) of the said Act are repealed and the following substituted therefor:

Disposition of surface rights
1989, c. 23
R.S.O. 1980,
c. 413 (16) Any surface rights reserved in a lease or renewal thereof may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

Additional work where area of claim exceeds prescribed size (17) Where the area of the mining claim exceeds by more than 15 per cent the prescribed size for a mining claim and the claim is not reduced in size under section 110, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

Contiguous claims (18) Where there is a group of contiguous claims held in the name of one claim holder and their average area does not exceed by more than 15 per cent the size prescribed for a mining claim, the Minister may direct that subsection (17) does not apply.

(19) Where additional work is required under subsection (17), the Minister may direct the time within which such work is to be performed and reported.

Where additional work required

60.—(1) Subsections 95 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) In this section, "lease" means a lease of surface and mining rights or of mining rights issued under,

Definition

(a) section 47, 52 or 100 of *The Mining Act*, being chapter 241 of the Revised Statutes of Ontario, 1960, or a predecessor thereof; or

(b) subsection 190 (3) of this Act, or a predecessor thereof,

and includes a renewal of such a lease.

(2) Subject to subsection (3), notwithstanding the provisions of a lease, the annual rental for a lease is the prescribed amount.

Amount of rent

(2) Subsection 95 (4) of the said Act is repealed and the following substituted therefor:

(4) A lease referred to in clause (1) (a) is renewable in perpetuity for periods of ten years and every renewal shall date from the day following the expiry of the lease if application therefor is made within ninety days of the expiration of the lease or within such further period as the Minister, in the circumstances of the case, considers proper.

Renewal of lease

(3) Subsection 95 (6) of the said Act is amended by striking out "has not been renewed under subsection (4) or" in the first and second lines.

(4) Subsection 95 (9) of the said Act is repealed and the following substituted therefor:

(9) The holder of a lease, upon application in writing therefor and upon the surrender of the lease and upon meeting the conditions set out in subsection 94 (9), may be issued a lease under section 94 for a term of twenty-one years and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

Lease may be issued under s. 94

61. Section 96 of the said Act is repealed and the following substituted therefor:

Exchange of
lease

96.—(1) The holder of a lease issued under this Act, upon application in the prescribed form to the Minister, accompanied by the prescribed fee and upon the surrender of the lease, may be issued in exchange for that lease, on such terms and conditions as the Minister considers appropriate, two or more replacement leases.

Terms of
replacement
leases

(2) Replacement leases issued under subsection (1) shall cover together the same lands as were covered by the surrendered lease, shall be for a term equal to the balance of the term of the surrendered lease and shall be at the same rental rate per hectare as that lease.

62. Subsection 97 (4) of the said Act is repealed and the following substituted therefor:

Amount of
rent

(4) The annual rental of a lease or renewal under this section is the prescribed amount, payable in advance.

63. Subsection 102 (2) of the said Act is repealed and the following substituted therefor:

Disposition
of surface
rights
1989, c. 23
R.S.O. 1980,
c. 413

(2) Any surface rights reserved under this section may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

64.—(1) Subsection 108 (1) of the said Act is amended by striking out “patent” in the first line.

(2) Subsection 108 (2) of the said Act is repealed and the following substituted therefor:

Prescribed
methods of
surveying
R.S.O. 1980,
c. 493

(2) Subject to the *Surveys Act*, the prescribed methods and procedures shall be followed in the surveying of mining claims.

(3) Subsection 108 (5) of the said Act is repealed.

(4) Subsections 108 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

Additional
work where
area exceeds
prescribed
size

(6) Where a perimeter survey is made under subsection (3), the rental shall be computed on the total area of the claims within the perimeter survey and, where the average area of the claims within the perimeter survey exceeds by more than 15 per cent the prescribed size for a mining claim, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

(7) Where additional work is required under subsection (6), the Minister may set out in an order the time within which such work is to be performed and recorded.

Where
additional
work
required

(8) Before a perimeter survey is made, the Minister may order the inspection of the mining claims proposed to be included in the perimeter survey and an inspector or other officer of the Ministry shall prepare and submit to the Minister a report and plan according to the instructions provided by the Minister and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with.

Inspection
before
perimeter
survey made

(9) The fee for an inspection under subsection (8) is the prescribed amount, payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims.

Fee

65.—(1) Subsection 109 (1) of the said Act is amended by striking out “patent” in the first line and by inserting after “claim” in the seventh line “or the perimeter survey of mining claims”.

(2) Subsection 109 (2) of the said Act is repealed.

66.—(1) Subsection 110 (1) of the said Act is amended by striking out “acreage” in the third line and in the fourth line and inserting in lieu thereof in each instance “size”.

(2) Subsection 110 (2) of the said Act is amended by striking out “licensee” in the third line and in the fourteenth line and inserting in lieu thereof in each instance “holder”.

67. The subheading preceding section 112 of the said Act is struck out and the following substituted therefor:

PETROLEUM AND NATURAL GAS

68. Parts V and VI of the said Act are repealed.

69. The said Act is further amended by adding thereto the following Part:

PART VII

SURFACE MINING OF NON-METALLIC MINERALS

118.—(1) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land not in a part of Ontario that

Surface
mining of
non-metallic
minerals

R.S.O. 1980,
c. 378
1989, c. 23

has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, may proceed,

- (a) by applying for and obtaining an aggregate permit or a licence under the *Aggregate Resources Act, 1989*; or
- (b) by complying with the requirements of Part II of this Act.

Lease of
Crown land

(2) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land in a part of Ontario that has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, in addition to an aggregate permit or a licence issued under the *Aggregate Resources Act, 1989*, may also obtain a lease from the Crown for the lands affected by complying with the provisions of Part II of this Act.

Staking out
of mining
claim

119. Notwithstanding that an aggregate permit or a licence has been obtained under the *Aggregate Resources Act, 1989*, any licensee under this Act may stake out a mining claim or claims on Crown land affected by the permit or licence, in which case the provisions of this Act apply and any question of property damage shall be determined in the manner set out in section 92.

70.—(1) Subsection 131 (1) of the said Act is amended by striking out “licensees” in the third line and inserting in lieu thereof “persons”.

(2) Subsection 131 (2) of the said Act is amended by striking out “arising before the issue of a certificate of record of a mining claim” in the first and second lines.

(3) Subsection 131 (6) of the said Act is repealed and the following substituted therefor:

Recorder
may order
the removal
of witness
posts, etc.

- (6) The recorder may make an order directing a holder,
 - (a) to move, remove or alter corner posts, line posts or witness posts and the writing or inscribing thereon;
 - (b) to blaze, re-blaze, move or alter existing or missing claim lines;

- (c) to place or replace metal tags that are missing or have been removed or destroyed after having been affixed to any posts; or
- (d) to place or replace missing or defective posts and to affix tags to such posts.

and the recorder shall set out in the order the time within which the work shall be completed and reported to the recorder.

(6a) Where the work set out in an order under subsection (6) has been completed within the time set out in the order, the claim shall thereafter be deemed to be in compliance with this Act.

Claim deemed in compliance with Act

(4) Subsection 131 (7) of the said Act is repealed and the following substituted therefor:

(7) Where the work set out in an order under subsection (6) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may cancel the claim or claims on which the work was to have been done and shall, in the case of cancellation, by registered letter, mailed not later than the next day after the cancellation, notify the holder of the recorder's action and the reason therefor.

Recorder may extend time or cancel claim

(5) Subsection 131 (8) of the said Act is repealed and the following substituted therefor:

(8) This section applies to the manner in which the metal tags have been affixed to the corner posts notwithstanding that the time prescribed for affixing the tags has not expired.

Application

71. Subsection 133 (2) of the said Act is repealed and the following substituted therefor:

(2) Where, in the opinion of the Minister, the public interest is affected by a decision, act or thing mentioned in subsection (1), an officer or employee of the Ministry designated by the Minister for that purpose may,

Where public interest affected

- (a) be added as a party to an appeal taken under subsection (1); or
- (b) take an appeal under subsection (1), in which case no fee in respect of the appeal is payable.

72.—(1) Subsection 135 (1) of the said Act is repealed and the following substituted therefor:

Application
for
appointment
for hearing

(1) Application to the Commissioner for an appointment for a hearing may be made in writing by any party to the proceeding upon such notice and to such persons as the Commissioner directs and shall be accompanied by the prescribed fee for recording any order made by the Commissioner in the matter.

(2) Subsection 135 (4) of the said Act is repealed and the following substituted therefor:

Leave for
hearing

(4) In any matter or proceeding, other than an appeal, in any case where leave to take the proceeding is necessary, the Commissioner may give leave upon such terms as to security for costs or otherwise as the Commissioner considers just.

73.—(1) Clause 137 (1) (b) of the said Act is amended by inserting after “things” in the third line “under oath or otherwise”.

(2) Subsection 137 (1) of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clauses:

1984. c. 11

(f) upon the application of a party to the proceedings, order the examination of any other party before an official examiner appointed under the *Courts of Justice Act, 1984*; and

(g) order any party to the proceedings who intends to present evidence at the hearing to file with the Commissioner and serve on each of the other parties, prior to the appearance of any witness and within such time as the Commissioner directs, a statement indicating the evidence intended to be relied upon.

74.—(1) Section 150 of the said Act is amended by adding thereto the following subsections:

When order
of Commis-
sioner takes
effect

(1a) Every order or judgment of the Commissioner shall take effect immediately upon its signing, subject to any express provision therein.

Oral reasons
R.S.O. 1980,
c. 484

(1b) Notwithstanding section 17 of the *Statutory Powers Procedure Act*, the reasons for a decision of the Commissioner may be delivered orally.

(1c) Any party to a proceeding may cause an order or judgment of the Commissioner to be filed in the office of the recorder. Filing of order

(1d) The recorder shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to the parties not represented by a solicitor. Notice of filing

(1e) Where the order or judgment is not filed with the recorder within fifteen days of the order being signed, the Commissioner shall cause a duplicate thereof to be filed with the recorder. Filing of duplicate order

(2) Subsections 150 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The Commissioner shall transmit the evidence, the exhibits, the statement, if any, of view or of special knowledge or skill, and the reasons for any order or judgment to the recorder. Transmission of evidence, etc., to recorder

75. Section 151 of the said Act is repealed and the following substituted therefor:

151. Where a decision of the Commissioner finally disposes of the matter in question so far as the Commissioner is concerned, the Commissioner shall send the order or judgment to the parties by registered mail. Final order or judgment sent to parties

76. Section 152 of the said Act is repealed and the following substituted therefor:

152. Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment. Certified copy of order or judgment

77. Part IX of the said Act is repealed and the following substituted therefor:

PART IX

OPERATION OF MINES

160.—(1) In this Part,

Definitions

“abandoned” means the proponent has ceased or suspended indefinitely advanced exploration, mining, or mine production on the site, without rehabilitating the site;

- “advanced exploration” means the excavation of an exploratory shaft, adit, or decline, the extraction of material in excess of the prescribed quantity, the installation of a mill for test purposes or any other prescribed work;
- “closed out” means that all the requirements of an accepted closure plan have been complied with and is the final stage of closure;
- “closure” means the temporary suspension, inactivity or close out of advanced exploration, mining or mine production;
- “closure plan” means a plan prepared in the prescribed manner to rehabilitate a project at any stage of closure and includes the information, particulars, maps and plans prescribed, as well as provision in the prescribed manner of financial assurance to the Crown for the performance of the requirements of the closure plan;
- “Director” means the Director of Mine Rehabilitation for the mining division or divisions in which is situate the land in respect of which an act, matter or thing is to be done under this Part;
- “inactivity” means that advanced exploration, mine production and mining operations on a site have been suspended indefinitely in accordance with a closure plan, and although protective measures are in place on the site, the site is no longer being monitored by the proponent on a continuous basis;
- “mine production” means mining that is producing any mineral or mineral-bearing substance either for immediate sale or for stockpiling for ultimate sale;
- “progressive rehabilitation” means rehabilitation done continually and sequentially, within a reasonable time, during the entire period that the project continues;
- “project” means a mine or the activity of advanced exploration, mining or mine production;
- “proponent” means the holder of an unpatented mining claim or licence of occupation or an owner as defined in paragraph 21 of section 1;
- “protective measures” means steps taken in accordance with the prescribed standards to prevent personal injury or property damage that is reasonably foreseeable as a result of closure commencing;

“rehabilitate” means measures taken in accordance with the prescribed standards to treat the land or lands on which advanced exploration, mining or mine production has occurred so that the use or condition of the land or lands,

- (a) is restored to its former use or condition, or
 - (b) is made suitable for a use that the Director sees fit,
- and includes taking protective measures;

“site” means the land or lands on which a project is located;

“temporary suspension” means advanced exploration, mining or mine production have been suspended, in accordance with an accepted closure plan, on either a planned or unplanned basis, but the site is being monitored on a continuous basis by the proponent and protective measures are in place.

(2) For greater certainty, but without restricting the scope of this Part, this Part applies to projects including, Application of Part

- (a) the underground mining of minerals, excluding natural gas, petroleum and salt by brining method;
- (b) the surface mining of metallic minerals;
- (c) the surface mining of non-metallic minerals, excluding natural gas and petroleum, on land that is neither Crown land nor land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*;
- (d) advanced exploration on mining lands.

R.S.O. 1980,
c. 378
1989, c. 23

DIRECTORS AND MINERAL DEVELOPMENT OFFICERS

161.—(1) The Minister may appoint as Mineral Development Officers such employees of the Ministry as the Minister considers necessary, whose function it is to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario.

Mineral
Development
Officers

(2) The Minister may appoint an officer or employee of the Ministry as Director of Mine Rehabilitation for each such mining division or group of mining divisions as the appointment specifies.

Directors

ADVANCED EXPLORATION

Closure plan,
advanced
exploration

161a.—(1) No proponent shall commence or recommence advanced exploration without providing the Director with notice in the form and manner prescribed and the project may proceed unless, within thirty days of receiving the notice, the Director in writing has required the proponent to,

- (a) give public notice at the prescribed time and in the prescribed form and manner;
- (b) submit a proposed closure plan; or
- (c) comply with both clauses (a) and (b).

Where public
notice only
required

(2) Where the Director has required the proponent to give public notice only under clause (1) (a), the project may proceed after public notice has been given.

Changes to
closure plan

(3) Where the Director has required the proponent to submit a proposed closure plan under clause (1) (b),

- (a) the Director may by written notice require changes to the proposed closure plan; and
- (b) the project shall not proceed until the Director has accepted in writing the closure plan, and the public notice, if required under clause (1) (a), has been given.

MINE PRODUCTION

Closure plan,
mine
production

161b.—(1) No proponent shall commence or recommence mine production without,

- (a) providing the Director with notice in the prescribed form and manner;
- (b) giving public notice at the prescribed time and in the prescribed form and manner;
- (c) submitting a proposed closure plan; and
- (d) receiving the Director's written acceptance of the closure plan required by clause (c).

Changes to
closure plan

(2) The Director may require changes to a proposed closure plan required by clause (1) (c) prior to accepting it.

PROGRESSIVE REHABILITATION

161c. A proponent shall take all reasonable steps to progressively rehabilitate a site whether or not closure has commenced or an accepted closure plan is in place.

Progressive rehabilitation

CLOSURE PLANS

161d.—(1) Every proponent whose project is subject to a closure plan accepted under this Part shall comply with the closure plan.

Compliance with closure plan

(2) Where closure commences on a site, subject to a closure plan, the proponent shall,

Notice closure has commenced

(a) forthwith notify the Director in writing that closure has commenced; and

(b) comply with the requirements of the closure plan.

(3) Where a project has commenced or recommenced under section 161a or 161b, within twelve months of the commencement or recommencement, and for every twelve-month period following thereafter while the project continues, the proponent shall submit annually to the Director a report prepared in the prescribed manner.

Annual report to Director

(4) If, on the receipt of the report required under subsection (3) or on the basis of information received from a rehabilitation inspector under subsection 161f (1), the Director has reasonable grounds for believing,

Submission of, or amendments to, closure plan

(a) that the closure plan, including the financial assurance requirement, is inadequate to properly rehabilitate the site because the project has either expanded or other conditions have changed; or

(b) in the case of an advanced exploration project not currently subject to a closure plan, the project has expanded or other conditions have changed to a point which necessitate a closure plan,

the Director may require by written notice the proponent to submit to the Director a proposed closure plan for the Director's consideration, or, where a closure plan is already in place, to submit proposed amendments to a closure plan, including proposals respecting an increase in the amount of financial assurance required to rehabilitate the site.

Notice of expansion or alteration of project

(5) Where a proponent plans to expand or alter a project, the proponent shall forthwith give written notice in the prescribed form to the Director.

Changes to closure plan

(6) Where the Director has received either proposed amendments to existing closure plans or proposed closure plans under subsection (4), the Director may require changes to the proposed amendments or plan before notifying the proponent that the proposed amendments or plan are acceptable.

Project subject to plan or amended plan

(7) Upon receipt of the written notice of the Director that the proposed amendments or plan that may be required under subsection (4) are acceptable, the project shall operate subject to the plan or amended plan, as the case may be.

FINANCIAL ASSURANCE

Form and amount of financial assurance
R.S.C. 1985,
c. B-1
R.S.O. 1980,
c. 192

161e.—(1) The financial assurance required as part of a closure plan shall be in the form of cash, a letter of credit from a bank named in Schedule A to the *Bank Act (Canada)*, a bond of a guarantee company approved under the *Guarantee Companies Securities Act* or another form of security acceptable to the Director and shall be in the amount specified in the closure plan accepted by the Director or any amendment thereto.

Order providing for performance of rehabilitation measure

(2) Where the Director has reasonable and probable grounds to believe that any rehabilitation measure required by the accepted closure plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the closure plan, the Director by order may provide for the performance of the rehabilitation measure in the manner set out in subsection (5).

Notice

(3) The Director shall give the proponent written notice of the Director's intention to issue the order referred to in subsection (2) at least forty-five days prior to the date the order is to be issued.

Parties affected

(4) Both the notice and the order under this section shall be directed to the proponent to whom the approval for the closure plan was issued or directed and to any person to the knowledge of the Director that has provided the financial assurance for or on behalf of the proponent to whom the approval of the closure plan was issued or shall be directed to the successor or assignee of such person.

Realization of security

(5) Upon the issuance of an order by the Director under subsection (2), the Crown may,

- (a) use any cash;
- (b) realize any bond or letter of credit; and
- (c) enforce any other security,

provided or obtained as the financial assurance for the performance of the rehabilitation measures and may carry out the rehabilitation measures, or appoint an agent to do so, as the Director considers necessary.

(6) A proponent may apply to the Director for a reduction of the financial assurance to an amount consistent with the financial requirements of the rehabilitation work left to be completed where, Application for reduction of financial assurance

- (a) work has been performed in accordance with the requirements of an accepted closure plan; or
- (b) a reduction in the financial assurance requirement is justified in a report submitted under subsection 161d (3).

REHABILITATION INSPECTORS

161f.—(1) For the purposes of monitoring the closure of projects, including mines that have been abandoned, the Minister may designate in writing any person who may, but need not be, an employee of the Ministry as a rehabilitation inspector. Rehabilitation inspectors

(2) For the purpose of carrying out the duties and exercising the powers under this Part, a rehabilitation inspector may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, and in the exercise of that authority may, Inspections by rehabilitation inspector

- (a) enter into or onto any mining lands or premises connected or associated with any project or abandoned mine, other than a room or place actually used as a dwelling;
- (b) make such inspections, examinations, inquiries or tests considered necessary in order to determine the nature and extent of any existing or potential hazards on mining lands;
- (c) in any inspection, examination, inquiry or test, be accompanied and assisted by any person having special, expert or professional knowledge of any

matter relevant to the inspection, examination, inquiry or test;

- (d) request the production of any drawings, specifications, licence, document, record or report;
- (e) on giving a receipt therefor, remove any drawing, specifications, licence, document, record or report produced in response to a request under clause (d) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them;
- (f) inspect any work related to rehabilitation necessary to complete a report to the Director under subsection (1); and
- (g) make reasonable inquiries of any person, orally or in writing.

Inspection to be permitted

(3) A proponent shall forthwith on request permit a rehabilitation inspector to carry out any inspection of any place, other than any room actually used as a dwelling, under subsection (2).

Obstruction prohibited

(4) No person shall hinder or obstruct a rehabilitation inspector in the lawful performance of duties or furnish the rehabilitation inspector with false information or refuse to furnish information required for the purposes of this Part and the regulations.

Inspection warrant

(5) Where a provincial judge or justice of the peace is satisfied on evidence upon oath by a rehabilitation inspector that there is reasonable ground for believing that it is appropriate for the administration of this Part or the regulations made thereunder for the rehabilitation inspector to do anything set out in subsection (2), and that the rehabilitation inspector may not be able to effectively carry out the duties assigned without an order under this section because,

- (a) a person has prevented the rehabilitation inspector from doing anything set out in subsection (2);
- (b) there is reasonable ground to believe that a person may prevent a rehabilitation inspector doing anything set out in subsection (2); or
- (c) it is impractical because of the remoteness of the place to be inspected or because of any other reason, for the rehabilitation inspector to obtain an

order under this section without delay if access is denied.

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to do anything set out in subsection (2) and specified in the warrant for the period of time set out in the order.

(6) Where a provincial judge or justice of the peace is satisfied on evidence upon oath of a rehabilitation inspector that there is reasonable and probable ground for believing that,

Search
warrant

- (a) an offence under this Part has been committed; and
- (b) the entry into and search of a place actually used as a dwelling will afford evidence as to the commission of the offence.

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to enter and search the room or place with such reasonable assistance as may be necessary and upon giving a receipt therefor to remove from the room or place any document or thing that may afford evidence of the offence for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the room or place from which they were removed.

(7) A warrant under subsection (5) or (6) shall be executed at reasonable times as specified in the warrant and shall state the date upon which it expires, which shall be not later than fifteen days after the warrant is issued.

When to be
executed and
expiry

(8) Copies of, or extracts from, documents or things removed under this section 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.

Admissibility
of copies

(9) Upon request, a rehabilitation inspector who exercises a power set out in subsection (2) shall identify himself or herself as a rehabilitation inspector either by the production of a copy of the rehabilitation inspector's designation or in some other manner and shall explain the purpose of the inspection.

Identification

EXISTING PROJECTS

161g.—(1) Within ninety days of the coming into force of this Part, every proponent of a producing mine or of a mine

Notice to
Director

from which production is temporarily suspended shall give a notice in writing to the Director that contains the prescribed information relating to that mine.

Determi-
nation of
Minister of
time for
submission of
closure plan

(2) On the Director receiving a notice under subsection (1), the Minister shall determine the period of time within which the proponent must submit to the Director a proposed closure plan in respect of that mine.

Notice to
proponent by
Director

(3) The Director shall notify in writing a proponent who has given notice under subsection (1) of the period of time determined by the Minister within which the proponent must submit to the Director a proposed closure plan.

Submission
of closure
plan to
Director

(4) A proponent who has received a notice under subsection (3) shall submit the required closure plan to the Director within the period of time specified in the notice.

Notice to
submit
closure plan

(5) The Director, within ninety days of the coming into force of this Part, may notify in writing any proponent of advanced exploration that has commenced before and is continuing on the day this Part comes into force of the period of time within which the proponent must submit a proposed closure plan.

Submission
of closure
plan to
Director

(6) A proponent who has received a notice under subsection (5) shall submit the required closure plan to the Director within the time specified in the notice.

Changes to
closure plan

(7) Prior to the Director informing the proponent that the closure plan required under subsection (4) or (6) is acceptable, the Director may by written notice require changes to the closure plan.

Mine to
operate
subject to
closure plan

(8) On receiving written notification from the Director that the closure plan required under subsection (4) or (6) is acceptable, the project shall operate subject to the closure plan and sections 161c, 161d, 161e and 161f shall apply.

Where
project
abandoned
after Part
comes into
force

161h.—(1) Notwithstanding section 161g, where a proponent takes steps to abandon the project on either an indefinite or permanent basis after the day this Part comes into force but before the Director informs the proponent that the closure plan required under subsection 161g (4) or (6) is acceptable, the proponent shall give written notice to the Director and shall take all reasonable steps to rehabilitate the site.

Order to
rehabilitate
site

(2) Where the Director has reasonable grounds for believing that a proponent has not complied with subsection (1), the Director may order the proponent to rehabilitate the site.

(3) Where, within a reasonable period of time, a proponent fails to comply with the order of the Director made under subsection (2), the Director may declare the project abandoned and may have the Crown or an agent thereof enter onto or into the site to implement rehabilitative measures.

Declaration that mine abandoned

(4) The Director shall not have the Crown or an agent thereof take the measures referred to in subsection (3) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Notice of declaration

(5) Where under subsection (3) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Declaration that lease void

(6) The Director shall not take the steps referred to in subsection (5) until the Director has given the proponent the prescribed notice required under subsection (4), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (5).

Notice to proponent

161i.—(1) The Director may by written notice require the proponent of a project the Director considers abandoned on the day this Part comes into force to submit within a specified period of time a proposed closure plan to rehabilitate the site.

Where project abandoned when Part comes into force

(2) Prior to the Director informing the proponent that a closure plan required under subsection (1) is acceptable, the Director may by written notice require changes to the closure plan.

Changes to closure plan

(3) On receiving written notification from the Director that a closure plan required under subsection (1) is acceptable, the proponent shall complete the rehabilitation of the site in accordance with the closure plan.

Rehabilitation of site

(4) Where the proponent of a site fails to comply with the Director's requirements under subsection (1) or (2), the Director may declare the project abandoned and may have the Crown or an agent of the Crown enter onto or into the site to implement rehabilitative measures.

Declaration that mine abandoned

(5) The Director shall not have the Crown or an agent thereof take the steps referred to in subsection (4) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Notice of declaration

Declaration
that lease
forfeited

(6) Where under subsection (4) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Notice to
proponent

(7) The Director shall not take the steps referred to in subsection (6) until the Director has given the proponent the prescribed notice required under subsection (5), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (6).

VOLUNTARY SURRENDER OR ABANDONMENT

Refusal of
voluntary
surrender

161j.—(1) Before accepting the voluntary surrender of lands referred to in section 198, where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the Minister may refuse to accept the surrender of such lands, and, upon such refusal, the Director may order the proponent to comply with the requirements of the accepted closure plan or to rehabilitate the site in accordance with the prescribed standards.

Application
for injunction

(2) Where the proponent subject to an order under subsection (1) is an owner, the Director may register the order against the land or lands comprising the site in the proper land registry office and may apply to a Justice of the High Court for an injunction preventing the sale of the land or lands comprising the site, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands.

Refusal of
consent to
transfer lease

(3) Where the proponent subject to an order under subsection (1) is a lessee, the Director may recommend to the Minister that the Minister not consent to the transfer of the lease.

Where lease
expires

(4) Where the proponent subject to a Director's order under subsection (1) is a lessee under a lease which expires during the period in which the Director's order is in force, the lessee is not by reason only of the expiry of the lease relieved of the lessee's duties under this section.

Refusal of
consent to
transfer of
licence

(5) Where the proponent subject to an order under subsection (1) is the holder of a licence of occupation, the Direc-

tor may recommend to the Minister that the Minister not consent to a transfer of the licence.

(6) Notwithstanding section 83, where the proponent is a mining claim holder and where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the holder may not abandon the mining claim and the Director may order the proponent to comply with the requirement of the accepted closure plan, or to rehabilitate the site in accordance with the prescribed standards.

Where
mining claim
not to be
abandoned

(7) If a person subject to an order under subsection (1) or (6) fails to comply with the order, the Director may,

Realization
of security

- (a) where a closure plan applies, proceed and realize on the financial assurance under the provisions of section 161e; or
- (b) where no closure plan is in place, have the Crown, or an agent thereof, carry out rehabilitation measures in accordance with the prescribed standards.

COST OF WORK COMPLETED

161k.—(1) Where under subsection 161h (3) or 161i (4) the Director has the Crown or an agent of the Crown carry out rehabilitation measures, the resulting cost to the Crown is a debt due to the Crown and,

Where cost
debt due to
Crown

- (a) forms a lien and a charge on the site in favour of the Crown, realizable by action for sale of any part or all of the land or lands subject to it, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

(2) The cost to the Crown of carrying out the rehabilitative measures under clause 161j (7) (b) is a debt due to the Crown recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Idem

(3) Where under subsection 161e (5) the Crown or an agent of the Crown carries out rehabilitation measures and the

Idem

financial assurance held by the Crown is insufficient to cover the total cost incurred by the Crown in completing the rehabilitation measures, the extra cost not covered by the financial assurance is a debt due to the Crown which,

- (a) forms a lien and a charge on the site in favour of the Crown realizable by action for sale of any part or all of the land or lands comprising the site subject to the lien, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Registration
as charge

(4) Notice of the debt described in subsections (1) and (3) may be registered as a charge in the proper land registry office and no transfer of or other dealing with the site shall take place until the debt is paid and the notice is cancelled.

HEARINGS AND APPEALS

Appeal to
Commis-
sioner

161-1.—(1) Where the Director,

- (a) requires a closure plan under clause 161d (4) (b) or subsection 161i (1);
- (b) requires changes to either an existing or proposed closure plan under subsection 161a (3), 161b (2), 161d (6), 161g (7) or 161i (2);
- (c) orders the performance of rehabilitation measures under subsection 161e (2);
- (d) orders the proponent to rehabilitate the site under subsection 161h (2); or
- (e) declares a project abandoned under subsection 161h (3) or 161i (4),

the proponent may appeal the Director's requirement, order or declaration to the Commissioner, if within thirty days of receiving the notice of the Director requiring the changes or proposed closure plans referred to in clause (a) or (b), receiving a Director's order referred to in clause (c) or (d), or receiving a Director's declaration referred to in clause (e), the proponent serves the Director with the prescribed notice requiring a hearing before the Commissioner, and, within

thirty days of being served, the Director shall refer the matter to the Commissioner for the hearing.

(2) On the service of a notice on the Director under subsection (1) requiring a hearing before the Commissioner, the requirement, order or decision of the Director is stayed until the disposition of the appeal by the Commissioner, unless upon application with notice by the Director, the Commissioner removes the stay where the matter relates to,

Automatic stay unless removed

(a) changes to either an existing or proposed closure plan referred to in clause (1) (b); or

(b) an order requiring the performance of rehabilitation measures referred to in clause (1) (c) or (d).

(3) Notwithstanding subsection (2), where the proponent appeals to the Commissioner under subsection (1) from a Director's requirement for changes to an existing closure plan under subsection 161d (4) and one of the changes required is to increase the amount of financial assurance required for the closure plan, the Commissioner shall refuse to hear the appeal unless the proponent has provided to the Director along with the notice required under subsection (1) the extra amount of financial assurance required under the closure plan to be held by the Crown pending the outcome of the proponent's appeal.

Provision of additional financial assurance

(4) The Commissioner upon application with notice by the proponent may waive the requirement under subsection (3) if the Commissioner considers it just to do so.

Waiver

(5) Upon hearing the appeal of the proponent, the Commissioner may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing.

Power of Commissioner on appeal

(6) Sections 135, 136, 137 and 139 to 152 of this Act apply to appeals under this section with necessary modifications.

Application

(7) An appeal lies to the Divisional Court on a question of law from any decision of the Commissioner under subsection (5) in accordance with the Rules of Civil Procedure.

Appeal to Divisional Court

(8) A party to a hearing before the Commissioner may, within thirty days after receipt of the Commissioner's decision or within thirty days after final disposition of an appeal, if any, under subsection (7), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Commissioner as to the matter in appeal as the Minister considers in the public interest.

Appeal to Minister

Parties

(9) The person requiring the hearing, the Director and any other person specified by the Commissioner are parties to the hearing.

SERVICE

Service of notice

161m.—(1) Any notice required to be served under this Part or the regulations made in respect thereto is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address of service appearing on the records of the Ministry.

When service deemed made

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes the person did not, acting in good faith, and for a cause beyond that person's control, receive a notice until a later date.

PART IX-A

BRINE WELLS

Definitions

162.—(1) In this section,

“brine well” means a hole or opening in the ground for use in brining;

“brining” means the extraction of salt in solution by any method;

“chief engineer” means a person designated by the Minister as chief engineer for the purposes of this section.

Permit to bore or drill a brine well

(2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the chief engineer upon application therefor in the prescribed form.

Permits not issued

(3) A permit shall not be issued,

(a) to authorize a person to drill or bore a brine well on property in which the person does not own, hold or lease, or is not otherwise entitled to, the mining rights; or

(b) where the proposed brine well is nearer the boundary of such property than 150 metres.

Location of brine well

(4) The chief engineer may reduce or extend the distance referred to in clause (3) (b) where in his or her opinion it is

advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed.

(5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit. Condition of permit

(6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection (4), the permit shall be issued upon the receipt by the chief engineer of the applicant's consent thereto. Time for issuance of permit

(7) Where a person drills or bores a brine well, he or she shall forward a log of the drilling or boring in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the drilling or boring operations, and, upon the person's request in writing, the log shall be confidential for a period of six months. Log of drilling operations

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations. Protection of water horizons

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water. Protection of deposits

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected. Standard of casing and equipment

(11) Where practicable, all brine wells shall be plugged by the person operating them, before being abandoned, in a manner that will, Plugging of abandoned wells

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form. Report of proposed plugging

Record of
plugging
operations

(13) Where a person plugs a brine well, he or she shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations.

PART IX-B

STATISTICAL RETURNS

Annual
report

163.—(1) For the purposes of tabulation, every owner of a mine shall, on or before the 31st day of March in each year, send to the Minister on the forms provided a report of activities for the preceding year ending on the 31st day of December showing,

- (a) the nature of the work performed and the sums spent on mining and exploration;
- (b) the sums allocated for capital expenditures and repairs;
- (c) the current state of ore reserves;
- (d) the quantity and value of mineral production;
- (e) the number of employees; and
- (f) the revenues and expenses entailed in mining and exploration activities,

and the report shall be accompanied by such other information, plans and documents as the Minister requires, including, without limiting the scope of the requirement, information, plans and documents respecting,

- (g) inventory;
- (h) fuel and electricity consumed;
- (i) mining supplies and materials used;
- (j) non-mining supplies and materials used;
- (k) mining products, shipments and destinations;
- (l) non-mining products;
- (m) production details; and
- (n) wastes produced.

(2) The Minister may require an owner to send monthly or quarterly reports within such times as the Minister specifies.

Monthly or quarterly report

(3) In the event of the bankruptcy or winding-up of an owner, the trustee or liquidator shall, at the request of the Minister, send the report to the Minister.

Bankruptcy, etc.

(4) The Minister may require a licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* to send information to the Minister in accordance with this section, and, where the Minister does so, subsections (1), (2) and (3) apply with necessary modifications.

Pit or quarry operations
1989, c. 23

78. Section 175 of the said Act is repealed.

79. Section 176 of the said Act is repealed and the following substituted therefor:

176.—(1) Every person who contravenes any provision of Part IX or the regulations made in respect thereto is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues.

Penalty for offence against Part IX

(2) Every person who is subject to a Director's order under Part IX and who fails to take all reasonable steps to obey the conditions of the order is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues.

Failure to comply with order of Director

(3) Where any person fails to,

Application for restraining order

(a) comply with section 161a or 161b before commencing or recommencing a project;

(b) comply with an accepted closure plan as required under subsection 161d (1);

(c) submit the report required under subsection 161d (3);

(d) give the Director notice of a planned expansion or alteration as required by subsection 161d (5); or

(e) give the notice required under subsection 161g (1) or submit a closure plan required under subsection 161g (4) or (6).

the Director may apply at any time to a Justice of the High Court for an order prohibiting advanced exploration, mining or mine production on the site.

Destruction,
etc., of
rehabilitation
works

(4) Every person who alters, destroys, removes or impairs any rehabilitation work made in accordance with Part IX or an accepted closure plan without the written consent of the Minister is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Duty of
directors and
officers

(5) Every director or officer of a corporation that engages in a project under Part IX has a duty to take all reasonable care to ensure that the corporation complies with the requirements of that Part.

Offence

(6) Every person who has a duty under subsection (5) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Liability of
directors and
officers

(7) A director or officer of a corporation is liable to conviction under subsection (6) whether or not the corporation has been prosecuted and convicted.

Increase in
fine equal to
monetary
benefit

(8) The court that convicts a person of an offence under Part IX, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of monetary benefit acquired by or that accrued to, the person as a result of the commission of the offence, notwithstanding the imposition of the maximum fine provided for that offence.

Offence
1989, c. 23

176a. Every owner of a mine and every licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* who contravenes section 163, or who makes a report under that section that is, to the owner's, licensee's or operator's knowledge, false in any particular, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each day on which the offence occurs or is continued.

80. Clause 177 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) by a rehabilitation inspector.





81. Part XII of the said Act is repealed.

82. Section 190 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 2, is repealed and the following substituted therefor:

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

1. governing the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands sold or leased as mining lands or recorded as mining claims or locations under this Act or a predecessor thereof, and for the opening, construction or maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or lands for the conveying and passage of water for mining purposes;
2. prescribing the form of any application, notice, report, log, record, dispute, certificate, permit, statement or other document required, permitted or provided for, by or under this Act;
3. prescribing the amount of any fee required to be paid to the Minister, the Ministry, the Commissioner or a recorder by or under this Act;
4. prescribing the manner of staking and the size and form of mining claims and the time and manner of affixing tags in respect thereto;
5. prescribing the annual rental for a licence of occupation;
6. prescribing the information to be shown on a sketch or plan accompanying an application to record a mining claim;
7. prescribing, for the purposes of subsection 62 (1), the conditions on which permission may be given to mine, mill and refine mineral substance from an unpatented mining claim;
8. prescribing the annual units of assessment work to be performed by the holder of a mining claim;
9. prescribing, for the purposes of subsection 76 (2), locations, other than the office of the recorder, in which may be filed assessment work reports and prescribing the date reports in respect of specified types of assessment work shall be filed;
10. prescribing the types of work eligible for assessment work credits, the method of calculating and approv-

ing credits for work performed and the manner of distribution of credits to mining claims;

11. prescribing the manner in which prospecting and regional surveys performed before staking are eligible for assessment work credits;
12. prescribing the manner in which exploration work performed on patented mining claims may be allocated to contiguous unpatented mining claims;
13. prescribing the conditions on which an extension of time for the performing of and filing a report on assessment work may be allowed by a recorder;
14. prescribing the annual rental for the first year for a lease of a mining claim, the rate for each subsequent year and the annual rental for a renewal lease;
15. prescribing the rental rate for the mining rights only in respect of a mining claim;
16. prescribing the additional assessment work to be performed in respect of any excess area of a mining claim or in respect of excess average area of mining claims within a perimeter survey;
-  17. prescribing, for the purposes of subsection 83 (2), the conditions on which the holder of a mining claim may abandon part of the claim; 
18. prescribing the annual rental of a lease referred to in section 95;
19. prescribing the annual rental of a lease or renewal lease of surface rights referred to in section 97;
20. prescribing the methods and procedures to be followed in the surveying of mining claims;
21. prescribing the rate of interest to be imposed in the cases mentioned in subsections 196 (2) and 211 (2); 
22. prescribing, for the purposes of subsection 198 (3), the size, form, manner and time of staking out and recording mining claims on land in which an interest is retained after surrender; 

23. prescribing, for the purposes of section 202, the amount of tax to be paid for each hectare;
24. prescribing classes of instruments and documents that may be filed through transmission by electronic means in such manner as is prescribed;
25. defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
26. prescribing anything that by this Act is to be or may be prescribed.

(2) The Lieutenant Governor in Council may make regulations relating to Part IX, idem

1. prescribing the manner of preparing closure plans, their form and content, and the information, particulars, maps and plans to be included therein;
2. prescribing standards for rehabilitation;
3. prescribing standards for the protective measures to be taken in respect of the closure of a mine;
4. prescribing the form and manner and time of giving public notice;
5. prescribing the form and manner in which notice is to be given to the Director and to the proponent;
6. prescribing the manner of preparing the annual report to the Director required under subsection 161d (3);
7. prescribing the form of notice to be given under subsection 161d (5);
8. prescribing, for the purposes of subsection 161f (5), the form of a warrant to enter and inspect and, for the purposes of subsection 161f (6), the form of a warrant to enter and search;
9. prescribing, for the purposes of subsection 161g (1), the information to be contained in the notice to be given to the Director relating to a producing mine or to a mine from which production is temporarily suspended;

10. prescribing quantities of material extracted and other types of work that are to be classified as advanced exploration work;
11. prescribing time periods within which duties under Part IX shall be complied with;
12. prescribing anything that by Part IX is to be or may be prescribed.

Minister may
issue licence,
lease or
patent

(3) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as the Minister considers appropriate.

83. Section 192 of the said Act is repealed.

84.—(1) Subsection 193 (1) of the said Act is amended by striking out “Notwithstanding section 192” in the first line.

(2) Subsection 193 (2) of the said Act is repealed.

85. Section 194 of the said Act is amended by adding thereto the following subsections:

Registration
of order

(2) The land registrar of the land titles or registry division in which any lands or rights mentioned in a court order made under subsection (1) are situate shall, upon receipt of the order, register it and the order is absolute and conclusive proof of the vesting in the Crown of the lands or rights affected by the order and the vesting in the Crown is not open to attack in any court by reason of the omission of any act or thing leading up to the order repealing or avoiding the patent or lease.

Non-
application
of
R.S.O. 1980,
cc. 445, 230

(3) Upon registration of the court order in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the lands or rights affected by the order, and the land registrar shall note that fact in the register in red ink.

Opening
lands for
prospecting,
etc.

(4) The lands and mining rights vested in the Crown under this section are not open for prospecting, staking out or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

86. Section 195 of the said Act is repealed and the following substituted therefor:

195. Where a freehold or leasehold interest in mining lands or mining rights reverts, other than by transfer to the Crown, the land or rights may be dealt with as unpatented Crown land.

Reversion to
Crown

87.—(1) Subsection 196 (2) of the said Act is amended by striking out “rate of 6 per cent” in the eighteenth and nineteenth lines and inserting in lieu thereof “prescribed percentage rate”.

(2) Subsection 196 (8) of the said Act is repealed and the following substituted therefor:

(8) An application under subsection (2) shall be accompanied by the prescribed fee.

Fee

88. Subsection 197 (5) of the said Act is amended by striking out “purchase or” in the fifth line.

89. Section 198 of the said Act is repealed and the following substituted therefor:

198.—(1) The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may surrender such lands or mining rights to the Crown only upon such terms as are acceptable to the Minister, and thereupon the Minister may cause a notice of determination to be filed in the proper land registry office.

Voluntary
surrender of
mining lands

(2) An owner, lessee or licensee who surrenders mining lands or mining rights under subsection (1) may file a notice in the prescribed form with the recorder indicating that such owner, lessee or licensee wishes to retain an interest in the lands or part of the lands thereof, in the form of unpatented mining claims.

Retention as
unpatented
mining claims

(3) Where a notice has been filed under subsection (2), the owner, lessee or licensee shall stake out or cause to be staked out and recorded in such size, form, manner and time as is prescribed, the lands in which an interest is to be retained.

Staking out
and recording
of lands

(4) Where mining claims have not been staked out and recorded under subsection (3) within the time prescribed, the recorder may extend the time for staking out and recording or may order that the mining lands or mining rights on which the staking out and recording is to be performed are surrendered and the recorder shall, in the case where an order of surrender is made, by registered letter mailed not later than the next day after the making of the order, notify the owner, lessee or licensee of the recorder's action and the reason therefor.

Extension of
time by
recorder or
order of
surrender of
lands

Prospecting,
etc., on
surrendered
lands

(5) Mining lands or mining rights surrendered to the Crown under subsection (1) and which are not recorded as unpatented mining claims under subsection (3) shall not be open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, notice of which shall be published in *The Ontario Gazette* at least two weeks prior thereto. ▲

90. Section 199 of the said Act is repealed and the following substituted therefor:

Lands
forfeited,
etc., to
Crown
R.S.O. 1980,
c. 95
1982, c. 4

199.—(1) Where mining lands or mining rights,

- (a) are forfeited to the Crown under the *Corporations Act* or the *Business Corporations Act, 1982*, or any predecessor thereof or are forfeited to the Crown for any other cause; or
- (b) have become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs,

the Minister may cause to be registered in the proper land registry office a notice stating that forfeiture has been effected as mentioned in clause (a) or that the lands or mining rights have become the property of the Crown as mentioned in clause (b), as the case may be, and that by reason thereof the lands or mining rights and every interest therein are forfeited to and vested in, or have become the property of, the Crown, absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture or becoming the property of the Crown, and, subject to subsection (2), such lands shall be dealt with under this Act.

Opening
forfeited,
etc., lands
for
prospecting,
etc.

(2) Mining lands or mining rights so forfeited or that have become the property of the Crown are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

91. Section 200 of the said Act and the preceding heading are repealed and the following substituted therefor:

ANNULMENT OF FORFEITURE OR TERMINATION OF LEASE

Annulment
of forfeiture,
etc.

▼
200.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order revoke, cancel or annul the forfeiture of any mining lands or mining rights under this Act or revoke, cancel or annul the termination of

any lease of mining lands under this Act or relieve from forfeiture any unpatented mining claims on such terms and conditions as the Minister considers appropriate.

(2) Where an order under subsection (1) concerns unpatented mining claims, such order shall be filed in the office of the mining recorder. Filing order in recorder's office

(3) Where an order under subsection (1) concerns leases or freehold patents, the Deputy Minister shall cause the order to be registered in the proper land registry office and thereupon the mining lands or mining rights revert in the owner or lessee of the mining lands or mining rights at the time of forfeiture or termination, his or her heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture or termination and still outstanding. Registering order in land registry office

(4) Where application is made for an order under subsection (1), the Minister may direct the mining lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application. Withdrawal of lands from prospecting, etc.

(5) The Minister may direct an application for an order under subsection (1) to be accompanied by the prescribed fee. Fee

92. The heading preceding section 201 of the said Act is struck out and the following substituted therefor:

MINING LAND TAX

93. Section 201 of the said Act is repealed and the following substituted therefor:

201. In this Part,

Definitions

“municipality” means a city, town, village, township or improvement district;

“tax” means a tax under this Part.

94. Section 202 of the said Act is repealed and the following substituted therefor:

202. There shall be paid to the Crown in each year a tax in the prescribed amount for each hectare on any lands or mining rights to which this Part applies. Amount of tax

95. Section 203 of the said Act is amended by striking out “acreage” in the first line.

96.—(1) Subsection 204 (1) of the said Act is amended by striking out “acreage” in the twenty-third line.

(2) Subsection 204 (2) of the said Act is amended by striking out “acreage” in the first line.

97. Clause 205 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) land has been subdivided,

(i) by a registered plan of subdivision, or

(ii) by a reference plan into parts for city, town, village or summer resort purposes,

and there is no severance of the surface and mining rights.

98. Section 207 of the said Act is amended by striking out “acreage” in the third line.

99. Section 208 of the said Act is amended by striking out “acreage” in the fourth line.

100. Section 209 of the said Act is amended by striking out “acreage” in the second line.

101. Subsection 210 (1) of the said Act is amended by striking out “acreage” in the fourth line and in the eighth line.

102.—(1) Subsection 211 (1) of the said Act is amended by striking out “acreage” in the first line.

(2) Subsection 211 (2) of the said Act is repealed and the following substituted therefor:

Fee (2) An application under subsection (1) shall be accompanied by the prescribed fee.

103.—(1) Subsection 212 (1) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 3, is further amended by striking out “acreage” in the fourth line and by striking out “certified mail” in the sixth line and inserting in lieu thereof “mail or delivered by courier service”.

(2) Subsection 212 (2) of the said Act is amended by striking out “acreage” in the sixth line.

(3) Subsection 212 (3) of the said Act is amended by striking out "acreage" in the first line.

104. Section 214 of the said Act is repealed.

105.—(1) Subsection 215 (1) of the said Act is amended by striking out "acreage" in the first line.

(2) Subsection 215 (2) of the said Act is amended by striking out "acreage" in the second line.

106. Section 217 of the said Act is amended by striking out "acreage" in the second line.

107. The Schedule to the said Act is repealed.

108.—(1) Every prospector's licence issued or renewed under the *Mining Act*, that is in good standing on the day this section comes into force, expires on the date set out on the licence or renewal thereof, and thereafter, in the case of a licence held by a natural person, may be renewed under section 22 of the *Mining Act*, as amended by section 12 of this Act.

Prospector's
licence
R.S.O. 1980,
c. 268

(2) The expiry provision in subsection (1) does not apply to a prospector's licence that was issued or renewed as a lifetime licence.

Idem

(3) Where, before the 24th day of October, 1989,

Dispute or
court
proceeding

(a) a dispute has been filed under section 56 of the *Mining Act*; or

(b) a proceeding has been commenced in the Supreme Court to declare forfeited or void or to cancel or annul any Crown patent issued for mining lands, mining claims or mining rights,

the provisions of the *Mining Act*, as they existed before the coming into force of this Act, continue to apply to the dispute or proceeding until finally disposed of.

(4) Subsections 56 (7) and (8) of the *Mining Act*, as enacted by section 34 of this Act, apply to any re-staking by or on behalf of a transferee that has been commenced before, on or after the 24th day of October, 1989, unless, before that day, the matter in dispute has been finally disposed of under the *Mining Act*.

Re-staking

(5) Section 96 of the *Mining Act*, as it read before its re-enactment by section 61 of this Act, continues in force and

Freehold
patent

applies in respect of any application for a patent made under that section before the 24th day of October, 1989.

Relief from
forfeiture by
Mining and
Lands
Commissioner

109.—(1) Where forfeiture occurs under clause 85 (1) (c), (d) or (e) of the *Mining Act* as those clauses read before the coming into force of section 52 of this Act or under clause 85 (1) (c) of the *Mining Act*, as re-enacted by section 52 of this Act, and where an application is made to the Mining and Lands Commissioner within six months of the forfeiture, the Commissioner may make an order on such terms and conditions as the Commissioner considers just relieving the claim from forfeiture and extending the time for performing or reporting the work, or both, but no such application may be made to the Commissioner after the expiration of eight months from the day section 52 of this Act comes into force.

Performance
of assessment
work or
application
for lease

(2) Where, on the day section 76 of the *Mining Act*, as re-enacted by section 46 of this Act, comes into force, 200 days of assessment work have been performed and recorded by the holder of a mining claim under section 76 of the *Mining Act* as it read before its re-enactment by section 46 of this Act, the holder of the mining claim shall,

- (a) perform and file such annual units of assessment work as are prescribed under section 76 of the *Mining Act*, as re-enacted by section 46 of this Act; or
- (b) apply and pay for a lease of the claim within the time set out in subsection 94 (2) of the *Mining Act*, as it read before its re-enactment by section 59 of this Act, or, where applicable, within the time set out in an order of the Mining and Lands Commissioner under section 86 of the *Mining Act* as it read before its re-enactment by section 53 of this Act.

Rental rate,
subsisting
leases

110.—(1) A subsisting lease that has been issued or renewed under section 94, 95 or 97 or subsection 190 (2) of the *Mining Act*, as those provisions read before the day sections 59, 60, 62 and 82 of this Act come into force, shall continue to bear the existing rental rate until the expiration of five years from that day.

Certain leases
issued after
ss. 59, 60,
62, 82, in
force

(2) Where a lease applied for before the 24th day of October, 1989 is issued after the day sections 59, 60, 62 and 82 of this Act come into force, the lease shall bear the rental rate provided for by the *Mining Act*, as that Act read before the day sections 59, 60, 62 and 82 of this Act come into force, until the expiration of five years from the day those sections come into force.

(3) Where a lease to which subsection (1) or (2) applies is renewed under section 94 of the *Mining Act*, as amended by section 59 of this Act, the lease shall, until the expiration of five years from the day sections 59, 60, 62 and 82 of this Act come into force, bear the rental rate set out in subsection 94 (8) of the *Mining Act*, as that section read before its re-enactment by section 59 of this Act. Renewal
leases

(4) Notwithstanding the provisions of a lease, after the expiration of five years from the day sections 59, 60, 62 and 82 of this Act come into force, every lease shall bear the rental rate set out in the *Mining Act* as amended by this Act. When new
rental rates
in Act prevail

111.—(1) This Act, except subsection 34 (3) and section 51, comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Subsection 34 (3) and section 51 come into force on the day this Act receives Royal Assent. Idem

112. The short title of this Act is the *Mining Amendment Act, 1989*. Short title





Bill 71

(Chapter 62
Statutes of Ontario, 1989)

An Act to amend the Mining Act

The Hon. H. O'Neil
Minister of Mines

<i>1st Reading</i>	October 24th, 1989
<i>2nd Reading</i>	November 27th, 1989
<i>3rd Reading</i>	December 6th, 1989
<i>Royal Assent</i>	December 6th, 1989

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Bill 71**1989****An Act to amend the Mining Act**

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

1.—(1) Paragraph 1 of section 1 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. "anniversary date", when referring to a mining claim, means the date that occurs at annual intervals after the recording of a mining claim, or such other date as results from the application of subsection 79 (2).

(2) Paragraphs 4 and 5 of the said section 1 are repealed and the following substituted therefor:

4. "Crown land" does not include,
 - i. land, the surface rights, mining rights or the mining and surface rights of which are under lease or licence of occupation from the Crown,
 - ii. land in the actual use or occupation of the Crown, the Crown in right of Canada, or of a department of the Government of Canada or a ministry of the Government of Ontario,
 - iii. land the use of which is withdrawn or set apart or appropriated for a public purpose, or
 - iv. land held by a ministry of the Government of Ontario;
5. "Deputy Minister" means the Deputy Minister of Mines.

(3) Paragraph 6 of the said section 1 is repealed.

(4) Paragraph 7 of the said section 1 is repealed and the following substituted therefor:

7. "holder", when referring to the holder of an unpatented mining claim, a boring permit or a licence of occupation issued under this Act, means the holder of record.

(5) Paragraph 9 of the said section 1 is repealed and the following substituted therefor:

9. "inspector" includes a geologist on the staff of the Ministry and any other officer or agent designated by the Minister to carry out an inspection or investigation of the mining industry.

(6) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

11. "licensee" means a person holding a prospector's licence issued under this Act or a renewal thereof.

(7) Paragraphs 14, 15 and 16 of the said section 1 are repealed and the following substituted therefor:

14. "mine", when used as a noun, means any opening or excavation in, or working of the ground, for the purpose of winning any mineral or mineral bearing substance, and all ways, works, machinery, plant, buildings and premises below or above the ground belonging to or used in connection with such activity, and any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any of such substances and includes mines that have been temporarily suspended, rendered inactive, closed out or abandoned as well as lands where tailings, or wasterock, or both, or any other prescribed substances from any opening or excavation or working of the ground have been deposited;
15. "mine", when used as a verb, means the performance of any work in or about a mine, as defined in paragraph 14;
16. "minerals" means all naturally occurring metallic and non-metallic minerals, including natural gas, petroleum, coal, salt, quarry and pit material, gold,

silver and all rare and precious metals, but does not include sand, gravel and peat;

- 16a. "mining claim" means a parcel of land, including land under water, that has been staked and recorded in accordance with this Act and the regulations.

(8) Paragraphs 18, 19, 20, 21 and 22 of the said section 1 are repealed and the following substituted therefor:

18. "mining rights" means the right to minerals on, in or under any land;
19. "Minister" means the Minister of Mines, except that in Parts IV and IX-A "Minister" means the Minister of Natural Resources;
20. "Ministry" means the Ministry of the Minister;
21. "owner", when used in Parts IX, IX-B and XI, includes every person, being the immediate proprietor, lessee or occupier of a mine, or a part thereof, or of any land located, patented or leased as mining land, and includes an agent, or a person designated by the owner or agent as responsible for the control, management and direction of a mine, or a part thereof, but does not include a person receiving merely a royalty from a mine, or mining lands, or the owner of the surface rights only;
22. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 4, 28, 97, 100 to 108, 190, 194, 197 and 204, the meaning is limited to freehold patents.

(9) Paragraph 23 of the said section 1 is repealed and the following substituted therefor:

23. "prescribed" means prescribed by the regulations;
- 23a. "prospecting" means the investigating of, or searching for, minerals.

(10) Paragraphs 26 and 29 of the said section 1 are repealed.

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

Purpose of Act

1a. The purpose of this Act is to encourage prospecting, staking and exploration for the development of mineral resources and to minimize adverse effects on the environment through rehabilitation of mining lands in Ontario.

3. Section 3 of the said Act is repealed.

4. Section 4 of the said Act is amended by adding thereto the following subsections:

Immunity for acts done in good faith

(3) No action or other proceeding for damages shall be instituted against the Minister, the Deputy Minister or any officer or employee of the Ministry or any one acting under the authority of the Minister or Deputy Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown liability
R.S.O. 1980,
c. 393

(4) Subsection (3) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (3) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (3) had not been enacted.

Delegation of Minister's powers, etc.

(5) Where under this Act a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, conditions and requirements as the Minister sets out in the delegation.

Employees authorized to take affidavits

(6) The Minister may empower such employees of the Ministry as the Minister designates to administer oaths and take and receive affidavits, declarations and affirmations authorized by law, for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of such oath, affidavit, declaration or affidavit, all the powers of a commissioner for taking affidavits under the *Commissioners for taking Affidavits Act*.

R.S.O. 1980,
c. 75

5.—(1) Subsection 6 (1) of the said Act is repealed and the following substituted therefor:

Mining recorder

(1) The Minister may appoint an employee of the Ministry as mining recorder for each mining division.

(2) Subsection 6 (3) of the said Act is repealed.

6. Section 7 of the said Act is amended by inserting after "such" in the first line "record".

7.—(1) Section 9 of the said Act is amended by striking out "any of such books" in the first and second lines and inserting in lieu thereof "a record book".

(2) The said section 9 is further amended by adding thereto the following subsections:

(2) Where a copy of or extract from an entry in a record book or any document filed in the recorder's office is recorded electronically or on a magnetic medium, any writing that,

Computer
printout,
etc.,
admissible
evidence

- (a) represents the entry in the record book or the filed document;
- (b) is generated or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original book or filed document.

(3) Where a record in a recorder's office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

Idem

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

8.—(1) Subsection 12 (1) of the said Act is amended by striking out "and any such purchase or interest is void" in the fourth and fifth lines.

(2) Subsection 12 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Deputy Minister is satisfied that an officer has in good faith acquired an interest referred to in subsection

Waiver by
Deputy
Minister

(1) for other than mining purposes, the Deputy Minister may in writing waive the application of subsection (1) to the officer.

Penalty (3) Any officer contravening subsection (1) forfeits his or her office.

9. Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

Licence required (1) No person shall prospect on Crown lands or stake out, record or apply to record the staking of a mining claim unless the person is the holder of a prospector's licence issued under this Act.

10. Section 19 of the said Act is repealed and the following substituted therefor:

Who may receive licence **19.—(1)** Any natural person who is of the age of eighteen years or over is entitled to obtain a prospector's licence upon application therefor made in the prescribed form and upon payment of the prescribed fee.

Date and term of licence (2) A licence shall be dated on the day of its issue and expires at midnight on the day of the fifth anniversary of the licensee's birth date that follows the issue of the licence.

Not valid unless signed (3) A licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

Licence not transferrable (4) A licence is not transferrable.

Who may issue (5) A licence may be issued by any recorder.

Service (6) Any notice or document relating to a licensee is sufficiently served upon the licensee if delivered or sent by prepaid first class mail to the address shown on the application for the prospector's licence or to the address given under subsection (8), if applicable.

Idem (7) Where service is made by prepaid first class mail under subsection (6) it shall be deemed to have been made on the fifth day after the day of mailing.

Notice of change of address (8) A licensee shall notify, in the prescribed form, the recorder of any change in the address of the licensee.

11. Section 21 of the said Act is repealed.

12.—(1) Subsection 22 (1) of the said Act is repealed and the following substituted therefor:

(1) A licensee is entitled to a renewal of his or her licence upon making application therefor in the prescribed form and paying the prescribed fee within sixty days of its expiration.

Renewal of licence

(1a) Notice of the expiration of a licence shall be given by the recorder to the holder of the licence not later than sixty days before the expiry date.

Notice of expiration of licence

(2) Subsections 22 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A licence may be renewed by any recorder.

Who may renew

(3) The renewal shall bear date on the day following the expiration of the licence or renewal of licence of which it is the renewal and shall take effect immediately upon the expiration of that licence, or renewal thereof, as the case may be.

Date and term of renewal

(3) Subsection 22 (4) of the said Act is amended by adding at the end thereof "and shall expire at 12 o'clock midnight on the day that is the fifth anniversary of the licensee's birth date following the effective date of the renewal".

(4) Subsection 22 (5) of the said Act is repealed and the following substituted therefor:

(5) The Minister shall renew without fee the licence of a person who has held a licence continuously for twenty-five years, and the licence shall remain in good standing during the lifetime of the licensee.

Lifetime renewal by Minister

(6) The Minister may, at his or her discretion, renew the licence of a person without fee and order that the licence remain in good standing during the lifetime of the licensee.

Idem

13. Subsection 24 (1) of the said Act is repealed and the following substituted therefor:

(1) No person shall apply for or hold more than one prospector's licence.

Not more than one licence

14.—(1) Subsection 27 (5) of the said Act is repealed and the following substituted therefor:

(5) While a licence is suspended under subsection (3), the licensee may renew the licence but the licensee may not stake out or apply to record a mining claim.

Rights of licensee under suspension

Where holder
of mining
claim
contravenes
Act

(5a) Where the recorder finds, after a hearing, that a holder of a mining claim has contravened any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the recorder, order that such holder may not acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or to apply for lease on any unpatented mining claim recorded in the name of the holder.

Cancellation
of mining
claims

(5b) Where the Commissioner finds, after a hearing, that a holder of a mining claim has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, declare any mining claims of the holder to be cancelled and thereupon all rights of the holder in or to mining claim lands cease.

Order
pending
hearing

(5c) Pending the holding of a hearing on any matter under this section, the Commissioner or the recorder, as the case may be, before whom the hearing will be held, may order that any mining claim of the licensee or holder whose conduct is in question shall not, before the conclusion of the hearing and final disposition of the matter, be transferred to any other person.

Prohibition
against
staking out
claims, etc.

(5d) Where mining claims are cancelled under subsection (5b), the former holder of the mining claims may not stake out or apply for a mining claim or acquire an unpatented mining claim or interest therein through transfer for such period of time as the Minister determines, and the Minister shall notify the former holder of the period of time so determined.

(2) Subsection 27 (6) of the said Act is repealed and the following substituted therefor:

Appeal

(6) A finding by the Commissioner that a licensee or holder of a mining claim has wilfully contravened this Act or the regulations or by a recorder that a licensee or holder of a mining claim has contravened this Act or the regulations, as the case may be, may be appealed in like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal.

15. Section 29 of the said Act is amended by striking out "licensee" in the fourth line and inserting in lieu thereof "person".

16.—(1) Clause 30 (b) of the said Act is repealed and the following substituted therefor:

(b) upon any land laid out on a registered plan of subdivision.

(2) Clause 30 (d) of the said Act is repealed.

17.—(1) Clause 31 (b) of the said Act is repealed and the following substituted therefor:

(b) for which an application brought in good faith is pending in the Ministry of Natural Resources under the *Public Lands Act* or otherwise, and the applicant may acquire the minerals; or

R.S.O. 1980,
c. 413

(2) Clause 31 (c) of the said Act is amended by inserting after "Ministry" in the third line "of Natural Resources".

(3) Clause 31 (d) of the said Act is amended by striking out "and Communications" in the second line.

18. Subsection 33 (1) of the said Act is amended by striking out "or company" in the second and third lines.

19. Section 34 of the said Act is amended by striking out "licensee" in the fifth line and inserting in lieu thereof "holder of the mining claim".

20. Section 35 of the said Act is amended by striking out "and Communications" in the third line.

21.—(1) Subsection 36 (1) of the said Act is amended by striking out "or an officer appointed under this Act and designated by the Minister" in the first and second lines.

(2) Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Minister makes an order under subsection (1), the Minister shall, within twenty-four hours of the date of the order, mail a copy of the order to the recorder.

Copy of
order sent to
recorder

(3) Subsection 36 (4) of the said Act is repealed and the following substituted therefor:

(4) Lands, mining rights or surface rights withdrawn under this section, until re-opened by the Minister, shall remain withdrawn and shall not be prospected or staked out.

Lands
withdrawn
not to be
prospectd.
etc.

22. Section 38 of the said Act is repealed.

23. Section 39 of the said Act is repealed and the following substituted therefor:

Permit under
R.S.O. 1980,
cc. 173, 413

39. Before beginning or carrying on any prescribed assessment work on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling the holder to do so as provided in the *Forest Fires Prevention Act* or the *Public Lands Act*.

24. Section 40 of the said Act is repealed and the following substituted therefor:

Manner of
staking
mining claim

40. A mining claim shall be staked in such size, form and manner as is prescribed and may be staked on any day.

25. Section 42 of the said Act is repealed.

26.—(1) Subsections 43 (1), (2) and (3) of the said Act are repealed.

(2) Subsection 43 (5) of the said Act is amended by striking out “and Communications” in the third line.

27.—(1) Subsection 44 (1) of the said Act is repealed and the following substituted therefor:

Rates for
licences of
occupation

(1) Notwithstanding the provisions of a licence of occupation, there shall be paid, in advance, the prescribed annual rental for the licence of occupation.

(2) Subsection 44 (6) of the said Act is repealed and the following substituted therefor:

Lease may
be issued
under s. 94

(6) The holder of a licence of occupation, upon application in writing therefor and upon the surrender of the licence of occupation, may be issued a lease under section 94 and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

28. Sections 45, 46, 47 and 48 of the said Act are repealed.

29. Section 50 of the said Act is amended by adding thereto the following subsection:

Deemed
substantial
compliance

(2) The staking out of a mining claim shall be deemed to be in substantial compliance with the requirements of this Act and the regulations even if there is a failure to comply with a number of specific staking requirements if,

- (a) the failure to comply is not likely to mislead any licensee desiring to stake a claim in the vicinity; and
- (b) it is apparent that an attempt has been made in good faith by the licensee to comply with the requirements of this Act and the regulations.

30. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) A licensee who has staked out a mining claim shall make an application in the prescribed form to the recorder accompanied by the prescribed fee and a sketch or plan showing the prescribed information to record the claim not later than thirty-one days after the day on which staking was completed.

Application
to record
mining claim

(2) Priority of completion of staking shall prevail where two or more licensees make application to record the staking of all or a part of the same lands.

Priority of
completion
prevails

(3) Where one of the applications made by two or more licensees to record the staking of a mining claim is entitled to priority under subsection (2), the recorder shall cancel the other application or applications and shall by registered letter mailed not later than the following day notify the other licensee or licensees of the recorder's action and the reason therefor.

Notice to
other licensee
or licensees

31. Section 52 of the said Act is repealed.

32.—(1) Subsection 54 (1) of the said Act is amended by striking out "unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights" in the fourth, fifth and sixth lines.

(2) Subsection 54 (2) of the said Act is amended by inserting after "claim" in the fourth line "that has priority under subsection 51 (2)" and by striking out "licensee" in the twelfth line and inserting in lieu thereof "person".

(3) Subsections 54 (5), (6), (7) and (8) of the said Act are repealed.

(4) Subsection 54 (9) of the said Act is repealed and the following substituted therefor:

(9) There shall be added to each claim number the prefix allotted to the mining division in which the claim is situate.

Division
prefix added

33. Section 55 of the said Act is repealed and the following substituted therefor:

Metal tags **55.—(1)** Metal tags and duplicate tags shall be provided by the Ministry on payment of the prescribed fee and may be used by any licensee in staking out claims in the prescribed manner and within the prescribed time.

Transfer of tags (2) Metal tags and duplicate tags do not expire but may not be re-used.

34.—(1) Subsection 56 (1) of the said Act is amended by inserting after “by” in the first line “a detailed statement of claim and an” and by striking out “licensee” in the third line and in the fifth line and inserting in lieu thereof in each instance “person”.

(2) Subsection 56 (2) of the said Act is repealed and the following substituted therefor:

Copy to be sent to recorded holder (2) A copy of the dispute, statement of claim and affidavit shall be left by the disputant with the recorder who shall, not later than the next day after the filing of the dispute, transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant the prescribed fee per page for making the copy.

(3) Subsection 56 (5) of the said Act is repealed and the following substituted therefor:

When not to be received (5) A dispute shall not be received or entered against a claim,

- (a) after one year from the recording of the claim;
- (b) after the first prescribed unit of assessment work has been performed and filed and, where necessary, approved; or
- (c) except by leave of the Commissioner,
 - (i) after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or
 - (ii) after it has been on record for sixty days and has already had a dispute entered against it.

(5a) Where a dispute is entered against a claim after the first prescribed unit of assessment work has been performed and filed but before the assessment work has been approved, where approval is necessary, the dispute shall be deemed to have been resolved in favour of the holder or holders of the claim if the assessment work is subsequently approved and the note of the dispute entered on the record of the claim shall be struck out by the recorder who shall by registered letter mailed not later than the following day notify the disputant of the recorder's action and the reason therefor.

Where assessment work subsequently approved

(4) Section 56 of the said Act is amended by adding thereto the following subsections:

(7) Notwithstanding clause 28 (c) and subsection 84 (1), where a dispute has not been filed against a mining claim a transferee who has acquired the claim in good faith may re-stake or cause to be re-staked the claim or any part thereof at any time and, upon filing with the recorder a notice in the prescribed form of the re-staking, the recorder shall, upon notice to all persons having a recorded interest in the original claim, order that the re-staked claim shall be deemed to have been recorded on the date of the recording of the original claim or any part thereof that has been re-staked.

Re-staking claim

(8) In an order made under subsection (7), the recorder shall provide that orders, assessment work reports, instruments or other notations which have been entered against the original claim be entered in the record book in respect of the re-staked claim, and may include in the order such provisions as the recorder considers necessary to effect such entry in the record book of the re-staked claim.

Entry of orders, etc., against re-staked claim

35. Sections 57, 58 and 59 of the said Act are repealed.

36.—(1) Subsection 59a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(1) A recorder may by order relieve an unpatented mining claim that is subject to forfeiture as a result of an administrative error on the part of the Crown from the forfeiture.

Relief from forfeiture

(2) Subsection 59a (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(4) An order under subsection (1) or (3) may grant an extension of time for performing and reporting any work required to be performed or for applying and paying for a

Extension of time

lease in respect of the claim or provide for the payment of any fees in respect of the claim.

37. Subsections 60 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Rights in
claim

(1) The staking out or the filing of an application for or the recording of a mining claim, or the acquisition of any right or interest in a mining claim by any person or all or any of such acts, does not confer upon that person,

- (a) any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to perform the prescribed assessment work or to obtain a lease from the Crown and, prior to the performance, filing and approval of the first prescribed unit of assessment work, the person is merely a licensee of the Crown and after that period and until he or she obtains a lease the person is a tenant at will of the Crown in respect of the mining claim; or
- (b) any right to take, remove or otherwise dispose of any minerals found in, upon or under the mining claim.

38. Section 62 of the said Act is repealed and the following substituted therefor:

Permission to
test mineral
content

62.—(1) The Minister may give written permission, subject to such conditions as are prescribed, to mine, mill and refine mineral bearing substance from an unpatented mining claim for the purpose of testing mineral content.

Conditions

(2) Permission granted under subsection (1) shall be for a specified time and shall cover a specified quantity of mineral bearing substance.

Sale of end
product

(3) The end product of mining, milling and refining permitted under subsection (1), except as provided in subsection (4), shall not be sold or otherwise disposed of until the mining claim from which the minerals were taken is leased under this Act.

Disposition
of proceeds

(4) Subsection (3) does not apply where the Minister gives written permission for the sale or disposition and where the Minister does so, the sale or disposition shall be in accordance with such terms as the Minister may impose.

39. Section 63 of the said Act is repealed.

40. Subsection 64 (2) of the said Act is amended by adding at the commencement thereof "Unless ordered otherwise by the Minister".

41. Section 70 of the said Act is amended by striking out "may" in the second line and inserting in lieu thereof "shall".

42.—(1) Section 71 of the said Act is amended by striking out "nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument" in the eighth, ninth, tenth and eleventh lines.

(2) The said section 71 is further amended by adding thereto the following subsections:

(2) Any such instrument shall not be recorded unless an affidavit in the prescribed form, attached thereto or endorsed thereon, is made by a subscribing witness to the instrument. Affidavit of execution

(3) Subsection (2) does not apply to the execution of an instrument by a corporation under its seal. Corporations

43. Subsection 74 (3) of the said Act is repealed.

44.—(1) Subsection 75 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate is of no effect and does not constitute notice to any person of the proceeding until it is filed. Not to constitute notice until filed

(2) Subsection 75 (6) of the said Act is amended by striking out "upon the latter becoming, if he is not before, a licensee" in the fifteenth and sixteenth lines.

(3) Subsection 75 (7) of the said Act is amended by striking out "a fee of \$1, which" in the second and third lines and inserting in lieu thereof "any required fee and such".

45. The heading preceding section 76 of the said Act is struck out and the following substituted therefor:

ASSESSMENT WORK

46. Section 76 of the said Act is repealed and the following substituted therefor:

76.—(1) The holder of a mining claim shall, following the recording of the claim, perform such annual units of assessment work as are prescribed. Assessment work

Report

(2) Subject to subsection (3), every mining claim holder shall, not later than the anniversary date, file in the office of the recorder or such other location as is prescribed a report in the prescribed form of the assessment work done for the purpose of complying with subsection (1), together with such other information as may be prescribed.

Idem

(3) The report mentioned in subsection (2) shall, in respect of any specified type of assessment work, be filed not later than such date earlier than the anniversary date as may be prescribed for that type of assessment work.

Credits measured in dollars spent

(4) For the purpose of subsection (1), assessment work credits shall be measured in terms of dollars spent.

47. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

Types of work eligible for credits, etc.

77.—(1) The types of work that are eligible for assessment work credits, the method of calculating and approving the credits for work performed and the distribution of credits for work performed to mining claims shall be determined in such manner as is prescribed.

Prospecting and regional surveys

(2) Prospecting and regional surveys performed on Crown lands before the staking of a mining claim are eligible for assessment work credits in such manner as is prescribed.

Work on patented mining claims

(3) Exploration work performed on patented mining claims may be allocated as assessment work to contiguous unpatented mining claims in the prescribed manner.

48. Section 79 of the said Act is repealed and the following substituted therefor:

Computing time for performance of assessment work

79.—(1) In computing the time within which work upon a mining claim is required to be performed or within which application and payment for a lease may be made,

R.S.O. 1980, cc. 173, 413

- (a) if a permit under the *Forest Fires Prevention Act* or the *Public Lands Act* that is necessary for the beginning or carrying on of work under this Act is refused or the performance of such work is prohibited under those Acts or any other Act, or the holder defers the start of work or is delayed in its performance at the request, or by the actions, of the Crown, the time during which such refusal, prohibition, deferment or delay subsists, if the holder provides the Commissioner with satisfactory evidence of such refusal, prohibition, deferment or delay; or

- (b) the time during which proceedings in respect of the mining claim are pending before the Supreme Court, the Commissioner or the recorder, where the Commissioner is satisfied that any delay in settling the matter is not the fault of the holder,

shall be excluded, and the Commissioner may make an order fixing the date or dates by which the next or any prescribed units of work shall be performed and reported or by which an application and payment for lease may be made.

(2) Where the time for doing something under this Act is excluded, the next anniversary date after the exclusion in respect of the mining claim involved shall be deemed to be the date that falls after the anniversary date that would have occurred, except for this provision, by the number of days that equals the number of days of the exclusion, and all subsequent anniversary dates shall be adjusted accordingly.

Anniversary
date changed

(3) Notwithstanding anything in this Act, where in the opinion of the Minister special circumstances exist, the Minister may exclude the time within which work upon a mining claim is required to be performed or within which application and payment for lease may be made, and may by order fix the anniversary date or dates by which the next or any subsequent periods of work shall be performed and reported or by which application and payment for lease may be made.

Special
circumstances

49. Section 80 of the said Act is repealed.

50. Section 83 of the said Act is repealed and the following substituted therefor:

83.—(1) The holder of a mining claim may abandon the claim at any time by filing a notice of abandonment in the prescribed form with the recorder.

Right of
mining claim
holder to
abandon
claim

(2) The holder of a mining claim may abandon any part of the claim at any time on such conditions as are prescribed, by filing a notice of partial abandonment in the prescribed form with the recorder.

Abandonment
of part of
claim

(3) The recorder shall enter a note of the abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in the recorder's office a notice of the abandonment with a sketch of the claim or part thereof to be abandoned.

Notice of
abandonment

(4) Where part of a claim has been abandoned under subsection (2), the recorder shall issue an order directing the

Order by
recorder

moving of posts or tags, the erection of new posts and the identification of new boundary lines and stating the time within which the work is to be completed.

Compliance
with order

(5) Where an order is issued under subsection (4), the mining claim holder affected shall file an affidavit in the prescribed form within the time set out in the order and a copy of the affidavit, marked with the date of the posting shall be posted by the recorder in the recorder's office.

Extension of
time by
recorder or
order of
abandonment

(6) Where the work set out in an order under subsection (4) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may order that the portion of the claim on which the work was to be done is abandoned and shall, in the case where an order of abandonment is made, by registered letter mailed not later than the next day after the making of the order, notify the holder of the recorder's action and the reason therefor, and a copy of the order shall be posted by the recorder in the recorder's office.

When claim
open for
staking

(7) Where part of a mining claim is abandoned under subsection (2) and an order of the recorder is made under subsection (6), the mining claim abandoned is open for staking from 9 o'clock in the forenoon of the eleventh day after the posting of the order of the recorder made under subsection (6).

Idem.
abandonment
of whole
claim

(8) Every mining claim abandoned under subsection (1) is open for staking from 9 o'clock in the forenoon of the eleventh day after the notice of abandonment is filed.

Idem.
abandonment
of part of
claim

(9) Where part of a mining claim is abandoned under subsection (2) and no order is made by the recorder under subsection (6), that part of the claim is open for staking from 9 o'clock in the forenoon of the eleventh day after the posting of the affidavit required under subsection (5).

51. Section 84 of the said Act is repealed and the following substituted therefor:

Deemed
abandonment
of claim

84.—(1) Non-compliance by the licensee or holder of a mining claim with any requirement of this Act or the regulations as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out.

(2) Notwithstanding subsection (1), where in respect of a mining claim, no dispute is on file and, ^{Saving}

- (a) one year has elapsed since the day of the recording of the claim; or
- (b) the first prescribed unit of assessment work has been performed and filed and, where necessary, approved.

the mining claim shall be conclusively deemed to have been staked out and recorded in compliance with the requirements of this Act and the regulations.

52.—(1) Subsection 85 (1) of the said Act is amended by striking out “patent” in the second line and inserting in lieu thereof “lease”.

(2) Clause 85 (1) (a) of the said Act is repealed.

(3) Clause 85 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) if the prescribed work is not duly performed and reported as required by section 76 unless an application and payment for a lease of the mining claim is made under section 94.

(4) Clauses 85 (1) (d) and (e) of the said Act are repealed.

(5) Subsection 85 (2) of the said Act is amended by striking out “licensee” in the second line and inserting in lieu thereof “person”.

53. Sections 86 and 87 of the said Act are repealed and the following substituted therefor:

86.—(1) On application therefor being made to the recorder within thirty days before the expiration of the time for filing a report of assessment work, the recorder may allow an extension of time for performing and filing the report of the assessment work on such conditions as are prescribed.

Extension of
time by
recorder

(2) Where forfeiture or loss of rights has occurred, the lands, mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immediately following that upon which forfeiture or loss of rights occurred.

Re-staking

When order
takes effect

(3) An order made by the recorder under this section comes into effect and shall be deemed to have been recorded at the time that the application was received in the office of the recorder, notwithstanding that such order may not have been immediately entered in the record book.

Cancellation
of record

(4) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record "Cancelled", and shall post up forthwith in the recorder's office a notice of cancellation.

54. Section 88 of the said Act is repealed and the following substituted therefor:

Death of
licensee or
holder

88. Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Commissioner may at any time make such order as the Commissioner considers just for vesting the claim in the representative of such holder and extending the time for performing the work or applying for lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act.

55. Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

Inspection by
Commissioner,
recorder or
inspector

(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after one year from the recording of the claim, or after the first prescribed unit of assessment work has been performed, filed and approved, no such inspection shall, unless ordered by the Minister under subsection 90 (5), be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

56.—(1) Subsection 90 (4) of the said Act is amended by striking out "licensee" in the seventh line and inserting in lieu thereof "holder".

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

(5) Notwithstanding subsections 56 (5) and 84 (2), the Minister may challenge the validity of a mining claim at any time during the life of the claim and may direct the recorder to inspect the claim in accordance with section 89.

Inspection
ordered by
Minister

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

91a.—(1) If there is an owner of the surface rights of the land comprising a mining claim, where a holder of the mining claim first proposes to do ground assessment work on such land, the holder shall give notice in the prescribed form to the owner of the surface rights of the holder's intention to perform the work.

Notice of
intention to
perform
assessment
work

(2) A person who has given notice under this section may enter on the land and perform the work at any time immediately following the day the notice is given.

Entry on
land to
perform work

(3) A recorder shall not record ground assessment work unless,

Where work
not to be
recorded

- (a) the holder files with the recorder a certificate in the prescribed form establishing that the required notice was given; or
- (b) the recorder determines that it is not feasible in the circumstances to give notice to the owner of the surface rights.

58. Section 92 of the said Act is repealed and the following substituted therefor:

92.—(1) In this section and in section 91a, "owner of the surface rights" means a person to whom the surface rights of land have been granted, sold, leased or located.

Definition

(2) Where there is an owner of surface rights of land or where land is occupied by a person who has made improvements thereon that, in the opinion of the Minister, entitles that person to compensation, a person who,

Right of
owner of
surface rights
to compensa-
tion

- (a) prospects, stakes out or causes to be staked out a mining claim or an area of land for a boring permit;
- (b) formerly held a mining claim or an area of land for a boring permit that has been cancelled, abandoned or forfeited;

- (c) is the holder of a mining claim or an area of land for a boring permit and who performs assessment work; or
- (d) is the lessee or owner of mining lands and who carries on mining operations,

on such land, shall compensate the owner of the surface rights or the occupant of the lands, as the case may be, for damages sustained to the surface rights by such prospecting, staking out, assessment work or operations.

Right of holder of mining claim, etc., to compensation

(3) Every person who damages mineral exploration workings or claim posts, line posts, tags or surveyed boundary markers delineating mining lands shall compensate the holder of the mining claim or the owner or lessee of the mining lands, as the case may be, for damages sustained.

Determination of compensation by Commissioner

(4) In default of agreement and upon application made in the prescribed form by either party, the amount and the time and manner of payment of compensation under subsection (2) or (3) shall be determined by the Commissioner after a hearing and, subject to appeal to the Divisional Court where the amount claimed exceeds \$1,000, the Commissioner's order is final.

Prohibiting work pending settlement

(5) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by any person.

Lien for compensation

(6) The compensation is a special lien upon any mining claim or mining lands, as the case may be, and no further prospecting, staking out or performing of work, except by leave of the Commissioner, shall be done by any person after the time fixed for the payment or securing of the compensation, unless the compensation has been paid or secured as directed.

Power of Commissioner to vary, etc., order

(7) The Commissioner, on notice to all interested parties and for good cause shown, on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under this section.

Priorities

(8) In a hearing under subsection (4), the Commissioner shall take into account which of the rights was applied for first and, except where injustice would result, shall give the holder

of those rights due priority in the consideration of the dispute between the parties.

(9) Where unpatented mining claims are affected by an agreement entered into in respect of the compensation referred to in subsection (2), or by an order made under subsection (4), the agreement or a certified copy of the order, as the case may be, may be filed by the person to whom the compensation is payable in the office of the recorder upon payment of the prescribed fee.

Filing of agreement or order in office of recorder

(10) Where an unpatented mining claim is subsequently leased, the Minister shall cause any agreement or order filed in the recorder's office under subsection (9) that affects the leased lands to be registered against the lands in the proper land registry office and the person to whom the compensation is payable is entitled to enforce the terms of the agreement or order against the lessee and, subject to the *Registry Act* and the *Land Titles Act*, against any subsequent lessee of the land.

Registration of order or agreement

R. S. O. 1980, cc. 445, 230

59.—(1) Subsections 94 (1), (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

(1) Upon compliance with this Act and the regulations and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim.

Right to lease of claim

(2) The application and payment for a lease may be made to the recorder at any time after the first prescribed unit of assessment work on a mining claim is performed, filed and, if necessary, approved, and the application shall be accompanied by,

Application for lease

- (a) a certificate of performance of the prescribed units of assessment work that are required to be performed as of the time of application;
- (b) a plan of survey where required under section 108 or 109;
- (c) an agreement or an order of the Commissioner indicating that surface rights compensation, if any, has been paid, secured or settled; and
- (d) the prescribed fee.

(3) A lease under this section shall be for a term of twenty-one years at the prescribed rental, payable in advance, for the first year and at the prescribed rate for each subsequent year.

Term of lease

Lease of mining rights

(4) The holder of a mining claim may elect to apply for a lease of the mining rights only.

Rental

(5) Where a lease under this section is for mining rights only, the rental shall be at the prescribed rate for such a lease.

(2) Subsection 94 (6) of the said Act is repealed.

(3) Subsections 94 (8) and (9) of the said Act are repealed and the following substituted therefor:

Renewal lease rental

(8) The annual rental for a renewal lease is the prescribed amount, payable in advance.

Refusal to renew lease

(9) The Minister shall refuse to renew a lease unless,

- (a) the production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease; or
- (b) the lessee has demonstrated to the satisfaction of the Minister a reasonable effort to bring the property into production.

(4) Subsection 94 (12) of the said Act is amended by striking out "prescribed by" in the second line and inserting in lieu thereof "set out in".

(5) Subsections 94 (16), (17), (18), (19) and (20) of the said Act are repealed and the following substituted therefor:

Disposition of surface rights
1989, c. 23
R.S.O. 1980, c. 413

(16) Any surface rights reserved in a lease or renewal thereof may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

Additional work where area of claim exceeds prescribed size

(17) Where the area of the mining claim exceeds by more than 15 per cent the prescribed size for a mining claim and the claim is not reduced in size under section 110, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

Contiguous claims

(18) Where there is a group of contiguous claims held in the name of one claim holder and their average area does not exceed by more than 15 per cent the size prescribed for a mining claim, the Minister may direct that subsection (17) does not apply.

(19) Where additional work is required under subsection (17), the Minister may direct the time within which such work is to be performed and reported.

Where additional work required

60.—(1) Subsections 95 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) In this section, "lease" means a lease of surface and mining rights or of mining rights issued under,

Definition

(a) section 47, 52 or 100 of *The Mining Act*, being chapter 241 of the Revised Statutes of Ontario, 1960, or a predecessor thereof; or

(b) subsection 190 (3) of this Act, or a predecessor thereof,

and includes a renewal of such a lease.

(2) Subject to subsection (3), notwithstanding the provisions of a lease, the annual rental for a lease is the prescribed amount.

Amount of rent

(2) Subsection 95 (4) of the said Act is repealed and the following substituted therefor:

(4) A lease referred to in clause (1) (a) is renewable in perpetuity for periods of ten years and every renewal shall date from the day following the expiry of the lease if application therefor is made within ninety days of the expiration of the lease or within such further period as the Minister, in the circumstances of the case, considers proper.

Renewal of lease

(3) Subsection 95 (6) of the said Act is amended by striking out "has not been renewed under subsection (4) or" in the first and second lines.

(4) Subsection 95 (9) of the said Act is repealed and the following substituted therefor:

(9) The holder of a lease, upon application in writing therefor and upon the surrender of the lease and upon meeting the conditions set out in subsection 94 (9), may be issued a lease under section 94 for a term of twenty-one years and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

Lease may be issued under s. 94

61. Section 96 of the said Act is repealed and the following substituted therefor:

Exchange of
lease

96.—(1) The holder of a lease issued under this Act, upon application in the prescribed form to the Minister, accompanied by the prescribed fee and upon the surrender of the lease, may be issued in exchange for that lease, on such terms and conditions as the Minister considers appropriate, two or more replacement leases.

Terms of
replacement
leases

(2) Replacement leases issued under subsection (1) shall cover together the same lands as were covered by the surrendered lease, shall be for a term equal to the balance of the term of the surrendered lease and shall be at the same rental rate per hectare as that lease.

62. Subsection 97 (4) of the said Act is repealed and the following substituted therefor:

Amount of
rent

(4) The annual rental of a lease or renewal under this section is the prescribed amount, payable in advance.

63. Subsection 102 (2) of the said Act is repealed and the following substituted therefor:

Disposition
of surface
rights
1989, c. 23
R.S.O. 1980,
c. 413

(2) Any surface rights reserved under this section may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

64.—(1) Subsection 108 (1) of the said Act is amended by striking out “patent” in the first line.

(2) Subsection 108 (2) of the said Act is repealed and the following substituted therefor:

Prescribed
methods of
surveying
R.S.O. 1980,
c. 493

(2) Subject to the *Surveys Act*, the prescribed methods and procedures shall be followed in the surveying of mining claims.

(3) Subsection 108 (5) of the said Act is repealed.

(4) Subsections 108 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

Additional
work where
area exceeds
prescribed
size

(6) Where a perimeter survey is made under subsection (3), the rental shall be computed on the total area of the claims within the perimeter survey and, where the average area of the claims within the perimeter survey exceeds by more than 15 per cent the prescribed size for a mining claim, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

(7) Where additional work is required under subsection (6), the Minister may set out in an order the time within which such work is to be performed and recorded.

Where
additional
work
required

(8) Before a perimeter survey is made, the Minister may order the inspection of the mining claims proposed to be included in the perimeter survey and an inspector or other officer of the Ministry shall prepare and submit to the Minister a report and plan according to the instructions provided by the Minister and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with.

Inspection
before
perimeter
survey made

(9) The fee for an inspection under subsection (8) is the prescribed amount, payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims.

Fee

65.—(1) Subsection 109 (1) of the said Act is amended by striking out "patent" in the first line and by inserting after "claim" in the seventh line "or the perimeter survey of mining claims".

(2) Subsection 109 (2) of the said Act is repealed.

66.—(1) Subsection 110 (1) of the said Act is amended by striking out "acreage" in the third line and in the fourth line and inserting in lieu thereof in each instance "size".

(2) Subsection 110 (2) of the said Act is amended by striking out "licensee" in the third line and in the fourteenth line and inserting in lieu thereof in each instance "holder".

67. The subheading preceding section 112 of the said Act is struck out and the following substituted therefor:

PETROLEUM AND NATURAL GAS

68. Parts V and VI of the said Act are repealed.

69. The said Act is further amended by adding thereto the following Part:

PART VII

SURFACE MINING OF NON-METALLIC MINERALS

118.—(1) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land not in a part of Ontario that

Surface
mining of
non-metallic
minerals

R.S.O. 1980,
c. 378
1989, c. 23

has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, may proceed,

- (a) by applying for and obtaining an aggregate permit or a licence under the *Aggregate Resources Act, 1989*; or
- (b) by complying with the requirements of Part II of this Act.

Lease of
Crown land

(2) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land in a part of Ontario that has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, in addition to an aggregate permit or a licence issued under the *Aggregate Resources Act, 1989*, may also obtain a lease from the Crown for the lands affected by complying with the provisions of Part II of this Act.

Staking out
of mining
claim

119. Notwithstanding that an aggregate permit or a licence has been obtained under the *Aggregate Resources Act, 1989*, any licensee under this Act may stake out a mining claim or claims on Crown land affected by the permit or licence, in which case the provisions of this Act apply and any question of property damage shall be determined in the manner set out in section 92.

70.—(1) Subsection 131 (1) of the said Act is amended by striking out “licensees” in the third line and inserting in lieu thereof “persons”.

(2) Subsection 131 (2) of the said Act is amended by striking out “arising before the issue of a certificate of record of a mining claim” in the first and second lines.

(3) Subsection 131 (6) of the said Act is repealed and the following substituted therefor:

Recorder
may order
the removal
of witness
posts, etc.

- (6) The recorder may make an order directing a holder,
 - (a) to move, remove or alter corner posts, line posts or witness posts and the writing or inscribing thereon;
 - (b) to blaze, re-blaze, move or alter existing or missing claim lines;

(c) to place or replace metal tags that are missing or have been removed or destroyed after having been affixed to any posts; or

(d) to place or replace missing or defective posts and to affix tags to such posts,

and the recorder shall set out in the order the time within which the work shall be completed and reported to the recorder.

(6a) Where the work set out in an order under subsection (6) has been completed within the time set out in the order, the claim shall thereafter be deemed to be in compliance with this Act. Claim deemed in compliance with Act

(4) Subsection 131 (7) of the said Act is repealed and the following substituted therefor:

(7) Where the work set out in an order under subsection (6) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may cancel the claim or claims on which the work was to have been done and shall, in the case of cancellation, by registered letter, mailed not later than the next day after the cancellation, notify the holder of the recorder's action and the reason therefor. Recorder may extend time or cancel claim

(5) Subsection 131 (8) of the said Act is repealed and the following substituted therefor:

(8) This section applies to the manner in which the metal tags have been affixed to the corner posts notwithstanding that the time prescribed for affixing the tags has not expired. Application

71. Subsection 133 (2) of the said Act is repealed and the following substituted therefor:

(2) Where, in the opinion of the Minister, the public interest is affected by a decision, act or thing mentioned in subsection (1), an officer or employee of the Ministry designated by the Minister for that purpose may, Where public interest affected

(a) be added as a party to an appeal taken under subsection (1); or

(b) take an appeal under subsection (1), in which case no fee in respect of the appeal is payable.

72.—(1) Subsection 135 (1) of the said Act is repealed and the following substituted therefor:

Application
for
appointment
for hearing

(1) Application to the Commissioner for an appointment for a hearing may be made in writing by any party to the proceeding upon such notice and to such persons as the Commissioner directs and shall be accompanied by the prescribed fee for recording any order made by the Commissioner in the matter.

(2) Subsection 135 (4) of the said Act is repealed and the following substituted therefor:

Leave for
hearing

(4) In any matter or proceeding, other than an appeal, in any case where leave to take the proceeding is necessary, the Commissioner may give leave upon such terms as to security for costs or otherwise as the Commissioner considers just.

73.—(1) Clause 137 (1) (b) of the said Act is amended by inserting after “things” in the third line “under oath or otherwise”.

(2) Subsection 137 (1) of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clauses:

1984, c. 11

- (f) upon the application of a party to the proceedings, order the examination of any other party before an official examiner appointed under the *Courts of Justice Act, 1984*; and
- (g) order any party to the proceedings who intends to present evidence at the hearing to file with the Commissioner and serve on each of the other parties, prior to the appearance of any witness and within such time as the Commissioner directs, a statement indicating the evidence intended to be relied upon.

74.—(1) Section 150 of the said Act is amended by adding thereto the following subsections:

When order
of Commis-
sioner takes
effect

(1a) Every order or judgment of the Commissioner shall take effect immediately upon its signing, subject to any express provision therein.

Oral reasons
R.S.O. 1980,
c. 484

(1b) Notwithstanding section 17 of the *Statutory Powers Procedure Act*, the reasons for a decision of the Commissioner may be delivered orally.

(1c) Any party to a proceeding may cause an order or judgment of the Commissioner to be filed in the office of the recorder. Filing of order

(1d) The recorder shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to the parties not represented by a solicitor. Notice of filing

(1e) Where the order or judgment is not filed with the recorder within fifteen days of the order being signed, the Commissioner shall cause a duplicate thereof to be filed with the recorder. Filing of duplicate order

(2) Subsections 150 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The Commissioner shall transmit the evidence, the exhibits, the statement, if any, of view or of special knowledge or skill, and the reasons for any order or judgment to the recorder. Transmission of evidence, etc., to recorder

75. Section 151 of the said Act is repealed and the following substituted therefor:

151. Where a decision of the Commissioner finally disposes of the matter in question so far as the Commissioner is concerned, the Commissioner shall send the order or judgment to the parties by registered mail. Final order or judgment sent to parties

76. Section 152 of the said Act is repealed and the following substituted therefor:

152. Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment. Certified copy of order or judgment

77. Part IX of the said Act is repealed and the following substituted therefor:

PART IX

OPERATION OF MINES

160.—(1) In this Part,

Definitions

“abandoned” means the proponent has ceased or suspended indefinitely advanced exploration, mining, or mine production on the site, without rehabilitating the site;

- “advanced exploration” means the excavation of an exploratory shaft, adit, or decline, the extraction of material in excess of the prescribed quantity, the installation of a mill for test purposes or any other prescribed work;
- “closed out” means that all the requirements of an accepted closure plan have been complied with and is the final stage of closure;
- “closure” means the temporary suspension, inactivity or close out of advanced exploration, mining or mine production;
- “closure plan” means a plan prepared in the prescribed manner to rehabilitate a project at any stage of closure and includes the information, particulars, maps and plans prescribed, as well as provision in the prescribed manner of financial assurance to the Crown for the performance of the requirements of the closure plan;
- “Director” means the Director of Mine Rehabilitation for the mining division or divisions in which is situate the land in respect of which an act, matter or thing is to be done under this Part;
- “inactivity” means that advanced exploration, mine production and mining operations on a site have been suspended indefinitely in accordance with a closure plan, and although protective measures are in place on the site, the site is no longer being monitored by the proponent on a continuous basis;
- “mine production” means mining that is producing any mineral or mineral-bearing substance either for immediate sale or for stockpiling for ultimate sale;
- “progressive rehabilitation” means rehabilitation done continually and sequentially, within a reasonable time, during the entire period that the project continues;
- “project” means a mine or the activity of advanced exploration, mining or mine production;
- “proponent” means the holder of an unpatented mining claim or licence of occupation or an owner as defined in paragraph 21 of section 1;
- “protective measures” means steps taken in accordance with the prescribed standards to prevent personal injury or property damage that is reasonably foreseeable as a result of closure commencing;

“rehabilitate” means measures taken in accordance with the prescribed standards to treat the land or lands on which advanced exploration, mining or mine production has occurred so that the use or condition of the land or lands,

- (a) is restored to its former use or condition, or
 - (b) is made suitable for a use that the Director sees fit,
- and includes taking protective measures;

“site” means the land or lands on which a project is located;

“temporary suspension” means advanced exploration, mining or mine production have been suspended, in accordance with an accepted closure plan, on either a planned or unplanned basis, but the site is being monitored on a continuous basis by the proponent and protective measures are in place.

(2) For greater certainty, but without restricting the scope of this Part, this Part applies to projects including, Application of Part

- (a) the underground mining of minerals, excluding natural gas, petroleum and salt by brining method;
- (b) the surface mining of metallic minerals;
- (c) the surface mining of non-metallic minerals, excluding natural gas and petroleum, on land that is neither Crown land nor land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*; R.S.O. 1980, c. 378
1989, c. 23
- (d) advanced exploration on mining lands.

DIRECTORS AND MINERAL DEVELOPMENT OFFICERS

161.—(1) The Minister may appoint as Mineral Development Officers such employees of the Ministry as the Minister considers necessary, whose function it is to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario. Mineral Development Officers

(2) The Minister may appoint an officer or employee of the Ministry as Director of Mine Rehabilitation for each such mining division or group of mining divisions as the appointment specifies. Directors

ADVANCED EXPLORATION

Closure plan,
advanced
exploration

161a.—(1) No proponent shall commence or recommence advanced exploration without providing the Director with notice in the form and manner prescribed and the project may proceed unless, within thirty days of receiving the notice, the Director in writing has required the proponent to,

- (a) give public notice at the prescribed time and in the prescribed form and manner;
- (b) submit a proposed closure plan; or
- (c) comply with both clauses (a) and (b).

Where public
notice only
required

(2) Where the Director has required the proponent to give public notice only under clause (1) (a), the project may proceed after public notice has been given.

Changes to
closure plan

(3) Where the Director has required the proponent to submit a proposed closure plan under clause (1) (b),

- (a) the Director may by written notice require changes to the proposed closure plan; and
- (b) the project shall not proceed until the Director has accepted in writing the closure plan, and the public notice, if required under clause (1) (a), has been given.

MINE PRODUCTION

Closure plan,
mine
production

161b.—(1) No proponent shall commence or recommence mine production without,

- (a) providing the Director with notice in the prescribed form and manner;
- (b) giving public notice at the prescribed time and in the prescribed form and manner;
- (c) submitting a proposed closure plan; and
- (d) receiving the Director's written acceptance of the closure plan required by clause (c).

Changes to
closure plan

(2) The Director may require changes to a proposed closure plan required by clause (1) (c) prior to accepting it.

PROGRESSIVE REHABILITATION

161c. A proponent shall take all reasonable steps to progressively rehabilitate a site whether or not closure has commenced or an accepted closure plan is in place.

Progressive rehabilitation

CLOSURE PLANS

161d.—(1) Every proponent whose project is subject to a closure plan accepted under this Part shall comply with the closure plan.

Compliance with closure plan

(2) Where closure commences on a site, subject to a closure plan, the proponent shall,

Notice closure has commenced

(a) forthwith notify the Director in writing that closure has commenced; and

(b) comply with the requirements of the closure plan.

(3) Where a project has commenced or recommenced under section 161a or 161b, within twelve months of the commencement or recommencement, and for every twelve-month period following thereafter while the project continues, the proponent shall submit annually to the Director a report prepared in the prescribed manner.

Annual report to Director

(4) If, on the receipt of the report required under subsection (3) or on the basis of information received from a rehabilitation inspector under subsection 161f (1), the Director has reasonable grounds for believing,

Submission of, or amendments to, closure plan

(a) that the closure plan, including the financial assurance requirement, is inadequate to properly rehabilitate the site because the project has either expanded or other conditions have changed; or

(b) in the case of an advanced exploration project not currently subject to a closure plan, the project has expanded or other conditions have changed to a point which necessitate a closure plan.

the Director may require by written notice the proponent to submit to the Director a proposed closure plan for the Director's consideration, or, where a closure plan is already in place, to submit proposed amendments to a closure plan, including proposals respecting an increase in the amount of financial assurance required to rehabilitate the site.

Notice of expansion or alteration of project

(5) Where a proponent plans to expand or alter a project, the proponent shall forthwith give written notice in the prescribed form to the Director.

Changes to closure plan

(6) Where the Director has received either proposed amendments to existing closure plans or proposed closure plans under subsection (4), the Director may require changes to the proposed amendments or plan before notifying the proponent that the proposed amendments or plan are acceptable.

Project subject to plan or amended plan

(7) Upon receipt of the written notice of the Director that the proposed amendments or plan that may be required under subsection (4) are acceptable, the project shall operate subject to the plan or amended plan, as the case may be.

FINANCIAL ASSURANCE

Form and amount of financial assurance

R.S.C. 1985,
c. B-1
R.S.O. 1980,
c. 192

161e.—(1) The financial assurance required as part of a closure plan shall be in the form of cash, a letter of credit from a bank named in Schedule A to the *Bank Act* (Canada), a bond of a guarantee company approved under the *Guarantee Companies Securities Act* or another form of security acceptable to the Director and shall be in the amount specified in the closure plan accepted by the Director or any amendment thereto.

Order providing for performance of rehabilitation measure

(2) Where the Director has reasonable and probable grounds to believe that any rehabilitation measure required by the accepted closure plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the closure plan, the Director by order may provide for the performance of the rehabilitation measure in the manner set out in subsection (5).

Notice

(3) The Director shall give the proponent written notice of the Director's intention to issue the order referred to in subsection (2) at least forty-five days prior to the date the order is to be issued.

Parties affected

(4) Both the notice and the order under this section shall be directed to the proponent to whom the approval for the closure plan was issued or directed and to any person to the knowledge of the Director that has provided the financial assurance for or on behalf of the proponent to whom the approval of the closure plan was issued or shall be directed to the successor or assignee of such person.

Realization of security

(5) Upon the issuance of an order by the Director under subsection (2), the Crown may,

- (a) use any cash;
- (b) realize any bond or letter of credit; and
- (c) enforce any other security.

provided or obtained as the financial assurance for the performance of the rehabilitation measures and may carry out the rehabilitation measures, or appoint an agent to do so, as the Director considers necessary.

(6) A proponent may apply to the Director for a reduction of the financial assurance to an amount consistent with the financial requirements of the rehabilitation work left to be completed where.

Application
for reduction
of financial
assurance

- (a) work has been performed in accordance with the requirements of an accepted closure plan; or
- (b) a reduction in the financial assurance requirement is justified in a report submitted under subsection 161d (3).

REHABILITATION INSPECTORS

161f.—(1) For the purposes of monitoring the closure of projects, including mines that have been abandoned, the Minister may designate in writing any person who may, but need not be, an employee of the Ministry as a rehabilitation inspector.

Rehabili-
tation
inspectors

(2) For the purpose of carrying out the duties and exercising the powers under this Part, a rehabilitation inspector may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, and in the exercise of that authority may,

Inspections
by rehabili-
tation
inspector

- (a) enter into or onto any mining lands or premises connected or associated with any project or abandoned mine, other than a room or place actually used as a dwelling;
- (b) make such inspections, examinations, inquiries or tests considered necessary in order to determine the nature and extent of any existing or potential hazards on mining lands;
- (c) in any inspection, examination, inquiry or test, be accompanied and assisted by any person having special, expert or professional knowledge of any

matter relevant to the inspection, examination, inquiry or test;

- (d) request the production of any drawings, specifications, licence, document, record or report;
- (e) on giving a receipt therefor, remove any drawing, specifications, licence, document, record or report produced in response to a request under clause (d) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them;
- (f) inspect any work related to rehabilitation necessary to complete a report to the Director under subsection (1); and
- (g) make reasonable inquiries of any person, orally or in writing.

Inspection to be permitted

(3) A proponent shall forthwith on request permit a rehabilitation inspector to carry out any inspection of any place, other than any room actually used as a dwelling, under subsection (2).

Obstruction prohibited

(4) No person shall hinder or obstruct a rehabilitation inspector in the lawful performance of duties or furnish the rehabilitation inspector with false information or refuse to furnish information required for the purposes of this Part and the regulations.

Inspection warrant

(5) Where a provincial judge or justice of the peace is satisfied on evidence upon oath by a rehabilitation inspector that there is reasonable ground for believing that it is appropriate for the administration of this Part or the regulations made thereunder for the rehabilitation inspector to do anything set out in subsection (2), and that the rehabilitation inspector may not be able to effectively carry out the duties assigned without an order under this section because,

- (a) a person has prevented the rehabilitation inspector from doing anything set out in subsection (2);
- (b) there is reasonable ground to believe that a person may prevent a rehabilitation inspector doing anything set out in subsection (2); or
- (c) it is impractical because of the remoteness of the place to be inspected or because of any other reason, for the rehabilitation inspector to obtain an

order under this section without delay if access is denied.

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to do anything set out in subsection (2) and specified in the warrant for the period of time set out in the order.

(6) Where a provincial judge or justice of the peace is satisfied on evidence upon oath of a rehabilitation inspector that there is reasonable and probable ground for believing that

Search
warrant

- (a) an offence under this Part has been committed; and
- (b) the entry into and search of a place actually used as a dwelling will afford evidence as to the commission of the offence.

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to enter and search the room or place with such reasonable assistance as may be necessary and upon giving a receipt therefor to remove from the room or place any document or thing that may afford evidence of the offence for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the room or place from which they were removed.

(7) A warrant under subsection (5) or (6) shall be executed at reasonable times as specified in the warrant and shall state the date upon which it expires, which shall be not later than fifteen days after the warrant is issued.

When to be
executed and
expiry

(8) Copies of, or extracts from, documents or things removed under this section 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.

Admissibility
of copies

(9) Upon request, a rehabilitation inspector who exercises a power set out in subsection (2) shall identify himself or herself as a rehabilitation inspector either by the production of a copy of the rehabilitation inspector's designation or in some other manner and shall explain the purpose of the inspection.

Identification

EXISTING PROJECTS

161g.—(1) Within ninety days of the coming into force of this Part, every proponent of a producing mine or of a mine

Notice to
Director

from which production is temporarily suspended shall give a notice in writing to the Director that contains the prescribed information relating to that mine.

Determination of Minister of time for submission of closure plan

(2) On the Director receiving a notice under subsection (1), the Minister shall determine the period of time within which the proponent must submit to the Director a proposed closure plan in respect of that mine.

Notice to proponent by Director

(3) The Director shall notify in writing a proponent who has given notice under subsection (1) of the period of time determined by the Minister within which the proponent must submit to the Director a proposed closure plan.

Submission of closure plan to Director

(4) A proponent who has received a notice under subsection (3) shall submit the required closure plan to the Director within the period of time specified in the notice.

Notice to submit closure plan

(5) The Director, within ninety days of the coming into force of this Part, may notify in writing any proponent of advanced exploration that has commenced before and is continuing on the day this Part comes into force of the period of time within which the proponent must submit a proposed closure plan.

Submission of closure plan to Director

(6) A proponent who has received a notice under subsection (5) shall submit the required closure plan to the Director within the time specified in the notice.

Changes to closure plan

(7) Prior to the Director informing the proponent that the closure plan required under subsection (4) or (6) is acceptable, the Director may by written notice require changes to the closure plan.

Mine to operate subject to closure plan

(8) On receiving written notification from the Director that the closure plan required under subsection (4) or (6) is acceptable, the project shall operate subject to the closure plan and sections 161c, 161d, 161e and 161f shall apply.

Where project abandoned after Part comes into force

161h.—(1) Notwithstanding section 161g, where a proponent takes steps to abandon the project on either an indefinite or permanent basis after the day this Part comes into force but before the Director informs the proponent that the closure plan required under subsection 161g (4) or (6) is acceptable, the proponent shall give written notice to the Director and shall take all reasonable steps to rehabilitate the site.

Order to rehabilitate site

(2) Where the Director has reasonable grounds for believing that a proponent has not complied with subsection (1), the Director may order the proponent to rehabilitate the site.

(3) Where, within a reasonable period of time, a proponent fails to comply with the order of the Director made under subsection (2), the Director may declare the project abandoned and may have the Crown or an agent thereof enter onto or into the site to implement rehabilitative measures.

Declaration
that mine
abandoned

(4) The Director shall not have the Crown or an agent thereof take the measures referred to in subsection (3) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Notice of
declaration

(5) Where under subsection (3) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Declaration
that lease
void

(6) The Director shall not take the steps referred to in subsection (5) until the Director has given the proponent the prescribed notice required under subsection (4), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (5).

Notice to
proponent

161i.—(1) The Director may by written notice require the proponent of a project the Director considers abandoned on the day this Part comes into force to submit within a specified period of time a proposed closure plan to rehabilitate the site.

Where
project
abandoned
when Part
comes into
force

(2) Prior to the Director informing the proponent that a closure plan required under subsection (1) is acceptable, the Director may by written notice require changes to the closure plan.

Changes to
closure plan

(3) On receiving written notification from the Director that a closure plan required under subsection (1) is acceptable, the proponent shall complete the rehabilitation of the site in accordance with the closure plan.

Rehabili-
tation of site

(4) Where the proponent of a site fails to comply with the Director's requirements under subsection (1) or (2), the Director may declare the project abandoned and may have the Crown or an agent of the Crown enter onto or into the site to implement rehabilitative measures.

Declaration
that mine
abandoned

(5) The Director shall not have the Crown or an agent thereof take the steps referred to in subsection (4) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Notice of
declaration

Declaration
that lease
forfeited

(6) Where under subsection (4) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Notice to
proponent

(7) The Director shall not take the steps referred to in subsection (6) until the Director has given the proponent the prescribed notice required under subsection (5), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (6).

VOLUNTARY SURRENDER OR ABANDONMENT

Refusal of
voluntary
surrender

161j.—(1) Before accepting the voluntary surrender of lands referred to in section 198, where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the Minister may refuse to accept the surrender of such lands, and, upon such refusal, the Director may order the proponent to comply with the requirements of the accepted closure plan or to rehabilitate the site in accordance with the prescribed standards.

Application
for injunction

(2) Where the proponent subject to an order under subsection (1) is an owner, the Director may register the order against the land or lands comprising the site in the proper land registry office and may apply to a Justice of the High Court for an injunction preventing the sale of the land or lands comprising the site, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands.

Refusal of
consent to
transfer lease

(3) Where the proponent subject to an order under subsection (1) is a lessee, the Director may recommend to the Minister that the Minister not consent to the transfer of the lease.

Where lease
expires

(4) Where the proponent subject to a Director's order under subsection (1) is a lessee under a lease which expires during the period in which the Director's order is in force, the lessee is not by reason only of the expiry of the lease relieved of the lessee's duties under this section.

Refusal of
consent to
transfer of
licence

(5) Where the proponent subject to an order under subsection (1) is the holder of a licence of occupation, the Direc-

tor may recommend to the Minister that the Minister not consent to a transfer of the licence.

(6) Notwithstanding section 83, where the proponent is a mining claim holder and where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the holder may not abandon the mining claim and the Director may order the proponent to comply with the requirement of the accepted closure plan, or to rehabilitate the site in accordance with the prescribed standards.

Where mining claim not to be abandoned

(7) If a person subject to an order under subsection (1) or (6) fails to comply with the order, the Director may,

Realization of security

- (a) where a closure plan applies, proceed and realize on the financial assurance under the provisions of section 161e; or
- (b) where no closure plan is in place, have the Crown, or an agent thereof, carry out rehabilitation measures in accordance with the prescribed standards.

COST OF WORK COMPLETED

161k.—(1) Where under subsection 161h (3) or 161i (4) the Director has the Crown or an agent of the Crown carry out rehabilitation measures, the resulting cost to the Crown is a debt due to the Crown and,

Where cost debt due to Crown

- (a) forms a lien and a charge on the site in favour of the Crown, realizable by action for sale of any part or all of the land or lands subject to it, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

(2) The cost to the Crown of carrying out the rehabilitative measures under clause 161j (7) (b) is a debt due to the Crown recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Idem

(3) Where under subsection 161e (5) the Crown or an agent of the Crown carries out rehabilitation measures and the

Idem

financial assurance held by the Crown is insufficient to cover the total cost incurred by the Crown in completing the rehabilitation measures, the extra cost not covered by the financial assurance is a debt due to the Crown which,

- (a) forms a lien and a charge on the site in favour of the Crown realizable by action for sale of any part or all of the land or lands comprising the site subject to the lien, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Registration
as charge

(4) Notice of the debt described in subsections (1) and (3) may be registered as a charge in the proper land registry office and no transfer of or other dealing with the site shall take place until the debt is paid and the notice is cancelled.

HEARINGS AND APPEALS

Appeal to
Commissioner

161-1.—(1) Where the Director,

- (a) requires a closure plan under clause 161d (4) (b) or subsection 161i (1);
- (b) requires changes to either an existing or proposed closure plan under subsection 161a (3), 161b (2), 161d (6), 161g (7) or 161i (2);
- (c) orders the performance of rehabilitation measures under subsection 161e (2);
- (d) orders the proponent to rehabilitate the site under subsection 161h (2); or
- (e) declares a project abandoned under subsection 161h (3) or 161i (4),

the proponent may appeal the Director's requirement, order or declaration to the Commissioner, if within thirty days of receiving the notice of the Director requiring the changes or proposed closure plans referred to in clause (a) or (b), receiving a Director's order referred to in clause (c) or (d), or receiving a Director's declaration referred to in clause (e), the proponent serves the Director with the prescribed notice requiring a hearing before the Commissioner, and, within

thirty days of being served, the Director shall refer the matter to the Commissioner for the hearing.

(2) On the service of a notice on the Director under subsection (1) requiring a hearing before the Commissioner, the requirement, order or decision of the Director is stayed until the disposition of the appeal by the Commissioner, unless upon application with notice by the Director, the Commissioner removes the stay where the matter relates to.

Automatic stay unless removed

- (a) changes to either an existing or proposed closure plan referred to in clause (1) (b); or
- (b) an order requiring the performance of rehabilitation measures referred to in clause (1) (c) or (d).

(3) Notwithstanding subsection (2), where the proponent appeals to the Commissioner under subsection (1) from a Director's requirement for changes to an existing closure plan under subsection 161d (4) and one of the changes required is to increase the amount of financial assurance required for the closure plan, the Commissioner shall refuse to hear the appeal unless the proponent has provided to the Director along with the notice required under subsection (1) the extra amount of financial assurance required under the closure plan to be held by the Crown pending the outcome of the proponent's appeal.

Provision of additional financial assurance

(4) The Commissioner upon application with notice by the proponent may waive the requirement under subsection (3) if the Commissioner considers it just to do so.

Waiver

(5) Upon hearing the appeal of the proponent, the Commissioner may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing.

Power of Commissioner on appeal

(6) Sections 135, 136, 137 and 139 to 152 of this Act apply to appeals under this section with necessary modifications.

Application

(7) An appeal lies to the Divisional Court on a question of law from any decision of the Commissioner under subsection (5) in accordance with the Rules of Civil Procedure.

Appeal to Divisional Court

(8) A party to a hearing before the Commissioner may, within thirty days after receipt of the Commissioner's decision or within thirty days after final disposition of an appeal, if any, under subsection (7), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Commissioner as to the matter in appeal as the Minister considers in the public interest.

Appeal to Minister

Parties

(9) The person requiring the hearing, the Director and any other person specified by the Commissioner are parties to the hearing.

SERVICE

Service of notice

161m.—(1) Any notice required to be served under this Part or the regulations made in respect thereto is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address of service appearing on the records of the Ministry.

When service deemed made

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes the person did not, acting in good faith, and for a cause beyond that person's control, receive a notice until a later date.

PART IX-A

BRINE WELLS

Definitions

162.—(1) In this section,

“brine well” means a hole or opening in the ground for use in brining;

“brining” means the extraction of salt in solution by any method;

“chief engineer” means a person designated by the Minister as chief engineer for the purposes of this section.

Permit to bore or drill a brine well

(2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the chief engineer upon application therefor in the prescribed form.

Permits not issued

(3) A permit shall not be issued,

(a) to authorize a person to drill or bore a brine well on property in which the person does not own, hold or lease, or is not otherwise entitled to, the mining rights; or

(b) where the proposed brine well is nearer the boundary of such property than 150 metres.

Location of brine well

(4) The chief engineer may reduce or extend the distance referred to in clause (3) (b) where in his or her opinion it is

advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed.

(5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit.

Condition of permit

(6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection (4), the permit shall be issued upon the receipt by the chief engineer of the applicant's consent thereto.

Time for issuance of permit

(7) Where a person drills or bores a brine well, he or she shall forward a log of the drilling or boring in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the drilling or boring operations, and, upon the person's request in writing, the log shall be confidential for a period of six months.

Log of drilling operations

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations.

Protection of water horizons

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water.

Protection of deposits

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected.

Standard of casing and equipment

(11) Where practicable, all brine wells shall be plugged by the person operating them, before being abandoned, in a manner that will,

Plugging of abandoned wells

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form.

Report of proposed plugging

Record of
plugging
operations

(13) Where a person plugs a brine well, he or she shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations.

PART IX-B

STATISTICAL RETURNS

Annual
report

163.—(1) For the purposes of tabulation, every owner of a mine shall, on or before the 31st day of March in each year, send to the Minister on the forms provided a report of activities for the preceding year ending on the 31st day of December showing,

- (a) the nature of the work performed and the sums spent on mining and exploration;
- (b) the sums allocated for capital expenditures and repairs;
- (c) the current state of ore reserves;
- (d) the quantity and value of mineral production;
- (e) the number of employees; and
- (f) the revenues and expenses entailed in mining and exploration activities,

and the report shall be accompanied by such other information, plans and documents as the Minister requires, including, without limiting the scope of the requirement, information, plans and documents respecting,

- (g) inventory;
- (h) fuel and electricity consumed;
- (i) mining supplies and materials used;
- (j) non-mining supplies and materials used;
- (k) mining products, shipments and destinations;
- (l) non-mining products;
- (m) production details; and
- (n) wastes produced.

(2) The Minister may require an owner to send monthly or quarterly reports within such times as the Minister specifies.

Monthly or quarterly report

(3) In the event of the bankruptcy or winding-up of an owner, the trustee or liquidator shall, at the request of the Minister, send the report to the Minister.

Bankruptcy, etc.

(4) The Minister may require a licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* to send information to the Minister in accordance with this section, and, where the Minister does so, subsections (1), (2) and (3) apply with necessary modifications.

Pit or quarry operations
1989, c. 23

78. Section 175 of the said Act is repealed.

79. Section 176 of the said Act is repealed and the following substituted therefor:

176.—(1) Every person who contravenes any provision of Part IX or the regulations made in respect thereto is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues.

Penalty for offence against Part IX

(2) Every person who is subject to a Director's order under Part IX and who fails to take all reasonable steps to obey the conditions of the order is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues.

Failure to comply with order of Director

(3) Where any person fails to,

Application for restraining order

- (a) comply with section 161a or 161b before commencing or recommencing a project;
- (b) comply with an accepted closure plan as required under subsection 161d (1);
- (c) submit the report required under subsection 161d (3);
- (d) give the Director notice of a planned expansion or alteration as required by subsection 161d (5); or
- (e) give the notice required under subsection 161g (1) or submit a closure plan required under subsection 161g (4) or (6).

the Director may apply at any time to a Justice of the High Court for an order prohibiting advanced exploration, mining or mine production on the site.

Destruction,
etc., of
rehabilitation
works

(4) Every person who alters, destroys, removes or impairs any rehabilitation work made in accordance with Part IX or an accepted closure plan without the written consent of the Minister is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Duty of
directors and
officers

(5) Every director or officer of a corporation that engages in a project under Part IX has a duty to take all reasonable care to ensure that the corporation complies with the requirements of that Part.

Offence

(6) Every person who has a duty under subsection (5) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Liability of
directors and
officers

(7) A director or officer of a corporation is liable to conviction under subsection (6) whether or not the corporation has been prosecuted and convicted.

Increase in
fine equal to
monetary
benefit

(8) The court that convicts a person of an offence under Part IX, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of monetary benefit acquired by, or that accrued to, the person as a result of the commission of the offence, notwithstanding the imposition of the maximum fine provided for that offence.

Offence
1989, c. 23

176a. Every owner of a mine and every licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* who contravenes section 163, or who makes a report under that section that is, to the owner's, licensee's or operator's knowledge, false in any particular, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each day on which the offence occurs or is continued.

80. Clause 177 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) by a rehabilitation inspector.

81. Part XII of the said Act is repealed.

82. Section 190 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 2, is repealed and the following substituted therefor:

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

1. governing the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands sold or leased as mining lands or recorded as mining claims or locations under this Act or a predecessor thereof, and for the opening, construction or maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or lands for the conveying and passage of water for mining purposes;
2. prescribing the form of any application, notice, report, log, record, dispute, certificate, permit, statement or other document required, permitted or provided for, by or under this Act;
3. prescribing the amount of any fee required to be paid to the Minister, the Ministry, the Commissioner or a recorder by or under this Act;
4. prescribing the manner of staking and the size and form of mining claims and the time and manner of affixing tags in respect thereto;
5. prescribing the annual rental for a licence of occupation;
6. prescribing the information to be shown on a sketch or plan accompanying an application to record a mining claim;
7. prescribing, for the purposes of subsection 62 (1), the conditions on which permission may be given to mine, mill and refine mineral substance from an unpatented mining claim;
8. prescribing the annual units of assessment work to be performed by the holder of a mining claim;
9. prescribing, for the purposes of subsection 76 (2), locations, other than the office of the recorder, in which may be filed assessment work reports and prescribing the date reports in respect of specified types of assessment work shall be filed;
10. prescribing the types of work eligible for assessment work credits, the method of calculating and approv-

- ing credits for work performed and the manner of distribution of credits to mining claims;
11. prescribing the manner in which prospecting and regional surveys performed before staking are eligible for assessment work credits;
 12. prescribing the manner in which exploration work performed on patented mining claims may be allocated to contiguous unpatented mining claims;
 13. prescribing the conditions on which an extension of time for the performing of and filing a report on assessment work may be allowed by a recorder;
 14. prescribing the annual rental for the first year for a lease of a mining claim, the rate for each subsequent year and the annual rental for a renewal lease;
 15. prescribing the rental rate for the mining rights only in respect of a mining claim;
 16. prescribing the additional assessment work to be performed in respect of any excess area of a mining claim or in respect of excess average area of mining claims within a perimeter survey;
 17. prescribing, for the purposes of subsection 83 (2), the conditions on which the holder of a mining claim may abandon part of the claim;
 18. prescribing the annual rental of a lease referred to in section 95;
 19. prescribing the annual rental of a lease or renewal lease of surface rights referred to in section 97;
 20. prescribing the methods and procedures to be followed in the surveying of mining claims;
 21. prescribing the rate of interest to be imposed in the cases mentioned in subsections 196 (2) and 211 (2);
 22. prescribing, for the purposes of subsection 198 (3), the size, form, manner and time of staking out and recording mining claims on land in which an interest is retained after surrender;

23. prescribing, for the purposes of section 202, the amount of tax to be paid for each hectare;
24. prescribing classes of instruments and documents that may be filed through transmission by electronic means in such manner as is prescribed;
25. defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
26. prescribing anything that by this Act is to be or may be prescribed.

(2) The Lieutenant Governor in Council may make regulations relating to Part IX, Idem

1. prescribing the manner of preparing closure plans, their form and content, and the information, particulars, maps and plans to be included therein;
2. prescribing standards for rehabilitation;
3. prescribing standards for the protective measures to be taken in respect of the closure of a mine;
4. prescribing the form and manner and time of giving public notice;
5. prescribing the form and manner in which notice is to be given to the Director and to the proponent;
6. prescribing the manner of preparing the annual report to the Director required under subsection 161d (3);
7. prescribing the form of notice to be given under subsection 161d (5);
8. prescribing, for the purposes of subsection 161f (5), the form of a warrant to enter and inspect and, for the purposes of subsection 161f (6), the form of a warrant to enter and search;
9. prescribing, for the purposes of subsection 161g (1), the information to be contained in the notice to be given to the Director relating to a producing mine or to a mine from which production is temporarily suspended;

10. prescribing quantities of material extracted and other types of work that are to be classified as advanced exploration work;
11. prescribing time periods within which duties under Part IX shall be complied with;
12. prescribing anything that by Part IX is to be or may be prescribed.

Minister may
issue licence,
lease or
patent

(3) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as the Minister considers appropriate.

83. Section 192 of the said Act is repealed.

84.—(1) Subsection 193 (1) of the said Act is amended by striking out “Notwithstanding section 192” in the first line.

(2) Subsection 193 (2) of the said Act is repealed.

85. Section 194 of the said Act is amended by adding thereto the following subsections:

Registration
of order

(2) The land registrar of the land titles or registry division in which any lands or rights mentioned in a court order made under subsection (1) are situate shall, upon receipt of the order, register it and the order is absolute and conclusive proof of the vesting in the Crown of the lands or rights affected by the order and the vesting in the Crown is not open to attack in any court by reason of the omission of any act or thing leading up to the order repealing or avoiding the patent or lease.

Non-
application
of
R.S.O. 1980,
cc. 445, 230

(3) Upon registration of the court order in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the lands or rights affected by the order, and the land registrar shall note that fact in the register in red ink.

Opening
lands for
prospecting,
etc.

(4) The lands and mining rights vested in the Crown under this section are not open for prospecting, staking out or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

86. Section 195 of the said Act is repealed and the following substituted therefor:

195. Where a freehold or leasehold interest in mining lands or mining rights reverts, other than by transfer to the Crown, the land or rights may be dealt with as unpatented Crown land. Reversion to Crown

87.—(1) Subsection 196 (2) of the said Act is amended by striking out “rate of 6 per cent” in the eighteenth and nineteenth lines and inserting in lieu thereof “prescribed percentage rate”.

(2) Subsection 196 (8) of the said Act is repealed and the following substituted therefor:

(8) An application under subsection (2) shall be accompanied by the prescribed fee. Fee

88. Subsection 197 (5) of the said Act is amended by striking out “purchase or” in the fifth line.

89. Section 198 of the said Act is repealed and the following substituted therefor:

198.—(1) The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may surrender such lands or mining rights to the Crown only upon such terms as are acceptable to the Minister, and thereupon the Minister may cause a notice of determination to be filed in the proper land registry office. Voluntary surrender of mining lands

(2) An owner, lessee or licensee who surrenders mining lands or mining rights under subsection (1) may file a notice in the prescribed form with the recorder indicating that such owner, lessee or licensee wishes to retain an interest in the lands or part of the lands thereof, in the form of unpatented mining claims. Retention as unpatented mining claims

(3) Where a notice has been filed under subsection (2), the owner, lessee or licensee shall stake out or cause to be staked out and recorded in such size, form, manner and time as is prescribed, the lands in which an interest is to be retained. Staking out and recording of lands

(4) Where mining claims have not been staked out and recorded under subsection (3) within the time prescribed, the recorder may extend the time for staking out and recording or may order that the mining lands or mining rights on which the staking out and recording is to be performed are surrendered and the recorder shall, in the case where an order of surrender is made, by registered letter mailed not later than the next day after the making of the order, notify the owner, lessee or licensee of the recorder's action and the reason therefor. Extension of time by recorder or order of surrender of lands

Prospecting,
etc., on
surrendered
lands

(5) Mining lands or mining rights surrendered to the Crown under subsection (1) and which are not recorded as unpatented mining claims under subsection (3) shall not be open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, notice of which shall be published in *The Ontario Gazette* at least two weeks prior thereto.

90. Section 199 of the said Act is repealed and the following substituted therefor:

Lands
forfeited,
etc., to
Crown
R.S.O. 1980,
c. 95
1982, c. 4

199.—(1) Where mining lands or mining rights,

- (a) are forfeited to the Crown under the *Corporations Act* or the *Business Corporations Act, 1982*, or any predecessor thereof or are forfeited to the Crown for any other cause; or
- (b) have become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs,

the Minister may cause to be registered in the proper land registry office a notice stating that forfeiture has been effected as mentioned in clause (a) or that the lands or mining rights have become the property of the Crown as mentioned in clause (b), as the case may be, and that by reason thereof the lands or mining rights and every interest therein are forfeited to and vested in, or have become the property of, the Crown, absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture or becoming the property of the Crown, and, subject to subsection (2), such lands shall be dealt with under this Act.

Opening
forfeited,
etc., lands
for
prospecting,
etc.

(2) Mining lands or mining rights so forfeited or that have become the property of the Crown are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

91. Section 200 of the said Act and the preceding heading are repealed and the following substituted therefor:

ANNULMENT OF FORFEITURE OR TERMINATION OF LEASE

Annulment
of forfeiture,
etc.

200.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order revoke, cancel or annul the forfeiture of any mining lands or mining rights under this Act or revoke, cancel or annul the termination of

any lease of mining lands under this Act or relieve from forfeiture any unpatented mining claims on such terms and conditions as the Minister considers appropriate.

(2) Where an order under subsection (1) concerns unpatented mining claims, such order shall be filed in the office of the mining recorder.

Filing order
in recorder's
office

(3) Where an order under subsection (1) concerns leases or freehold patents, the Deputy Minister shall cause the order to be registered in the proper land registry office and thereupon the mining lands or mining rights revert in the owner or lessee of the mining lands or mining rights at the time of forfeiture or termination, his or her heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture or termination and still outstanding.

Registering
order in land
registry office

(4) Where application is made for an order under subsection (1), the Minister may direct the mining lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application.

Withdrawal
of lands from
prospeoting,
etc.

(5) The Minister may direct an application for an order under subsection (1) to be accompanied by the prescribed fee.

Fee

92. The heading preceding section 201 of the said Act is struck out and the following substituted therefor:

MINING LAND TAX

93. Section 201 of the said Act is repealed and the following substituted therefor:

201. In this Part,

Definitions

“municipality” means a city, town, village, township or improvement district;

“tax” means a tax under this Part.

94. Section 202 of the said Act is repealed and the following substituted therefor:

202. There shall be paid to the Crown in each year a tax in the prescribed amount for each hectare on any lands or mining rights to which this Part applies.

Amount of
tax

95. Section 203 of the said Act is amended by striking out “acreage” in the first line.

96.—(1) Subsection 204 (1) of the said Act is amended by striking out “acreage” in the twenty-third line.

(2) Subsection 204 (2) of the said Act is amended by striking out “acreage” in the first line.

97. Clause 205 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) land has been subdivided,

(i) by a registered plan of subdivision, or

(ii) by a reference plan into parts for city, town, village or summer resort purposes,

and there is no severance of the surface and mining rights.

98. Section 207 of the said Act is amended by striking out “acreage” in the third line.

99. Section 208 of the said Act is amended by striking out “acreage” in the fourth line.

100. Section 209 of the said Act is amended by striking out “acreage” in the second line.

101. Subsection 210 (1) of the said Act is amended by striking out “acreage” in the fourth line and in the eighth line.

102.—(1) Subsection 211 (1) of the said Act is amended by striking out “acreage” in the first line.

(2) Subsection 211 (2) of the said Act is repealed and the following substituted therefor:

Fee

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

103.—(1) Subsection 212 (1) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 3, is further amended by striking out “acreage” in the fourth line and by striking out “certified mail” in the sixth line and inserting in lieu thereof “mail or delivered by courier service”.

(2) Subsection 212 (2) of the said Act is amended by striking out “acreage” in the sixth line.

(3) Subsection 212 (3) of the said Act is amended by striking out "acreage" in the first line.

104. Section 214 of the said Act is repealed.

105.—(1) Subsection 215 (1) of the said Act is amended by striking out "acreage" in the first line.

(2) Subsection 215 (2) of the said Act is amended by striking out "acreage" in the second line.

106. Section 217 of the said Act is amended by striking out "acreage" in the second line.

107. The Schedule to the said Act is repealed.

108.—(1) Every prospector's licence issued or renewed under the *Mining Act*, that is in good standing on the day this section comes into force, expires on the date set out on the licence or renewal thereof, and thereafter, in the case of a licence held by a natural person, may be renewed under section 22 of the *Mining Act*, as amended by section 12 of this Act.

Prospector's
licence
R.S.O. 1980,
c. 268

(2) The expiry provision in subsection (1) does not apply to a prospector's licence that was issued or renewed as a lifetime licence.

Idem

(3) Where, before the 24th day of October, 1989,

Dispute or
court
proceeding

(a) a dispute has been filed under section 56 of the *Mining Act*; or

(b) a proceeding has been commenced in the Supreme Court to declare forfeited or void or to cancel or annul any Crown patent issued for mining lands, mining claims or mining rights,

the provisions of the *Mining Act*, as they existed before the coming into force of this Act, continue to apply to the dispute or proceeding until finally disposed of.

(4) Subsections 56 (7) and (8) of the *Mining Act*, as enacted by section 34 of this Act, apply to any re-staking by or on behalf of a transferee that has been commenced before, on or after the 24th day of October, 1989, unless, before that day, the matter in dispute has been finally disposed of under the *Mining Act*.

Re-staking

(5) Section 96 of the *Mining Act*, as it read before its re-enactment by section 61 of this Act, continues in force and

Freehold
patent

applies in respect of any application for a patent made under that section before the 24th day of October, 1989.

Relief from
forfeiture by
Mining and
Lands
Commissioner

109.—(1) Where forfeiture occurs under clause 85 (1) (c), (d) or (e) of the *Mining Act* as those clauses read before the coming into force of section 52 of this Act or under clause 85 (1) (c) of the *Mining Act*, as re-enacted by section 52 of this Act, and where an application is made to the Mining and Lands Commissioner within six months of the forfeiture, the Commissioner may make an order on such terms and conditions as the Commissioner considers just relieving the claim from forfeiture and extending the time for performing or reporting the work, or both, but no such application may be made to the Commissioner after the expiration of eight months from the day section 52 of this Act comes into force.

Performance
of assessment
work or
application
for lease

(2) Where, on the day section 76 of the *Mining Act*, as re-enacted by section 46 of this Act, comes into force, 200 days of assessment work have been performed and recorded by the holder of a mining claim under section 76 of the *Mining Act* as it read before its re-enactment by section 46 of this Act, the holder of the mining claim shall,

- (a) perform and file such annual units of assessment work as are prescribed under section 76 of the *Mining Act*, as re-enacted by section 46 of this Act; or
- (b) apply and pay for a lease of the claim within the time set out in subsection 94 (2) of the *Mining Act*, as it read before its re-enactment by section 59 of this Act, or, where applicable, within the time set out in an order of the Mining and Lands Commissioner under section 86 of the *Mining Act* as it read before its re-enactment by section 53 of this Act.

Rental rate,
subsisting
leases

110.—(1) A subsisting lease that has been issued or renewed under section 94, 95 or 97 or subsection 190 (2) of the *Mining Act*, as those provisions read before the day sections 59, 60, 62 and 82 of this Act come into force, shall continue to bear the existing rental rate until the expiration of five years from that day.

Certain leases
issued after
ss. 59, 60,
62, 82, in
force

(2) Where a lease applied for before the 24th day of October, 1989 is issued after the day sections 59, 60, 62 and 82 of this Act come into force, the lease shall bear the rental rate provided for by the *Mining Act*, as that Act read before the day sections 59, 60, 62 and 82 of this Act come into force, until the expiration of five years from the day those sections come into force.

(3) Where a lease to which subsection (1) or (2) applies is renewed under section 94 of the *Mining Act*, as amended by section 59 of this Act, the lease shall, until the expiration of five years from the day sections 59, 60, 62 and 82 of this Act come into force, bear the rental rate set out in subsection 94 (8) of the *Mining Act*, as that section read before its re-enactment by section 59 of this Act. Renewal
leases

(4) Notwithstanding the provisions of a lease, after the expiration of five years from the day sections 59, 60, 62 and 82 of this Act come into force, every lease shall bear the rental rate set out in the *Mining Act* as amended by this Act. When new
rental rates
in Act prevail

111.—(1) This Act, except subsection 34 (3) and section 51, comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Subsection 34 (3) and section 51 come into force on the day this Act receives Royal Assent. Idem

112. The short title of this Act is the *Mining Amendment Act, 1989*. Short title



Bill 72

An Act to amend the Ticket Speculation Act

Mr. Farnan

1st Reading October 30th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

SECTION 1. This amendment to section 2 of the Act provides penalties that constitute real deterrents to ticket scalpers.

Bill 72

1989

An Act to amend the Ticket Speculation Act

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

1. Section 2 of the *Ticket Speculation Act*, being chapter 499 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$5 and not more than \$50" in the eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not less than \$500 and not more than \$5,000".

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

3. The short title of this Act is the *Ticket Speculation Amendment Act, 1989*. Short title

Bill 73

An Act to amend the Highway Traffic Act

Mr. Breaugh

1st Reading October 30th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to amend the *Highway Traffic Act* to provide for the licensing of motor boat operators.

The Bill amends the Act by adding a new Part III-A, which applies only in respect of motor boats propelled by engines of at least ten horsepower. Under the new Part, only persons having a motor boat operator's licence or being supervised by a licensed person are permitted to operate a motor boat.

The provisions of Part III-A require every person to carry a motor boat operator's licence while operating a motor boat or supervising a non-licensed person operating a motor boat and to produce it when requested to do so by a police officer. If unable or unwilling to produce the licence, the motor boat operator is required to give the police officer his or her correct name and address.

The new Part also provides for the offence of careless operation of a motor boat.

A person who contravenes any of the provisions of Part III-A or certain regulations made under it is liable to pay a fine not exceeding \$1,000 and, in some cases, to have his or her motor boat operator's licence suspended or revoked.

Bill 73

1989

An Act to amend the Highway Traffic Act

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

1. The Highway Traffic Act, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III-A

MOTOR BOAT OPERATORS' LICENCES

40a. This Part applies only in respect of motor boats propelled by engines of at least ten horsepower. Application

40b.—(1) No person shall operate a motor boat unless, Where licence required

- (a) he or she is the holder of a motor boat operator's licence issued under section 40c; or
(b) he or she is at least twelve years of age and is supervised by a person on board the motor boat who is at least eighteen years of age and is the holder of a motor boat operator's licence issued under section 40c.

(2) Subsection (1) does not apply to a person who is the resident of another province, country or state, is a holder of a motor boat operator's licence issued by that province, country or state and is at least twelve years of age. Exemption as to non-residents

40c. The Minister or any person authorized in writing by the Minister shall issue a motor boat operator's licence to any person who applies in accordance with the regulations, pays the fee prescribed by the regulations and, Issuance of licences

- (a) is at least twelve years of age and has successfully completed a motor boat operation course in accordance with the regulations; or

- (b) is at least sixteen years of age and has successfully completed a written examination in accordance with the regulations.

Operator to
carry licence

40d.—(1) Every person shall carry his or her motor boat operator's licence at all times while operating a motor boat or supervising a non-licensed person operating a motor boat and shall produce it when requested to do so by a police officer or an officer appointed for carrying out the provisions of this Act.

Operator to
identify self

(2) Every person who is unable or refuses to produce a motor boat operator's licence in accordance with subsection (1) shall give his or her correct name and address to the officer upon request.

Arrest
without
warrant

(3) An officer who on reasonable and probable grounds believes that a person has contravened subsection (2) may arrest the person without warrant.

Careless
operation

40e. No person shall operate a motor boat without due care and attention or without reasonable consideration for others.

Offences and
fines

40f.—(1) Every person who contravenes section 40b, 40d or 40e or a regulation made under section 40g is guilty of an offence and on conviction is liable to a fine not exceeding \$1,000.

Suspension
and
revocation of
licences

(2) In addition to any fine that may be imposed under subsection (1), the motor boat operator's licence of any person who is convicted of contravening section 40d or 40e or a regulation made under section 40g may be suspended for a period of up to two years or may be revoked.

Regulations

40g. The Lieutenant Governor in Council may make regulations,

- (a) providing for the expiry and renewal of motor boat operators' licences;
- (b) establishing procedures for obtaining or renewing motor boat operators' licences;
- (c) prescribing fees for the issuance or renewal of motor boat operators' licences;
- (d) designating classes of motor boats that may not be operated by persons under sixteen years of age;

- (e) respecting motor boat operation courses to be completed by applicants for motor boat operators' licences;
- (f) respecting written examinations to be completed by applicants for motor boat operators' licences.

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

3. The short title of this Act is the *Highway Traffic Amendment Act, 1989*. Short title



Bill 74

An Act to provide for the Consolidation and Revision of the Statutes of Ontario

The Hon. I. Scott
Attorney General

1st Reading November 6th, 1989
2nd Reading
3rd Reading
Royal Assent

Projet de loi 74

Loi prévoyant la codification et la refonte des lois de l'Ontario

L'honorable I. Scott
procureur général

1^{re} lecture 6 novembre 1989
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill authorizes the preparation of a consolidation and revision of the public general statutes of Ontario, as they stand at the end of 1990.

The consolidated and revised text will include both French and English versions of the statutes, whether they were originally adopted in one or both languages.

NOTES EXPLICATIVES

Le projet de loi a pour objet d'autoriser la codification et la refonte des lois d'intérêt public et général de l'Ontario, telles qu'elles existent à la fin de l'année 1990.

Le texte codifié et refondu comprendra des versions française et anglaise des lois, qu'elles aient été originellement adoptées sous forme bilingue ou non.

Bill 74**1989****An Act to provide for the Consolidation and Revision of the Statutes of Ontario**

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

Appointment
of commis-
sioners

1.—(1) Donald L. Revell, Senior Legislative Counsel, A. Sidney Tucker, Deputy Senior Legislative Counsel and Margaret MacKinnon, Deputy Senior Legislative Counsel, are appointed commissioners to consolidate and revise the public general statutes of Ontario in accordance with this Act.

Idem

(2) The Lieutenant Governor in Council may appoint additional commissioners.

Duties of
commis-
sioners

1986, c. 45

2. The commissioners shall examine the public general statutes of Ontario enacted before the 1st day of January, 1991 and the French translations prepared under subsection 4 (1) of the *French Language Services Act, 1986* and arrange, consolidate and revise them in accordance with this Act.

Powers of
commis-
sioners

3. The commissioners may,

- (a) omit statutes and provisions that are not of general application or that are obsolete;
- (b) alter numbering and arrangement;
- (c) make changes in language, including punctuation, in order to achieve greater uniformity;
- (d) make any changes that are necessary to bring out more clearly what is considered to be the Legislature's intention, to reconcile apparently inconsistent provisions or to correct clerical, grammatical or typographical errors.

Projet de loi 74**1989****Loi prévoyant la codification et la refonte des lois de l'Ontario**

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

1 (1) Sont nommés commissaires et chargés de codifier et de refondre conformément à la présente loi les lois d'intérêt public et général de l'Ontario, Donald L. Revell, premier conseiller législatif, A. Sidney Tucker, premier conseiller législatif adjoint et Margaret MacKinnon, première conseillère législative adjointe.

Nomination
des commis-
saires

(2) Le lieutenant-gouverneur en conseil peut nommer d'autres commissaires.

Idem

2 Les commissaires étudient les lois d'intérêt public et général de l'Ontario qui ont été adoptées avant le 1^{er} janvier 1991, ainsi que les traductions françaises préparées aux termes du paragraphe 4 (1) de la *Loi de 1986 sur les services en français*, et les arrangent, les codifient et les refondent conformément à la présente loi.

Fonctions des
commissaires

1986,
chap. 45

3 Les commissaires peuvent :

Pouvoirs des
commissaires

- a) omettre des lois et des dispositions qui ne sont pas de portée générale ou qui sont caduques;
- b) modifier la numérotation et l'économie des lois;
- c) modifier la forme des lois afin de contribuer à leur uniformité;
- d) apporter toute modification qui s'impose afin de mieux exprimer ce que l'on considère être l'intention de la Législature, de concilier des dispositions apparemment incompatibles ou de corriger des erreurs de copie, notamment des fautes grammaticales ou typographiques.

Deposit of
revised
bilingual
statutes

4.—(1) As soon as the commissioners report that the consolidation and revision that this Act requires are complete, the Lieutenant Governor may cause a set of printed volumes containing the consolidated and revised text to be deposited in the office of the Clerk of the Assembly.

Signatures

(2) Each volume in the set that is deposited shall be signed by the Lieutenant Governor and the Attorney General.

Title

(3) The English title of the consolidated and revised text is "Revised Statutes of Ontario, 1990" and the French title is "Lois refondues de l'Ontario de 1990".

French
version

1986, c. 45

(4) Deposit of the set of printed volumes in accordance with subsection (1) shall be deemed to constitute compliance with subsection 4 (2) of the *French Language Services Act, 1986*.

Appendix
and schedules

5.—(1) The following shall be deposited with the set of printed volumes:

1. An appendix containing the constitutional statutes set out in Appendix B to the Revised Statutes of Ontario, 1980, and such other constitutional statutes as the commissioners consider it appropriate to include.
2. A schedule (Schedule A) showing what statutes contained in the Revised Statutes of Ontario, 1980 and other statutes are repealed in whole (or in part, and to what extent) on the day the Revised Statutes of Ontario, 1990 take effect.
3. A schedule (Schedule B) showing what statutes and provisions are repealed, replaced and consolidated by the Revised Statutes of Ontario, 1990 and also showing what parts of the Revised Statutes of Ontario, 1980 and statutes passed subsequently are not consolidated.
4. A schedule (Schedule C) showing what public statutes passed by the Legislature after the 1st day of July, 1867 are unrepealed and unconsolidated.

Effect of
inclusion or
omission of
statute

(2) The fact that a statute or provision is included in or omitted from a schedule is not a declaration that it was or was not in force immediately before the coming into force of the Revised Statutes of Ontario, 1990.

4 (1) Aussitôt que les commissaires déclarent achevées la codification et la refonte exigées par la présente loi, le lieutenant-gouverneur peut faire déposer dans le bureau du greffier de l'Assemblée une série de volumes imprimés qui contient les lois codifiées et refondues.

Dépôt des lois
bilingues
refondues

(2) Chacun des volumes de la série qui fait l'objet du dépôt est revêtu de la signature du lieutenant-gouverneur et de celle du procureur général.

Signatures

(3) Le recueil des lois codifiées et refondues s'intitule «Lois refondues de l'Ontario de 1990» en français et «Revised Statutes of Ontario, 1990» en anglais.

Titre

(4) Le dépôt, conformément au paragraphe (1), de la série de volumes imprimés est réputé constituer l'observation du paragraphe 4 (2) de la *Loi de 1986 sur les services en français*.

Version
française

1986,
chap. 45

5 (1) Sont déposés avec la série de volumes imprimés les documents suivants :

Appendice et
annexes

1. Un appendice qui contient les lois constitutionnelles figurant à l'appendice B des Lois refondues de l'Ontario de 1980, ainsi que les autres lois constitutionnelles que les commissaires jugent opportun d'y inclure.
2. Une annexe (annexe A) qui énumère les lois faisant partie des Lois refondues de l'Ontario de 1980 et les autres lois qui, le jour de l'entrée en vigueur des Lois refondues de l'Ontario de 1990, sont abrogées en tout ou en partie. En cas d'abrogation partielle, l'annexe indique la portée de l'abrogation.
3. Une annexe (annexe B) qui indique quelles lois et dispositions sont abrogées, remplacées et codifiées par les Lois refondues de l'Ontario de 1990, et qui indique également quelles parties des Lois refondues de l'Ontario de 1980 et quelles lois adoptées subséquemment ne sont pas codifiées.
4. Une annexe (annexe C) qui indique quelles lois d'intérêt public adoptées par la Législature après le 1^{er} juillet 1867 ne sont ni abrogées ni codifiées.

(2) L'inclusion ou l'omission d'une loi ou d'une disposition dans une annexe ne constitue pas une affirmation que la loi ou la disposition était en vigueur immédiatement avant l'entrée en vigueur des Lois refondues de l'Ontario de 1990, ou ne l'était pas.

Inclusion ou
omission
d'une loi

- Effect of Schedule C (3) The schedule referred to in paragraph 4 of subsection (1) is prepared for purposes of information only.
- Proclamation **6.**—(1) After the set of printed volumes is deposited in accordance with section 4, the Lieutenant Governor may by proclamation name the day on which the consolidated and revised English and French versions of the statutes come into force.
- Effect (2) On and after the named day, the English and French versions of the Revised Statutes of Ontario, 1990 are in force as though they were part of this Act.
- Idem (3) On the named day, the statutes and provisions listed in Schedule A are repealed to the extent shown in that schedule.
- Acts enacted between Jan. 1, 1990 and proclamation of R.S.O. 1990 **7.**—(1) Acts that are enacted after the 31st day of December, 1990 and before the day the Revised Statutes of Ontario, 1990 come into force and that refer to statutes or provisions that are to be included in the Revised Statutes of Ontario, 1990 shall be deemed to refer to the corresponding statutes or provisions in the Revised Statutes of Ontario, 1990.
- Statutes of Ontario, 1991 (2) The Statutes of Ontario, 1991 shall be published in two volumes, one showing them in the form in which they are enacted and a second volume containing only the public general statutes.
- Supplementary revision (3) The commissioners shall ensure that the statutes published in the second volume are revised so as to refer to the Revised Statutes of Ontario, 1990 and include French translations of any provisions enacted in English only.
- Deposit of second volume (4) The Lieutenant Governor may cause the second volume, signed by the Lieutenant Governor and the Attorney General, to be deposited in the office of the Clerk of the Assembly.
- Proclamation (5) The Lieutenant Governor may by proclamation name the day on which the English and French versions of the statutes published in the second volume come into force.
- Effect (6) On and after the named day, the English and French versions of the statutes published in the second volume are in force as though they were part of this Act, and the versions of those statutes published in the first volume are repealed on that day.

(3) L'annexe visée à la disposition 4 du paragraphe (1) n'est préparée qu'à des fins d'information. Effet de l'annexe C

6 (1) Après le dépôt, conformément à l'article 4, de la série de volumes imprimés, le lieutenant-gouverneur peut, par proclamation, fixer le jour où les versions française et anglaise des lois codifiées et refondues entrent en vigueur. Proclamation

(2) À partir du jour fixé, les versions française et anglaise des Lois refondues de l'Ontario de 1990 sont en vigueur comme si elles faisaient partie de la présente loi. Effet

(3) À partir du jour fixé, les lois et les dispositions énumérées à l'annexe A sont abrogées dans la mesure qu'indique cette annexe. Idem

7 (1) Les lois adoptées après le 31 décembre 1990 et avant le jour de l'entrée en vigueur des Lois refondues de l'Ontario de 1990 qui renvoient à des lois ou à des dispositions qui doivent faire partie des Lois refondues de l'Ontario de 1990 sont réputées renvoyer aux lois ou aux dispositions correspondantes des Lois refondues de l'Ontario de 1990. Lois adoptées entre le 1^{er} janvier 1990 et la proclamation des L.R.O. de 1990

(2) Les Lois de l'Ontario de 1991 sont publiées en deux tomes : le premier tome contient les lois sous la forme de leur adoption et le deuxième tome ne contient que les lois d'intérêt public et général. Lois de l'Ontario de 1991

(3) Les commissaires veillent à ce que les lois publiées dans le deuxième tome soient refondues de façon à renvoyer aux Lois refondues de l'Ontario de 1990, et à ce qu'elles comprennent une traduction française de toute disposition adoptée uniquement en anglais. Refonte supplémentaire

(4) Le lieutenant-gouverneur peut faire déposer le deuxième tome, revêtu de la signature du lieutenant-gouverneur et de celle du procureur général, dans le bureau du greffier de l'Assemblée. Dépôt du deuxième tome

(5) Le lieutenant-gouverneur peut, par proclamation, fixer le jour où les versions française et anglaise des lois publiées dans le deuxième tome entrent en vigueur. Proclamation

(6) À partir du jour fixé, les versions française et anglaise des lois publiées dans le deuxième tome sont en vigueur. Effet

References to
repealed
statutes

8. After the Revised Statutes of Ontario, 1990 come into force, a reference in an unrepealed and unconsolidated statute or in any other document to a statute or provision that is repealed, replaced and consolidated shall be deemed to be a reference to the corresponding statute or provision in the Revised Statutes of Ontario, 1990.

Evidence

9. The texts that purport to be printed by the Queen's Printer as the Revised Statutes of Ontario, 1990 shall be received in evidence as those revised statutes without further proof.

Distribution
and sale

10. The Lieutenant Governor in Council may direct in what manner the Revised Statutes of Ontario, 1990 shall be distributed and the price at which copies shall be sold by the Queen's Printer.

Production
cost,
remuneration
and expenses

11. The cost of producing the Revised Statutes of Ontario, 1990, including the remuneration and expenses of the commissioners and the persons who assist them, shall be paid out of the moneys appropriated for the purpose by the Legislature.

Citation

12. A chapter of the Revised Statutes of Ontario, 1990 may be cited by its English or French title, as "Revised Statutes of Ontario, 1990, chapter (*number*)", as "Lois refondues de l'Ontario de 1990, chapitre (*number*)", as "R.S.O. 1990, c. (*number*)" or as "L.R.O. 1990, chap. (*number*)".

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 *Statutes Revision Act, 1989*.

comme si elles faisaient partie de la présente loi, et les versions de ces mêmes lois publiées dans le premier tome sont abrogées ce même jour.

8 Après l'entrée en vigueur des Lois refondues de l'Ontario de 1990, le renvoi, soit dans une loi qui n'est ni abrogée ni codifiée, soit dans tout autre document, à une loi ou à une disposition qui est abrogée, remplacée et codifiée, est réputé un renvoi à la loi ou à la disposition correspondante des Lois refondues de l'Ontario de 1990.

Renvois aux lois abrogées

9 Les textes qui se présentent comme ayant été imprimés par l'Imprimeur de la Reine sous le titre de Lois refondues de l'Ontario de 1990 sont reçus en preuve à ce titre sans autre preuve.

Preuve

10 Le lieutenant-gouverneur en conseil peut ordonner de quelle manière les Lois refondues de l'Ontario de 1990 sont distribuées, ainsi que le prix auquel elles sont vendues par l'Imprimeur de la Reine.

Distribution et vente

11 Le coût de production des Lois refondues de l'Ontario de 1990, y compris la rémunération et les débours des commissaires et des personnes qui les aident, est prélevé sur les sommes qu'affecte la Législature à cette fin.

Coût de production, rémunération et débours

12 La citation d'un chapitre des Lois refondues de l'Ontario de 1990 peut se faire sous son titre français ou anglais selon l'une des formules suivantes : «Lois refondues de l'Ontario de 1990, chapitre (numéro)»; «Revised Statutes of Ontario, 1990, chapter (numéro)»; «L.R.O. 1990, chap. (numéro)»; «R.S.O. 1990, c. (numéro)».

Citation

13 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

14 Le titre abrégé de la présente loi est *Loi de 1989 sur la refonte des lois*.

Titre abrégé



Bill 74

(Chapter 81
Statutes of Ontario, 1989)

**An Act to provide for the
Consolidation and
Revision of the
Statutes of Ontario**

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	November 6th, 1989
<i>2nd Reading</i>	December 18th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

Projet de loi 74

Projet de loi 74

(Chapitre 81
Lois de l'Ontario de 1989)

**Loi prévoyant la
codification et
la refonte des
lois de l'Ontario**

L'honorable I. Scott
procureur général

<i>1^{re} lecture</i>	6 novembre 1989
<i>2^e lecture</i>	18 décembre 1989
<i>3^e lecture</i>	19 décembre 1989
<i>sanction royale</i>	19 décembre 1989

Bill 74**1989**

**An Act to provide for the Consolidation and
Revision of the Statutes of Ontario**

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

Appointment
of commis-
sioners

1.—(1) Donald L. Revell, Senior Legislative Counsel, A. Sidney Tucker, Deputy Senior Legislative Counsel and Margaret MacKinnon, Deputy Senior Legislative Counsel, are appointed commissioners to consolidate and revise the public general statutes of Ontario in accordance with this Act.

Idem

(2) The Lieutenant Governor in Council may appoint additional commissioners.

Duties of
commis-
sioners

1986, c. 45

2. The commissioners shall examine the public general statutes of Ontario enacted before the 1st day of January, 1991 and the French translations prepared under subsection 4 (1) of the *French Language Services Act, 1986* and arrange, consolidate and revise them in accordance with this Act.

Powers of
commis-
sioners

3. The commissioners may,

- (a) omit statutes and provisions that are not of general application or that are obsolete;
- (b) alter numbering and arrangement;
- (c) make changes in language, including punctuation, in order to achieve greater uniformity;
- (d) make any changes that are necessary to bring out more clearly what is considered to be the Legislature's intention, to reconcile apparently inconsistent provisions or to correct clerical, grammatical or typographical errors.

Projet de loi 74**1989****Loi prévoyant la codification et
la refonte des lois de l'Ontario**

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

1 (1) Sont nommés commissaires et chargés de codifier et de refondre conformément à la présente loi les lois d'intérêt public et général de l'Ontario, Donald L. Revell, premier conseiller législatif, A. Sidney Tucker, premier conseiller législatif adjoint et Margaret MacKinnon, première conseillère législative adjointe.

Nomination
des commis-
saires

(2) Le lieutenant-gouverneur en conseil peut nommer d'autres commissaires.

Idem

2 Les commissaires étudient les lois d'intérêt public et général de l'Ontario qui ont été adoptées avant le 1^{er} janvier 1991, ainsi que les traductions françaises préparées aux termes du paragraphe 4 (1) de la *Loi de 1986 sur les services en français*, et les arrangent, les codifient et les refondent conformément à la présente loi.

Fonctions des
commissaires

1986,
chap. 45

3 Les commissaires peuvent :

Pouvoirs des
commissaires

- a) omettre des lois et des dispositions qui ne sont pas de portée générale ou qui sont caduques;
- b) modifier la numérotation et l'économie des lois;
- c) modifier la forme des lois afin de contribuer à leur uniformité;
- d) apporter toute modification qui s'impose afin de mieux exprimer ce que l'on considère être l'intention de la Législature, de concilier des dispositions apparemment incompatibles ou de corriger des erreurs de copie, notamment des fautes grammaticales ou typographiques.

Deposit of
revised
bilingual
statutes

4.—(1) As soon as the commissioners report that the consolidation and revision that this Act requires are complete, the Lieutenant Governor may cause a set of printed volumes containing the consolidated and revised text to be deposited in the office of the Clerk of the Assembly.

Signatures

(2) Each volume in the set that is deposited shall be signed by the Lieutenant Governor and the Attorney General.

Title

(3) The English title of the consolidated and revised text is "Revised Statutes of Ontario, 1990" and the French title is "Lois refondues de l'Ontario de 1990".

French
version

1986, c. 45

(4) Deposit of the set of printed volumes in accordance with subsection (1) shall be deemed to constitute compliance with subsection 4 (2) of the *French Language Services Act, 1986*.

Appendix
and schedules

5.—(1) The following shall be deposited with the set of printed volumes:

1. An appendix containing the constitutional statutes set out in Appendix B to the Revised Statutes of Ontario, 1980, and such other constitutional statutes as the commissioners consider it appropriate to include.
2. A schedule (Schedule A) showing what statutes contained in the Revised Statutes of Ontario, 1980 and other statutes are repealed in whole (or in part, and to what extent) on the day the Revised Statutes of Ontario, 1990 take effect.
3. A schedule (Schedule B) showing what statutes and provisions are repealed, replaced and consolidated by the Revised Statutes of Ontario, 1990 and also showing what parts of the Revised Statutes of Ontario, 1980 and statutes passed subsequently are not consolidated.
4. A schedule (Schedule C) showing what public statutes passed by the Legislature after the 1st day of July, 1867 are unrepealed and unconsolidated.

Effect of
inclusion or
omission of
statute

(2) The fact that a statute or provision is included in or omitted from a schedule is not a declaration that it was or was not in force immediately before the coming into force of the Revised Statutes of Ontario, 1990.

4 (1) Aussitôt que les commissaires déclarent achevées la codification et la refonte exigées par la présente loi, le lieutenant-gouverneur peut faire déposer dans le bureau du greffier de l'Assemblée une série de volumes imprimés qui contient les lois codifiées et refondues.

Dépôt des lois
bilingues
refondues

(2) Chacun des volumes de la série qui fait l'objet du dépôt est revêtu de la signature du lieutenant-gouverneur et de celle du procureur général.

Signatures

(3) Le recueil des lois codifiées et refondues s'intitule «Lois refondues de l'Ontario de 1990» en français et «Revised Statutes of Ontario, 1990» en anglais.

Titre

(4) Le dépôt, conformément au paragraphe (1), de la série de volumes imprimés est réputé constituer l'observation du paragraphe 4 (2) de la *Loi de 1986 sur les services en français*.

Version
française

1986,
chap. 45

5 (1) Sont déposés avec la série de volumes imprimés les documents suivants :

Appendice et
annexes

1. Un appendice qui contient les lois constitutionnelles figurant à l'appendice B des Lois refondues de l'Ontario de 1980, ainsi que les autres lois constitutionnelles que les commissaires jugent opportun d'y inclure.
2. Une annexe (annexe A) qui énumère les lois faisant partie des Lois refondues de l'Ontario de 1980 et les autres lois qui, le jour de l'entrée en vigueur des Lois refondues de l'Ontario de 1990, sont abrogées en tout ou en partie. En cas d'abrogation partielle, l'annexe indique la portée de l'abrogation.
3. Une annexe (annexe B) qui indique quelles lois et dispositions sont abrogées, remplacées et codifiées par les Lois refondues de l'Ontario de 1990, et qui indique également quelles parties des Lois refondues de l'Ontario de 1980 et quelles lois adoptées subséquemment ne sont pas codifiées.
4. Une annexe (annexe C) qui indique quelles lois d'intérêt public adoptées par la Législature après le 1^{er} juillet 1867 ne sont ni abrogées ni codifiées.

(2) L'inclusion ou l'omission d'une loi ou d'une disposition dans une annexe ne constitue pas une affirmation que la loi ou la disposition était en vigueur immédiatement avant l'entrée en vigueur des Lois refondues de l'Ontario de 1990, ou ne l'était pas.

Inclusion ou
omission
d'une loi

- Effect of Schedule C (3) The schedule referred to in paragraph 4 of subsection (1) is prepared for purposes of information only.
- Proclamation 6.—(1) After the set of printed volumes is deposited in accordance with section 4, the Lieutenant Governor may by proclamation name the day on which the consolidated and revised English and French versions of the statutes come into force.
- Effect (2) On and after the named day, the English and French versions of the Revised Statutes of Ontario, 1990 are in force as though they were part of this Act.
- Idem (3) On the named day, the statutes and provisions listed in Schedule A are repealed to the extent shown in that schedule.
- Acts enacted between Jan. 1, 1990 and proclamation of R.S.O. 1990 7.—(1) Acts that are enacted after the 31st day of December, 1990 and before the day the Revised Statutes of Ontario, 1990 come into force and that refer to statutes or provisions that are to be included in the Revised Statutes of Ontario, 1990 shall be deemed to refer to the corresponding statutes or provisions in the Revised Statutes of Ontario, 1990.
- Statutes of Ontario, 1991 (2) The Statutes of Ontario, 1991 shall be published in two volumes, one showing them in the form in which they are enacted and a second volume containing only the public general statutes.
- Supplementary revision (3) The commissioners shall ensure that the statutes published in the second volume are revised so as to refer to the Revised Statutes of Ontario, 1990 and include French translations of any provisions enacted in English only.
- Deposit of second volume (4) The Lieutenant Governor may cause the second volume, signed by the Lieutenant Governor and the Attorney General, to be deposited in the office of the Clerk of the Assembly.
- Proclamation (5) The Lieutenant Governor may by proclamation name the day on which the English and French versions of the statutes published in the second volume come into force.
- Effect (6) On and after the named day, the English and French versions of the statutes published in the second volume are in force as though they were part of this Act, and the versions of those statutes published in the first volume are repealed on that day.

(3) L'annexe visée à la disposition 4 du paragraphe (1) n'est préparée qu'à des fins d'information. Effet de l'annexe C

6 (1) Après le dépôt, conformément à l'article 4, de la série de volumes imprimés, le lieutenant-gouverneur peut, par proclamation, fixer le jour où les versions française et anglaise des lois codifiées et refondues entrent en vigueur. Proclamation

(2) À partir du jour fixé, les versions française et anglaise des Lois refondues de l'Ontario de 1990 sont en vigueur comme si elles faisaient partie de la présente loi. Effet

(3) À partir du jour fixé, les lois et les dispositions énumérées à l'annexe A sont abrogées dans la mesure qu'indique cette annexe. Idem

7 (1) Les lois adoptées après le 31 décembre 1990 et avant le jour de l'entrée en vigueur des Lois refondues de l'Ontario de 1990 qui renvoient à des lois ou à des dispositions qui doivent faire partie des Lois refondues de l'Ontario de 1990 sont réputées renvoyer aux lois ou aux dispositions correspondantes des Lois refondues de l'Ontario de 1990. Lois adoptées entre le 1^{er} janvier 1990 et la proclamation des L.R.O. de 1990

(2) Les Lois de l'Ontario de 1991 sont publiées en deux tomes : le premier tome contient les lois sous la forme de leur adoption et le deuxième tome ne contient que les lois d'intérêt public et général. Lois de l'Ontario de 1991

(3) Les commissaires veillent à ce que les lois publiées dans le deuxième tome soient refondues de façon à renvoyer aux Lois refondues de l'Ontario de 1990, et à ce qu'elles comprennent une traduction française de toute disposition adoptée uniquement en anglais. Refonte supplémentaire

(4) Le lieutenant-gouverneur peut faire déposer le deuxième tome, revêtu de la signature du lieutenant-gouverneur et de celle du procureur général, dans le bureau du greffier de l'Assemblée. Dépôt du deuxième tome

(5) Le lieutenant-gouverneur peut, par proclamation, fixer le jour où les versions française et anglaise des lois publiées dans le deuxième tome entrent en vigueur. Proclamation

(6) À partir du jour fixé, les versions française et anglaise des lois publiées dans le deuxième tome sont en vigueur. Effet

References to
repealed
statutes

8. After the Revised Statutes of Ontario, 1990 come into force, a reference in an unrepealed and unconsolidated statute or in any other document to a statute or provision that is repealed, replaced and consolidated shall be deemed to be a reference to the corresponding statute or provision in the Revised Statutes of Ontario, 1990.

Evidence

9. The texts that purport to be printed by the Queen's Printer as the Revised Statutes of Ontario, 1990 shall be received in evidence as those revised statutes without further proof.

Distribution
and sale

10. The Lieutenant Governor in Council may direct in what manner the Revised Statutes of Ontario, 1990 shall be distributed and the price at which copies shall be sold by the Queen's Printer.

Production
cost,
remuneration
and expenses

11. The cost of producing the Revised Statutes of Ontario, 1990, including the remuneration and expenses of the commissioners and the persons who assist them, shall be paid out of the moneys appropriated for the purpose by the Legislature.

Citation

12. A chapter of the Revised Statutes of Ontario, 1990 may be cited by its English or French title, as "Revised Statutes of Ontario, 1990, chapter (*number*)", as "Lois refundues de l'Ontario de 1990, chapitre (*number*)", as "R.S.O. 1990, c. (*number*)" or as "L.R.O. 1990, chap. (*number*)".

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 *Statutes Revision Act, 1989*.

comme si elles faisaient partie de la présente loi, et les versions de ces mêmes lois publiées dans le premier tome sont abrogées ce même jour.

8 Après l'entrée en vigueur des Lois refondues de l'Ontario de 1990, le renvoi, soit dans une loi qui n'est ni abrogée ni codifiée, soit dans tout autre document, à une loi ou à une disposition qui est abrogée, remplacée et codifiée, est réputé un renvoi à la loi ou à la disposition correspondante des Lois refondues de l'Ontario de 1990.

Renvois aux lois abrogées

9 Les textes qui se présentent comme ayant été imprimés par l'Imprimeur de la Reine sous le titre de Lois refondues de l'Ontario de 1990 sont reçus en preuve à ce titre sans autre preuve.

Preuve

10 Le lieutenant-gouverneur en conseil peut ordonner de quelle manière les Lois refondues de l'Ontario de 1990 sont distribuées, ainsi que le prix auquel elles sont vendues par l'Imprimeur de la Reine.

Distribution et vente

11 Le coût de production des Lois refondues de l'Ontario de 1990, y compris la rémunération et les débours des commissaires et des personnes qui les aident, est prélevé sur les sommes qu'affecte la Législature à cette fin.

Coût de production, rémunération et débours

12 La citation d'un chapitre des Lois refondues de l'Ontario de 1990 peut se faire sous son titre français ou anglais selon l'une des formules suivantes : «Lois refondues de l'Ontario de 1990, chapitre (numéro)»; «Revised Statutes of Ontario, 1990, chapter (numéro)»; «L.R.O. 1990, chap. (numéro)»; «R.S.O. 1990, c. (numéro)».

Citation

13 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

14 Le titre abrégé de la présente loi est *Loi de 1989 sur la refonte des lois*.

Titre abrégé



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SESSION, 34TH LEGISLATURE, ONTARIO
38 ELIZABETH II, 1989

Bill 75

**An Act to provide for the
Consolidation and
Revision of the
Regulations of Ontario**

The Hon. I. Scott
Attorney General

1st Reading November 6th, 1989
2^d Reading
3^d Reading
Royal Assent

2^e SESSION, 34^e LÉGISLATURE, ONTARIO
38 ELIZABETH II, 1989

Projet de loi 75

**Loi prévoyant la
codification et
la refonte des
règlements de l'Ontario**

L'honorable I. Scott
procureur général

1^{re} lecture 6 novembre 1989
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill authorizes the preparation of a consolidation and revision of the regulations of Ontario, as they stand at the end of 1990.

NOTES EXPLICATIVES

Le projet de loi a pour objet d'autoriser la codification et la refonte des règlements de l'Ontario, tels qu'ils existent à la fin de l'année 1990.

Bill 75**1989****An Act to provide for the Consolidation and Revision of the Regulations of Ontario**

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

Appointment
of commis-
sioners

1.—(1) Russell Yurkow, Registrar of Regulations, Donald L. Revell, Senior Legislative Counsel, A. Sidney Tucker, Deputy Senior Legislative Counsel, and Michael J.B. Wood, Legislative Counsel, are hereby appointed commissioners to consolidate and revise, in accordance with this Act, the regulations filed under the *Regulations Act*.

R.S.O. 1980,
c. 446

Idem

(2) The Lieutenant Governor in Council may appoint additional commissioners.

Duties of
commis-
sioners

2. The commissioners shall examine the Revised Regulations of Ontario, 1980 and the regulations filed under the *Regulations Act* before the 1st day of January, 1991 and arrange, consolidate and revise them as this Act provides.

Powers of
commis-
sioners

3. The commissioners may,

- (a) omit regulations and provisions that are not of general application or that are obsolete;
- (b) alter numbering and arrangement;
- (c) make changes in language, including punctuation, in order to achieve greater uniformity;
- (d) make any changes that are necessary to bring out more clearly what is considered to be the intention of the authority that made the regulation, to reconcile apparently inconsistent provisions or to correct clerical, grammatical or typographical errors.

Projet de loi 75**1989****Loi prévoyant la codification et
la refonte des règlements de l'Ontario**

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

1 (1) Sont nommés commissaires et chargés de codifier et de refondre conformément à la présente loi les règlements déposés aux termes de la *Loi sur les règlements*, Russell Yurkow, registrateur des règlements, Donald L. Revell, premier conseiller législatif, A. Sidney Tucker, premier conseiller législatif adjoint et Michael J.B. Wood, conseiller législatif.

Nomination
des commis-
saires
L.R.O. 1980,
chap. 446

(2) Le lieutenant-gouverneur en conseil peut nommer d'autres commissaires.

Idem

2 Les commissaires étudient les Règlements refondus de l'Ontario de 1980 ainsi que les règlements qui ont été déposés aux termes de la *Loi sur les règlements* avant le 1^{er} janvier 1991, et les arrangent, les codifient et les refondent conformément à la présente loi.

Fonctions des
commissaires

3 Les commissaires peuvent :

Pouvoirs des
commissaires

- a) omettre des règlements et des dispositions qui ne sont pas de portée générale ou qui sont caducs;
- b) modifier la numérotation et l'économie des règlements;
- c) modifier la forme des règlements afin de contribuer à leur uniformité;
- d) apporter toute modification qui s'impose afin de mieux exprimer ce que l'on considère être l'intention de l'autorité qui a pris le règlement, de concilier des dispositions apparemment incompatibles ou de corriger des erreurs de copie, notamment des fautes grammaticales ou typographiques.

Deposit of revised regulations

4.—(1) As soon as the commissioners report that the consolidation and revision that this Act requires are complete, the Lieutenant Governor may cause a set of printed volumes containing the consolidated and revised text to be deposited in the office of the Clerk of the Assembly.

Signatures

(2) Each volume in the set that is deposited shall be signed by the Lieutenant Governor and the Attorney General.

Title

(3) The English title of the consolidated and revised text is "Revised Regulations of Ontario, 1990" and the French title is "Règlements refondus de l'Ontario de 1990".

Schedule

5. The commissioners shall prepare, and there shall be deposited with the set of printed volumes, a schedule listing,

- (a) all regulations shown in the schedule to the Revised Regulations of Ontario, 1980 that have not been revoked; and
- (b) all regulations filed after the 31st day of December, 1980 and before the 1st day of January, 1991 that were omitted by the commissioners as not of general application.

Proclamation

6.—(1) After the set of printed volumes is deposited in accordance with section 4, the Lieutenant Governor may by proclamation name the day on which the consolidated and revised regulations come into force.

Effect
R.S.O. 1980,
c. 446

(2) On the named day, the Revised Regulations of Ontario, 1980 and the regulations filed under the *Regulations Act* after the 31st day of December, 1980 and before the 1st day of January, 1991 are revoked.

Exception

(3) Subsection (2) does not apply to revoke a regulation that is listed in the schedule prepared and deposited under section 5.

Regulations filed between January 1, 1990 and proclamation of R.R.O. 1990

7.—(1) Regulations that are filed after the 31st day of December, 1990 and before the day that the Revised Regulations of Ontario, 1990 come into force and that refer to regulations that are to be included in the Revised Regulations of Ontario, 1990 or to statutes or provisions that are to be included in the Revised Statutes of Ontario, 1990 shall be deemed to refer to the corresponding regulation in the Revised Regulations of Ontario, 1990 or to the corresponding statute or provision in the Revised Statutes of Ontario, 1990, as the case may be.

4 (1) Aussitôt que les commissaires déclarent achevées la codification et la refonte exigées par la présente loi, le lieutenant-gouverneur peut faire déposer dans le bureau du greffier de l'Assemblée une série de volumes imprimés qui contient les règlements codifiés et refondus.

Dépôt des
règlements
refondus

(2) Chacun des volumes de la série qui fait l'objet du dépôt est revêtu de la signature du lieutenant-gouverneur et de celle du procureur général.

Signatures

(3) Le recueil des règlements codifiés et refondus s'intitule «Règlements refondus de l'Ontario de 1990» en français et «Revised Regulations of Ontario, 1990» en anglais.

Titre

5 Il est déposé, avec la série de volumes imprimés, une annexe qui est préparée par les commissaires et qui énumère :

Annexe

- a) tous les règlements figurant dans l'annexe des Règlements refondus de l'Ontario de 1980 qui n'ont pas été abrogés;
- b) tous les règlements déposés après le 31 décembre 1980 et avant le 1^{er} janvier 1991 qui ont été omis par les commissaires parce qu'ils ne sont pas de portée générale.

6 (1) Après le dépôt, conformément à l'article 4, de la série de volumes imprimés, le lieutenant-gouverneur peut, par proclamation, fixer le jour où les règlements codifiés et refondus entrent en vigueur.

Proclamation

(2) À partir du jour fixé, les Règlements refondus de l'Ontario de 1980 et les règlements déposés aux termes de la *Loi sur les règlements* après le 31 décembre 1980 et avant le 1^{er} janvier 1991 sont abrogés.

Effet

L.R.O. 1980,
chap. 446

(3) Le paragraphe (2) n'a pas pour effet d'abroger un règlement figurant dans l'annexe préparée et déposée aux termes de l'article 5.

Exception

7 (1) Les règlements déposés après le 31 décembre 1990 et avant le jour de l'entrée en vigueur des Règlements refondus de l'Ontario de 1990 qui renvoient à des règlements qui doivent faire partie des Règlements refondus de l'Ontario de 1990 ou à des lois ou à des dispositions qui doivent faire partie des Lois refondues de l'Ontario de 1990 sont réputés renvoyer aux règlements correspondants des Règlements refondus de l'Ontario de 1990 ou aux lois ou aux dispositions correspondantes des Lois refondues de l'Ontario de 1990, selon le cas.

Règlements
déposés entre
le 1^{er} janvier
1990 et la
proclamation
des
R.R.O. de
1990

- Publication of supplementary revision (2) After the Revised Regulations of Ontario, 1990 come into force, the commissioners shall cause the regulations filed during the period described in subsection (1), with appropriate changes, to be published in *The Ontario Gazette*.
- Effect (3) When the supplementary revision is published in *The Ontario Gazette*,
- (a) the regulations contained in it shall be deemed to have been filed on the day the Revised Regulations of Ontario, 1990 came into force; and
 - (b) the regulations filed during the period described in subsection (1) shall be deemed to have been revoked on that day.
- References to revoked regulations **8.** After the Revised Regulations of Ontario, 1990 come into force, a reference in an unrevoked and unconsolidated regulation or in any other document to a regulation that is revoked, replaced and consolidated shall be deemed to be reference to the corresponding regulation in the Revised Regulations of Ontario, 1990.
- Evidence **9.** The texts that purport to be printed by the Queen's Printer as the Revised Regulations of Ontario, 1990 shall be received in evidence as those revised regulations without further proof.
- Distribution and sale **10.** The Lieutenant Governor in Council may direct in what manner the Revised Regulations of Ontario, 1990 shall be distributed and the price at which copies shall be sold by the Queen's Printer.
- Production cost, remuneration and expenses **11.** The cost of producing the Revised Regulations of Ontario, 1990, including the remuneration and expenses of the commissioners and the persons who assist them, shall be paid out of the moneys appropriated for the purpose by the Legislature.
- Citation **12.** A regulation in the Revised Regulations of Ontario, 1990 may be cited as "Revised Regulations of Ontario, 1990, Regulation (*number*)", as "Règlements refondus de l'Ontario de 1990, Règlement (*number*)", as "R.R.O. 1990, Reg. (*number*)" or as "R.R.O. 1990, Règl. (*number*)".

(2) Après l'entrée en vigueur des Règlements refondus de l'Ontario de 1990, les commissaires font publier dans la *Gazette de l'Ontario* les règlements déposés pendant la période visée au paragraphe (1), avec les modifications qui s'imposent.

Publication de la refonte supplémentaire

(3) Lorsque la refonte supplémentaire est publiée dans la *Gazette de l'Ontario* :

Effet

- a) les règlements qu'elle contient sont réputés avoir été déposés le jour de l'entrée en vigueur des Règlements refondus de l'Ontario de 1990;
- b) les règlements déposés pendant la période visée au paragraphe (1) sont réputés avoir été abrogés ce même jour.

8 Après l'entrée en vigueur des Règlements refondus de l'Ontario de 1990, le renvoi, soit dans un règlement qui n'est ni abrogé ni codifié, soit dans tout autre document, d'un règlement qui est révoqué, remplacé et codifié, est réputé un renvoi au règlement correspondant des Règlements refondus de l'Ontario de 1990.

Renvois aux règlements abrogés

9 Les textes qui se présentent comme ayant été imprimés par l'Imprimeur de la Reine sous le titre de Règlements refondus de l'Ontario de 1990 sont reçus en preuve à ce titre sans autre preuve.

Preuve

10 Le lieutenant-gouverneur en conseil peut ordonner de quelle manière les Règlements refondus de l'Ontario de 1990 sont distribués, ainsi que le prix auquel ils sont vendus par l'Imprimeur de la Reine.

Distribution et vente

11 Le coût de production des Règlements refondus de l'Ontario de 1990, y compris la rémunération et les débours des commissaires et des personnes qui les aident, est prélevé sur les sommes qu'affecte la Législature à cette fin.

Coût de production, rémunération et débours

12 La citation d'un règlement des Règlements refondus de l'Ontario de 1990 peut se faire selon l'une des formules suivantes : «Règlements refondus de l'Ontario de 1990, Règlement (numéro)»; «Revised Regulations of Ontario, 1990, Regulation (numéro)»; «R.R.O. 1990, Règl. (numéro)»; «R.R.O. 1990, Reg. (numéro)».

Citation

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 *Regulations Revision Act, 1989*.

13 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

14 Le titre abrégé de la présente loi est *Loi de 1989 sur la refonte des règlements*. Titre abrégé



Bill 75

(Chapter 82
Statutes of Ontario, 1989)

An Act to provide for the Consolidation and Revision of the Regulations of Ontario

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	November 6th, 1989
<i>2nd Reading</i>	December 18th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

Projet de loi 75

(Chapitre 82
Lois de l'Ontario de 1989)

Loi prévoyant la codification et la refonte des règlements de l'Ontario

L'honorable I. Scott
procureur général

<i>1^{re} lecture</i>	6 novembre 1989
<i>2^e lecture</i>	18 décembre 1989
<i>3^e lecture</i>	19 décembre 1989
<i>sanction royale</i>	19 décembre 1989

Bill 75**1989****An Act to provide for the Consolidation and Revision of the Regulations of Ontario**

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

Appointment
of commis-
sioners

1.—(1) Russell Yurkow, Registrar of Regulations, Donald L. Revell, Senior Legislative Counsel, A. Sidney Tucker, Deputy Senior Legislative Counsel, and Michael J.B. Wood, Legislative Counsel, are hereby appointed commissioners to consolidate and revise, in accordance with this Act, the regulations filed under the *Regulations Act*.

R.S.O. 1980,
c. 446

Idem

(2) The Lieutenant Governor in Council may appoint additional commissioners.

Duties of
commis-
sioners

2. The commissioners shall examine the Revised Regulations of Ontario, 1980 and the regulations filed under the *Regulations Act* before the 1st day of January, 1991 and arrange, consolidate and revise them as this Act provides.

Powers of
commis-
sioners

3. The commissioners may,

- (a) omit regulations and provisions that are not of general application or that are obsolete;
- (b) alter numbering and arrangement;
- (c) make changes in language, including punctuation, in order to achieve greater uniformity;
- (d) make any changes that are necessary to bring out more clearly what is considered to be the intention of the authority that made the regulation, to reconcile apparently inconsistent provisions or to correct clerical, grammatical or typographical errors.

Projet de loi 75**1989****Loi prévoyant la codification et
la refonte des règlements de l'Ontario**

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

1 (1) Sont nommés commissaires et chargés de codifier et de refondre conformément à la présente loi les règlements déposés aux termes de la *Loi sur les règlements*, Russell Yurkow, registrateur des règlements, Donald L. Revell, premier conseiller législatif, A. Sidney Tucker, premier conseiller législatif adjoint et Michael J.B. Wood, conseiller législatif.

Nomination
des commis-
saires
L.R.O. 1980,
chap. 446

(2) Le lieutenant-gouverneur en conseil peut nommer d'autres commissaires.

Idem

2 Les commissaires étudient les Règlements refondus de l'Ontario de 1980 ainsi que les règlements qui ont été déposés aux termes de la *Loi sur les règlements* avant le 1^{er} janvier 1991, et les arrangent, les codifient et les refondent conformément à la présente loi.

Fonctions des
commissaires

3 Les commissaires peuvent :

Pouvoirs des
commissaires

- a) omettre des règlements et des dispositions qui ne sont pas de portée générale ou qui sont caducs;
- b) modifier la numérotation et l'économie des règlements;
- c) modifier la forme des règlements afin de contribuer à leur uniformité;
- d) apporter toute modification qui s'impose afin de mieux exprimer ce que l'on considère être l'intention de l'autorité qui a pris le règlement, de concilier des dispositions apparemment incompatibles ou de corriger des erreurs de copie, notamment des fautes grammaticales ou typographiques.

Deposit of
revised
regulations

4.—(1) As soon as the commissioners report that the consolidation and revision that this Act requires are complete, the Lieutenant Governor may cause a set of printed volumes containing the consolidated and revised text to be deposited in the office of the Clerk of the Assembly.

Signatures

(2) Each volume in the set that is deposited shall be signed by the Lieutenant Governor and the Attorney General.

Title

(3) The English title of the consolidated and revised text is “Revised Regulations of Ontario, 1990” and the French title is “Règlements refondus de l’Ontario de 1990”.

Schedule

5. The commissioners shall prepare, and there shall be deposited with the set of printed volumes, a schedule listing,

- (a) all regulations shown in the schedule to the Revised Regulations of Ontario, 1980 that have not been revoked; and
- (b) all regulations filed after the 31st day of December, 1980 and before the 1st day of January, 1991 that were omitted by the commissioners as not of general application.

Proclamation

6.—(1) After the set of printed volumes is deposited in accordance with section 4, the Lieutenant Governor may by proclamation name the day on which the consolidated and revised regulations come into force.

Effect

R.S.O. 1980,
c. 446

(2) On the named day, the Revised Regulations of Ontario, 1980 and the regulations filed under the *Regulations Act* after the 31st day of December, 1980 and before the 1st day of January, 1991 are revoked.

Exception

(3) Subsection (2) does not apply to revoke a regulation that is listed in the schedule prepared and deposited under section 5.

Regulations
filed between
January 1,
1990 and
proclamation
of
R.R.O. 1990

7.—(1) Regulations that are filed after the 31st day of December, 1990 and before the day that the Revised Regulations of Ontario, 1990 come into force and that refer to regulations that are to be included in the Revised Regulations of Ontario, 1990 or to statutes or provisions that are to be included in the Revised Statutes of Ontario, 1990 shall be deemed to refer to the corresponding regulation in the Revised Regulations of Ontario, 1990 or to the corresponding statute or provision in the Revised Statutes of Ontario, 1990, as the case may be.

4 (1) Aussitôt que les commissaires déclarent achevées la codification et la refonte exigées par la présente loi, le lieutenant-gouverneur peut faire déposer dans le bureau du greffier de l'Assemblée une série de volumes imprimés qui contient les règlements codifiés et refondus.

Dépôt des
règlements
refondus

(2) Chacun des volumes de la série qui fait l'objet du dépôt est revêtu de la signature du lieutenant-gouverneur et de celle du procureur général.

Signatures

(3) Le recueil des règlements codifiés et refondus s'intitule «Règlements refondus de l'Ontario de 1990» en français et «Revised Regulations of Ontario, 1990» en anglais.

Titre

5 Il est déposé, avec la série de volumes imprimés, une annexe qui est préparée par les commissaires et qui énumère :

Annexe

a) tous les règlements figurant dans l'annexe des Règlements refondus de l'Ontario de 1980 qui n'ont pas été abrogés;

b) tous les règlements déposés après le 31 décembre 1980 et avant le 1^{er} janvier 1991 qui ont été omis par les commissaires parce qu'ils ne sont pas de portée générale.

6 (1) Après le dépôt, conformément à l'article 4, de la série de volumes imprimés, le lieutenant-gouverneur peut, par proclamation, fixer le jour où les règlements codifiés et refondus entrent en vigueur.

Proclamation

(2) À partir du jour fixé, les Règlements refondus de l'Ontario de 1980 et les règlements déposés aux termes de la *Loi sur les règlements* après le 31 décembre 1980 et avant le 1^{er} janvier 1991 sont abrogés.

Effet

L.R.O. 1980,
chap. 446

(3) Le paragraphe (2) n'a pas pour effet d'abroger un règlement figurant dans l'annexe préparée et déposée aux termes de l'article 5.

Exception

7 (1) Les règlements déposés après le 31 décembre 1990 et avant le jour de l'entrée en vigueur des Règlements refondus de l'Ontario de 1990 qui renvoient à des règlements qui doivent faire partie des Règlements refondus de l'Ontario de 1990 ou à des lois ou à des dispositions qui doivent faire partie des Lois refondues de l'Ontario de 1990 sont réputés renvoyer aux règlements correspondants des Règlements refondus de l'Ontario de 1990 ou aux lois ou aux dispositions correspondantes des Lois refondues de l'Ontario de 1990, selon le cas.

Règlements
déposés entre
le 1^{er} janvier
1990 et la
proclamation
des
L.R.O. de
1990

Publication
of supple-
mentary
revision

(2) After the Revised Regulations of Ontario, 1990 come into force, the commissioners shall cause the regulations filed during the period described in subsection (1), with appropriate changes, to be published in *The Ontario Gazette*.

Effect

(3) When the supplementary revision is published in *The Ontario Gazette*,

(a) the regulations contained in it shall be deemed to have been filed on the day the Revised Regulations of Ontario, 1990 came into force; and

(b) the regulations filed during the period described in subsection (1) shall be deemed to have been revoked on that day.

References to
revoked
regulations

8. After the Revised Regulations of Ontario, 1990 come into force, a reference in an unrevoked and unconsolidated regulation or in any other document to a regulation that is revoked, replaced and consolidated shall be deemed to be reference to the corresponding regulation in the Revised Regulations of Ontario, 1990.

Evidence

9. The texts that purport to be printed by the Queen's Printer as the Revised Regulations of Ontario, 1990 shall be received in evidence as those revised regulations without further proof.

Distribution
and sale

10. The Lieutenant Governor in Council may direct in what manner the Revised Regulations of Ontario, 1990 shall be distributed and the price at which copies shall be sold by the Queen's Printer.

Production
cost,
remuneration
and expenses

11. The cost of producing the Revised Regulations of Ontario, 1990, including the remuneration and expenses of the commissioners and the persons who assist them, shall be paid out of the moneys appropriated for the purpose by the Legislature.

Citation

12. A regulation in the Revised Regulations of Ontario, 1990 may be cited as "Revised Regulations of Ontario, 1990, Regulation (*number*)", as "Règlements refondus de l'Ontario de 1990, Règlement (*number*)", as "R.R.O. 1990, Reg. (*number*)" or as "R.R.O. 1990, Règl. (*number*)".

(2) Après l'entrée en vigueur des Règlements refondus de l'Ontario de 1990, les commissaires font publier dans la *Gazette de l'Ontario* les règlements déposés pendant la période visée au paragraphe (1), avec les modifications qui s'imposent.

Publication de la refonte supplémentaire

(3) Lorsque la refonte supplémentaire est publiée dans la *Gazette de l'Ontario* :

Effet

- a) les règlements qu'elle contient sont réputés avoir été déposés le jour de l'entrée en vigueur des Règlements refondus de l'Ontario de 1990;
- b) les règlements déposés pendant la période visée au paragraphe (1) sont réputés avoir été abrogés ce même jour.

8 Après l'entrée en vigueur des Règlements refondus de l'Ontario de 1990, le renvoi, soit dans un règlement qui n'est ni abrogé ni codifié, soit dans tout autre document, d'un règlement qui est révoqué, remplacé et codifié, est réputé un renvoi au règlement correspondant des Règlements refondus de l'Ontario de 1990.

Renvois aux règlements abrogés

9 Les textes qui se présentent comme ayant été imprimés par l'Imprimeur de la Reine sous le titre de Règlements refondus de l'Ontario de 1990 sont reçus en preuve à ce titre sans autre preuve.

Preuve

10 Le lieutenant-gouverneur en conseil peut ordonner de quelle manière les Règlements refondus de l'Ontario de 1990 sont distribués, ainsi que le prix auquel ils sont vendus par l'Imprimeur de la Reine.

Distribution et vente

11 Le coût de production des Règlements refondus de l'Ontario de 1990, y compris la rémunération et les débours des commissaires et des personnes qui les aident, est prélevé sur les sommes qu'affecte la Législature à cette fin.

Coût de production, rémunération et débours

12 La citation d'un règlement des Règlements refondus de l'Ontario de 1990 peut se faire selon l'une des formules suivantes : «Règlements refondus de l'Ontario de 1990, Règlement (numéro)»; «Revised Regulations of Ontario, 1990, Regulation (numéro)»; «R.R.O. 1990, Règl. (numéro)»; «R.R.O. 1990, Reg. (numéro)».

Citation

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 *Regulations Revision Act, 1989*.

13 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

14 Le titre abrégé de la présente loi est *Loi de 1989 sur la refonte des règlements*. Titre abrégé

1001
1002
1003
1004

76

81



Bill 76

An Act to amend the Election Act, 1984

Mr. Cousens

1st Reading November 6th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill exempts members of the Canadian Forces and their spouses and children who live with them from the requirement of having resided in Ontario for the six months immediately before polling day for the purpose of being entitled to vote in an election to the Legislative Assembly.

Bill 76

1989

An Act to amend the Election Act, 1984

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

1. Section 15 of the *Election Act, 1984*, being chapter 54, is amended by adding thereto the following subsection:

(1a) Clause (1) (c), as re-enacted by subsection (2), does not apply to a person who on the general polling day is a member of the Canadian Forces as defined by the *National Defence Act* (Canada) or a member's spouse or child living with him or her.

Exemption
from
cl.(1) (c)
R.S.C. 1985,
c. N-5

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

Commence-
ment

3. The short title of this Act is the *Election Amendment Act, 1989*.

Short title



Bill 77

An Act respecting International Development

Mr. Johnston
(Scarborough West)

1st Reading November 6th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to give the Council for International Cooperation - Ontario the responsibility for directing the allocation and distribution of money that may be appropriated by the Ontario Legislature to assist the various international voluntary development organizations that operate in Ontario. The Bill would authorize the Council to direct that grants be paid to support education projects in Ontario, development projects and emergency relief projects.

Bill 77

1989

An Act respecting International Development

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

“Council” means the Council for International Cooperation - Ontario;

“international voluntary development organization” means a non-profit organization that operates in Ontario and that is engaged in international development activities, but does not include an agency, board or commission established by the Government of Ontario or another province or territory of Canada or the Government of Canada;

“Minister” means the Minister of Intergovernmental Affairs.

2. The Council shall be responsible for directing the allocation and distribution of any moneys that may be appropriated by the Legislature to assist international voluntary development organizations.

Responsibilities of Council

3.—(1) An international voluntary development organization may apply to the Council for a grant to support an education project in Ontario, a development project or an emergency relief project.

Application for grant

(2) The Council shall review each application that is submitted to it under subsection (1).

Review of applications

(3) Upon completing its review of an application, the Council may direct the Treasurer of Ontario to pay a grant to the international voluntary development organization out of the moneys appropriated by the Legislature.

Grant

4. The Council shall consult and cooperate with the Canadian International Development Agency.

Cooperation

Annual
report

5.—(1) The Council shall make a report annually to the Minister with respect to the carrying out of its responsibilities under this Act.

Idem

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the annual report before the Assembly if it is in session or, if not, at the next session.

Reports

(3) The Council shall make further reports to the Minister in addition to the annual report as the Minister may require.

Audit

6.—(1) The accounts and financial transactions of the Council shall be audited annually by the Provincial Auditor, and reports of the audit shall be made by the Provincial Auditor to the Council and to the Minister.

Idem

R.S.O. 1980,
c. 35

(2) The Council shall be deemed to be an agency of the Crown for the purposes of the *Audit Act*.

Other grants

7. Nothing in this Act prevents the Government of Ontario from paying grants to international voluntary development organizations in addition to grants made under this Act.

Regulations

8. The Lieutenant Governor in Council may make regulations prescribing criteria to be considered by the Council in reviewing applications for grants.

Commence-
ment

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

Short title

10. The short title of this Act is the *International Development Act, 1989*.

Bill 78

An Act to amend the Highway Traffic Act

Mr. Wildman

1st Reading November 8th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to amend the *Highway Traffic Act* to add vehicles transporting livestock to the list of types of vehicles that are exempt from the basic weight restriction for reduced load periods.

Subsection 104a (1) of the Act sets out a general requirement that no commercial motor vehicle being operated on any designated highway during a reduced load period shall carry a load in excess of 5,000 kilograms per axle. Subsection 104a (2) sets out a list of types of vehicles that are exempt from the basic restriction of subsection 104a (1) and that are instead subject to a requirement that the maximum load per axle shall not exceed 7,500 kilograms. Under clause 104a (2) (c), vehicles transporting poultry are included in the list. The Bill amends clause 104a (2) (c) to add vehicles transporting livestock to the list.

Bill 78**1989****An Act to amend the Highway Traffic Act**

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

1. Clause 104a (2) (c) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 48, section 10, is amended by adding at the end thereof "or livestock".

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

3. The short title of this Act is the *Highway Traffic Amendment Act, 1989*. Short title



Bill 79

An Act to amend Various Statutes in connection with information to be filed and records to be kept by Corporations and Limited Partnerships

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations

1st Reading November 9th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends several statutes. The amendments primarily concern information to be filed and records to be kept by corporations and limited partnerships under the *Corporations Information Act* and the *Limited Partnerships Act*. The Bill also amends the *Business Corporations Act, 1982*, the *Corporations Act* and the *Corporations Tax Act*.

SECTION 1. This section contains amendments to the *Business Corporations Act, 1982*.

Subsection 1. New subsection 240 (2a) authorizes the Director to order the dissolution of a corporation that fails to comply with a filing requirement under the *Corporations Information Act* within a specified period.

Subsection 2. The amendment adds an internal reference to new subsection (2a).

Subsection 3. New section 272a provides that a certificate shall not be issued to a corporation that is in default of a filing requirement under the *Corporations Information Act* or that has unpaid fees or penalties.

SECTION 2. This section contains amendments to the *Corporations Act*.

Subsection 1. New subsection 5 (2) provides that supplementary letters patent shall not be issued to a corporation that is in default of a filing requirement under the *Corporations Information Act* or that has unpaid fees or penalties.

Subsection 2. Subsection 317 (9) of the Act currently provides that a dissolution order may be made against a corporation in default of section 5 of the *Corporations Information Act* 180 days after a notice is issued. The subsection is amended to provide that a dissolution order may be made against a corporation in default of any filing requirement under the *Corporations Information Act* ninety days after a notice is issued.

Subsection 3. Subsection 317 (10) of the Act currently provides that an application to the Lieutenant Governor for the revival of a corporation that has been dissolved may be made within two years after the date of dissolution. The amendment increases the time period to five years.

SECTION 3. This section contains amendments to the *Corporations Information Act*.

Subsection 1. Subsection 3 (1) of the Act is re-enacted and divided into two subsections. Under new subsection 3 (1), the information to be set out in an initial notice will be prescribed by the regulations.

Subsection 2. Subsection 3 (3) of the Act is repealed. The requirement to file a notice of change is now set out in new section 4a.

Subsection 3. Subsection 3 (4) of the Act is repealed. The exemption is now set out in new subsection 4a (4).

Subsection 3 (5) of the Act is repealed. The verification requirement is now set out in new subsection 4b (1).

Subsection 4. Subsection 3 (7) of the Act is repealed. The requirement that a corporation retain a copy of a notice is now set out in new subsections 4b (2) and (3).

Subsection 5. Section 4 of the Act is re-enacted and divided into two subsections. Under new subsection 4 (1), the information to be set out in an initial notice filed by an extra-provincial corporation will be prescribed by the regulations.

Subsection 6. New section 4a sets out the requirement to file a notice of change. Subsections 4a (1) to (3) replace existing subsection 3 (3) and subsection 4a (4) replaces existing subsection 3 (4).

New subsection 4b (1) sets out the verification requirement currently set out in subsection 3 (5).

New subsections 4b (2) and (3) set out the requirement that a corporation retain a copy of a notice. This requirement is currently set out in subsection 3 (7).

New section 4c authorizes the Minister to require a corporation to make a special filing for purposes of establishing or maintaining an electronic record database under new section 17a.

Subsections 7, 9 and 10. The amendments add internal references to new sections 4a and 4c.

Subsection 8. New section 6a authorizes the Minister to use several alternative methods to maintain records under the Act, including the use of information storage devices.

Subsection 11. New section 13a makes corporations liable to pay a late filing fee.

Subsection 12. Section 14 of the Act is re-enacted. New subsection 14 (1) provides that a corporation that is in default of a filing requirement or that has unpaid fees or penalties is not capable of maintaining a proceeding in Ontario in respect of the business of the corporation except with leave of the court. New subsection 14 (2) sets out the requirements to be satisfied in order to obtain leave.

New subsection 14 (3) provides that a contract is not invalid by reason only that it was entered into by a corporation that was in contravention of the Act or the regulations.

Subsection 13. The amendment adds a reference to new section 4c.

Subsection 14. Section 18 of the Act authorizes the making of regulations. The amendment adds several clauses to section 18 that are complementary to other amendments set out in the Bill.

SECTION 4. This section amends the *Corporations Tax Act*. New subsection 91 (4) authorizes the Minister of Revenue to provide to authorized employees of the Ministry of Consumer and Commercial Relations addresses of corporations obtained under the *Corporations Tax Act* for the purpose of sending special filing notices under section 4c of the *Corporations Information Act*.

SECTION 5. This section contains amendments to the *Limited Partnerships Act*.

Subsection 1. Subsection 3 (2) of the Act is re-enacted. New subsection 3 (2) requires a declaration creating a limited partnership to be signed by all of the general partners and to set out prescribed information. The Act currently requires a declaration to be signed by all of the partners.

Subsection 2. New section 3a requires the general partners of an Ontario limited partnership to maintain a current record of the limited partners setting out prescribed information. It is to be kept at the partnership's principal place of business in Ontario and be available for inspection by any person. Under existing clauses 3 (2) (c) and (d) of the Act, information about the limited partners is currently required to be set out in the declaration.

Subsections 3 to 7 and subsections 9 and 18. These amendments are consequential to the amendments that provide that information about the limited partners will now be set out in the record of limited partners rather than in the declaration.

Subsection 8. Subsection 17 (7) of the Act is amended to replace the reference to section 27 with a reference to new section 27a.

Subsections 10 and 13. Sections 19 and 26 of the Act are re-enacted. New subsection 19 (1) provides that no limited partnership that has unpaid fees or penalties or that is in default of a requirement to file a declaration and no member thereof is capable of maintaining a proceeding in Ontario in respect of the business carried on by the limited partnership except with leave of the court. New subsection 19 (2) sets out the requirements to be satisfied in order to obtain leave.

New subsection 19 (3) provides that a contract is not invalid by reason only that it was entered into by a limited partnership that was in contravention of the Act or the regulations.

New section 26 is similar to new section 19 but applies to extra-provincial limited partnerships.

Subsection 11. Subsection 24 (3) of the Act is amended to provide that a declaration filed by an extra-provincial limited partnership under subsection 24 (1) is to be signed by all of the general partners. The Act currently requires a declaration to be signed by all of the partners.

Subsection 12. New section 24a requires the general partners of an extra-provincial partnership that has filed a declaration under subsection 24 (1) to maintain a current record of the limited partners.

Subsections 14 to 16. Section 27 of the Act specifies which partners of a limited partnership may be held liable by a person who suffers a loss as a result of relying upon a false or misleading statement in a declaration. The section is amended to reflect that declarations will no longer be required to be signed by limited partners or to set out information about limited partners. In particular, clause 27 (c), which refers to certain limited partners, is repealed.

Subsection 17. New section 27a specifies which partners of a limited partnership may be held liable by a person who suffers a loss as a result of relying upon a false or misleading statement in the record of limited partners.

Subsection 19. Subsection 30 (1) of the Act is amended to clarify that the provision applies to limited partnerships only.

Subsection 20. Section 33 of the Act authorizes the making of regulations. Clause 33 (b) is re-enacted to authorize the making of regulations prescribing information to be set out in a declaration and information to be set out in a record of limited partners.

Bill 79

1989

An Act to amend Various Statutes in connection with information to be filed and records to be kept by Corporations and Limited Partnerships

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

1.—(1) Section 240 of the *Business Corporations Act, 1982*, being chapter 4, is amended by adding thereto the following subsection:

(2a) Where a corporation fails to comply with a filing requirement under the *Corporations Information Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with the requirement within ninety days after the notice is given.

Idem
R.S.O. 1980,
c. 96

(2) Subsection 240 (3) of the said Act is amended by striking out “subsection (1) or (2)” in the second line and inserting in lieu thereof “subsection (1), (2) or (2a)”.

(3) The said Act is amended by adding thereto the following section:

272a. Notwithstanding any provision of this Act requiring the Director to endorse a certificate, the Director shall not do so if a corporation is in default of a filing requirement under the *Corporations Information Act* or has any unpaid fees or penalties outstanding.

No certificate
if corporation
in default

R.S.O. 1980,
c. 96

2.—(1) Section 5 of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) Notwithstanding subsection (1), the Lieutenant Governor shall not issue supplementary letters patent to a corporation that is in default of a filing requirement under the *Cor-*

No supple-
mentary
letters patent
if corporation
in default

R.S.O. 1980,
c. 96

porations Information Act or that has any unpaid fees or penalties outstanding.

(2) Subsection 317 (9) of the said Act is amended by striking out "filing with the Minister a notice required under section 5 of" in the second line and inserting in lieu thereof "a filing requirement under" and by striking out "180" in the sixth line and inserting in lieu thereof "ninety".

(3) Subsection 317 (10) of the said Act is amended by striking out "two" in the fourth line and inserting in lieu thereof "five".

3.—(1) Subsection 3 (1) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 3, section 3, is repealed and the following substituted therefor:

Initial notice

(1) Every corporation other than an extra-provincial corporation or a corporation of a class exempted by the regulations shall file with the Minister an initial notice setting out the prescribed information as of the date of filing.

Idem

(1a) The initial notice shall be filed within sixty days after the date of incorporation, amalgamation or continuation of the corporation.

(2) Subsection 3 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 3, section 3, is repealed.

(3) Subsections 3 (4) and (5) of the said Act are repealed.

(4) Subsection 3 (7) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 2, is repealed.

(5) Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 3, section 4, is repealed and the following substituted therefor:

Initial notice,
extra-
provincial
corporation

4.—(1) Every extra-provincial corporation, other than a corporation of a class exempted by the regulations, that begins to carry on business in Ontario shall file with the Minister an initial notice setting out the prescribed information as of the date of filing.

Idem

(2) The initial notice shall be filed within sixty days after the date the corporation begins to carry on business in Ontario.

(6) The said Act is amended by adding thereto the following sections:

4a.—(1) Every corporation shall file with the Minister a notice of change for every change in the information filed under subsection 3 (1) or 4 (1) within fifteen days after the change takes place. Notice of change

(2) The notice of change shall repeat the information required under subsection 3 (1) or 4 (1), whichever is applicable, and shall specify any changes that have taken place and the dates of the changes. Idem

(3) It is not necessary to file a notice of change in respect of a director's retirement and subsequent re-election for the next term of office. Exception

(4) A corporation incorporated under the laws of Ontario that changes only its name does not need to file a notice of change. Idem

4b.—(1) Every notice filed under subsection 3 (1), 4 (1) or 4a (1) shall be verified by the certificate of an officer or director of the corporation or other individual having knowledge of the affairs of the corporation. Verification

(2) The corporation shall retain a duplicate of the last notice filed under this Act and shall maintain a copy for examination by any shareholder, member, director, officer or creditor of the corporation during the normal business hours of the corporation at its registered office or principal place of business in Ontario. Copy at registered office

(3) A person examining a document under subsection (2) may make copies of or take extracts from it. Idem

4c.—(1) The Minister may at any time by written notice require any corporation other than a corporation of a class exempted by the regulations to make a special filing for the purposes of establishing or maintaining an electronic record database under section 6a. Special filing

(2) Upon receipt of the notice, a corporation shall make the special filing in the prescribed form and manner within the prescribed time. Idem

(3) The special filing shall contain the information required by subsection 3 (1) or 4 (1), whichever is applicable. Idem

(7) Section 5 of the said Act is amended by striking out “section 3 or 4” in the fourth line and inserting in lieu thereof “section 3, 4, 4a or 4c”.

(8) The said Act is further amended by adding thereto the following section:

Form of records

6a.—(1) Records required by this Act to be prepared and maintained by the Minister may be in bound or loose-leaf form or in a photographic film form or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Idem

(2) If records maintained by the Minister are prepared and maintained otherwise than in written form, the Minister shall furnish any copy required to be furnished under subsection 7 (2) in an intelligible written form.

Idem

(3) A report reproduced from records prepared and maintained otherwise than in written form that purports to be certified by the Minister is, without proof of the Minister’s office or signature, admissible in evidence to the same extent as the original written records would have been.

Copies

(4) The Minister is not required to produce the original of a document if a copy is furnished in compliance with subsection (2).

Idem

(5) For the purposes of this section, a document is a copy of an original if it contains all the information contained in the original.

(9) Subsection 7 (1) of the said Act is amended by inserting after “4” in the third line “4a, 4c”.

(10) Subsection 7 (2) of the said Act is amended by inserting after “4” in the third line “4a, 4c”.

(11) The said Act is further amended by adding thereto the following section:

Late filing fee

13a. A corporation that files a notice after the time set out in this Act or the regulations shall pay the prescribed late filing fee.

(12) Section 14 of the said Act is repealed and the following substituted therefor:

14.—(1) A corporation that is in default of a requirement under this Act to file a notice or that has unpaid fees or penalties is not capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the corporation except with leave of the court. Ability to sue

(2) The court shall grant leave if the court is satisfied that, Idem

- (a) the failure to file the notice or pay the fees or penalties was inadvertent;
- (b) there is no evidence that the public has been deceived or misled; and
- (c) at the time of the application to the court, the corporation has filed all notices required by this Act and has no unpaid fees or penalties.

(3) No contract is void or voidable by reason only that it was entered into by a corporation that was in contravention of this Act or the regulations at the time the contract was made. Contracts valid

(13) Clause 18 (a) of the said Act is amended by striking out “section 3 or 4” in the second line and inserting in lieu thereof “section 3, 4 or 4c”.

(14) Section 18 of the said Act is amended by adding thereto the following clauses:

- (g) prescribing the information required by subsections 3 (1) and 4 (1);
- (h) prescribing late filing fees;
- (i) prescribing the form and manner in which special filings under section 4c shall be made;
- (j) prescribing the time within which special filings under section 4c shall be made;
- (k) prescribing alternative methods of filing;
- (l) prescribing anything referred to in this Act as prescribed.

4. Section 91 of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1988, chapter 42, section 19, is further amended by adding thereto the following subsection:

Exception (4) Notwithstanding subsection (1), the Minister may, upon request of the Minister of Consumer and Commercial Relations, provide addresses of corporations obtained under this Act to authorized employees of the Ministry of Consumer and Commercial Relations for the purpose of sending special filing notices under section 4c of the *Corporations Information Act*.

R.S.O. 1980,
c. 96

5.—(1) Subsection 3 (2) of the *Limited Partnerships Act*, being chapter 241 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Declaration (2) A declaration shall be signed by all of the general partners desiring to form a limited partnership and shall state the prescribed information.

(2) The said Act is amended by adding thereto the following section:

Record of limited partners **3a.—(1) The general partners of every limited partnership other than an extra-provincial limited partnership shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information.**

Where record to be kept (2) The record of limited partners shall be kept at the limited partnership's principal place of business in Ontario.

Right to inspect (3) Any person may inspect the record of limited partners during the normal business hours of the limited partnership and may make copies of and take extracts from it.

Registrar may require copy of record (4) The Registrar may at any time by written notice require any general partner to provide to the Registrar or any other person a copy of the record of limited partners.

Copy of record to be provided (5) Upon receipt of the Registrar's notice, the general partner to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar or any other person specified in the notice.

(3) Section 8 of the said Act is amended by striking out "declaration" in the fourth line and inserting in lieu thereof "record of limited partners".

(4) Subsection 15 (1) of the said Act is amended by striking out "declaration" in the fourth line and inserting in lieu thereof "record of limited partners".

(5) Section 16 of the said Act is amended by striking out "declaration in accordance with section 18" in the second and

third lines and inserting in lieu thereof "record of limited partners".

(6) Subsection 17 (5) of the said Act is amended by striking out "declaration is amended in accordance with section 18" in the third line and inserting in lieu thereof "record of limited partners is amended".

(7) Subsection 17 (6) of the said Act is amended by striking out "the partnership agreement or the declaration" in the fifth line and inserting in lieu thereof "the partnership agreement, the declaration or the record of limited partners".

(8) Subsection 17 (7) of the said Act is amended by striking out "27" in the second line and inserting in lieu thereof "27a".

(9) Subsection 18 (4) of the said Act is repealed.

(10) Section 19 of the said Act is repealed and the following substituted therefor:

19.—(1) No limited partnership that has unpaid fees or penalties or in respect of which a declaration has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the limited partnership except with leave of the court. Ability to sue

(2) The court shall grant leave if the court is satisfied that, Idem

(a) the failure to pay the fees or penalties or file the declaration was inadvertent;

(b) there is no evidence that the public has been deceived or misled; and

(c) at the time of the application to the court, the limited partnership has no unpaid fees or penalties and has filed all declarations required by this Act.

(3) No contract is void or voidable by reason only that it was entered into by a limited partnership that was in contravention of this Act or the regulations at the time the contract was made. Contracts valid

(11) Subsection 24 (3) of the said Act is amended by inserting after "the" in the second line "general".

(12) The said Act is further amended by adding thereto the following section:

Record of limited partners

24a.—(1) The general partners of every extra-provincial limited partnership that has filed a declaration under subsection 24 (1) shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information.

Where record to be kept

(2) Subject to subsection (3), the record of limited partners shall be kept at the limited partnership's principal place of business in Ontario.

Idem

(3) If an extra-provincial limited partnership does not have a principal place of business in Ontario, the record of limited partners shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 24 (4).

Right to inspect

(4) Any person may inspect the record of limited partners during the normal business hours of the limited partnership or the limited partnership's attorney and representative and may make copies of and take extracts from it.

Registrar may require copy of record

(5) The Registrar may at any time by written notice require any general partner or a limited partnership's attorney and representative to provide to the Registrar or any other person a copy of the record of limited partners.

Copy of record to be provided

(6) Upon receipt of the Registrar's notice, the person to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar or other person specified in the notice.

(13) Section 26 of the said Act is repealed and the following substituted therefor:

Ability to sue

26.—(1) No extra-provincial limited partnership that has unpaid fees or penalties or in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the extra-provincial limited partnership except with leave of the court.

Idem

(2) The court shall grant leave if the court is satisfied that,

(a) the failure to pay the fees or penalties or file the declaration or power of attorney was inadvertent;

- (b) there is no evidence that the public has been deceived or misled; and
- (c) at the time of the application to the court, the extra-provincial limited partnership has no unpaid fees or penalties and has filed all declarations and powers of attorney required by this Act.

(3) No contract is void or voidable by reason only that it was entered into by an extra-provincial limited partnership that was in contravention of this Act or the regulations at the time the contract was made. Contracts
valid

(14) Clause 27 (a) of the said Act is amended by inserting after "every" in the first line "general" and by adding at the end thereof "and".

(15) Clause 27 (b) of the said Act is amended by striking out "and" in the fourth line.

(16) Clause 27 (c) of the said Act is repealed.

(17) The said Act is further amended by adding thereto the following section:

27a. Where a record of limited partners contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable. Effect of
false
statement in
record of
limited
partners

- (a) every general partner; and
- (b) every limited partner who became aware that the statement was false or misleading and failed within reasonable time to take steps to cause the record of limited partners to be corrected.

(18) Clause 28 (d) of the said Act is repealed and the following substituted therefor:

- (d) takes steps to cause the record of limited partners to be amended to show the person to be a limited partner.

(19) Subsection 30 (1) of the said Act is amended by inserting after "Every" in the first line "limited".

(20) Clause 33 (b) of the said Act is repealed and the following substituted therefor:

- (b) prescribing information to be set out in a declaration filed under this Act and information to be set out in a record of limited partners.

Commence-
ment

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

Short title

7. The short title of this Act is the *Business Information Statute Law Amendment Act, 1989*.





Bill 79

*(Chapter 69
Statutes of Ontario, 1989)*

An Act to amend Various Statutes in connection with information to be filed and records to be kept by Corporations and Limited Partnerships

The Hon. G. Sorbara
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	November 9th, 1989
<i>2nd Reading</i>	December 13th, 1989
<i>3rd Reading</i>	December 14th, 1989
<i>Royal Assent</i>	December 14th, 1989

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Bill 79

1989

An Act to amend Various Statutes in connection with information to be filed and records to be kept by Corporations and Limited Partnerships

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

1.—(1) Section 240 of the *Business Corporations Act, 1982*, being chapter 4, is amended by adding thereto the following subsection:

(2a) Where a corporation fails to comply with a filing requirement under the *Corporations Information Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with the requirement within ninety days after the notice is given.

Idem
R.S.O. 1980,
c. 96

(2) Subsection 240 (3) of the said Act is amended by striking out "subsection (1) or (2)" in the second line and inserting in lieu thereof "subsection (1), (2) or (2a)".

(3) The said Act is amended by adding thereto the following section:

272a. Notwithstanding any provision of this Act requiring the Director to endorse a certificate, the Director shall not do so if a corporation is in default of a filing requirement under the *Corporations Information Act* or has any unpaid fees or penalties outstanding.

No certificate
if corporation
in default
R.S.O. 1980,
c. 96

2.—(1) Section 5 of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) Notwithstanding subsection (1), the Lieutenant Governor shall not issue supplementary letters patent to a corporation that is in default of a filing requirement under the *Cor-*

No supple-
mentary
letters patent
if corporation
in default
R.S.O. 1980,
c. 96

porations Information Act or that has any unpaid fees or penalties outstanding.

(2) Subsection 317 (9) of the said Act is amended by striking out "filing with the Minister a notice required under section 5 of" in the second line and inserting in lieu thereof "a filing requirement under" and by striking out "180" in the sixth line and inserting in lieu thereof "ninety".

(3) Subsection 317 (10) of the said Act is amended by striking out "two" in the fourth line and inserting in lieu thereof "five".

3.—(1) Subsection 3 (1) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 3, section 3, is repealed and the following substituted therefor:

Initial notice

(1) Every corporation other than an extra-provincial corporation or a corporation of a class exempted by the regulations shall file with the Minister an initial notice setting out the prescribed information as of the date of filing.

Idem

(1a) The initial notice shall be filed within sixty days after the date of incorporation, amalgamation or continuation of the corporation.

(2) Subsection 3 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 3, section 3, is repealed.

(3) Subsections 3 (4) and (5) of the said Act are repealed.

(4) Subsection 3 (7) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 2, is repealed.

(5) Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 3, section 4, is repealed and the following substituted therefor:

Initial notice,
extra-
provincial
corporation

4.—(1) Every extra-provincial corporation, other than a corporation of a class exempted by the regulations, that begins to carry on business in Ontario shall file with the Minister an initial notice setting out the prescribed information as of the date of filing.

Idem

(2) The initial notice shall be filed within sixty days after the date the corporation begins to carry on business in Ontario.

(6) The said Act is amended by adding thereto the following sections:

4a.—(1) Every corporation shall file with the Minister a notice of change for every change in the information filed under subsection 3 (1) or 4 (1) within fifteen days after the change takes place. Notice of change

(2) The notice of change shall repeat the information required under subsection 3 (1) or 4 (1), whichever is applicable, and shall specify any changes that have taken place and the dates of the changes. Idem

(3) It is not necessary to file a notice of change in respect of a director's retirement and subsequent re-election for the next term of office. Exception

(4) A corporation incorporated under the laws of Ontario that changes only its name does not need to file a notice of change. Idem

4b.—(1) Every notice filed under subsection 3 (1), 4 (1) or 4a (1) shall be verified by the certificate of an officer or director of the corporation or other individual having knowledge of the affairs of the corporation. Verification

(2) The corporation shall retain a duplicate of the last notice filed under this Act and shall maintain a copy for examination by any shareholder, member, director, officer or creditor of the corporation during the normal business hours of the corporation at its registered office or principal place of business in Ontario. Copy at registered office

(3) A person examining a document under subsection (2) may make copies of or take extracts from it. Idem

4c.—(1) The Minister may at any time by written notice require any corporation other than a corporation of a class exempted by the regulations to make a special filing for the purposes of establishing or maintaining an electronic record database under section 6a. Special filing

(2) Upon receipt of the notice, a corporation shall make the special filing in the prescribed form and manner within the prescribed time. Idem

(3) The special filing shall contain the information required by subsection 3 (1) or 4 (1), whichever is applicable. Idem

(7) Section 5 of the said Act is amended by striking out “section 3 or 4” in the fourth line and inserting in lieu thereof “section 3, 4, 4a or 4c”.

(8) The said Act is further amended by adding thereto the following section:

Form of records

6a.—(1) Records required by this Act to be prepared and maintained by the Minister may be in bound or loose-leaf form or in a photographic film form or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Idem

(2) If records maintained by the Minister are prepared and maintained otherwise than in written form, the Minister shall furnish any copy required to be furnished under subsection 7 (2) in an intelligible written form.

Idem

(3) A report reproduced from records prepared and maintained otherwise than in written form that purports to be certified by the Minister is, without proof of the Minister’s office or signature, admissible in evidence to the same extent as the original written records would have been.

Copies

(4) The Minister is not required to produce the original of a document if a copy is furnished in compliance with subsection (2).

Idem

(5) For the purposes of this section, a document is a copy of an original if it contains all the information contained in the original.

(9) Subsection 7 (1) of the said Act is amended by inserting after “4” in the third line “4a, 4c”.

(10) Subsection 7 (2) of the said Act is amended by inserting after “4” in the third line “4a, 4c”.

(11) The said Act is further amended by adding thereto the following section:

Late filing fee

13a. A corporation that files a notice after the time set out in this Act or the regulations shall pay the prescribed late filing fee.

(12) Section 14 of the said Act is repealed and the following substituted therefor:

14.—(1) A corporation that is in default of a requirement under this Act to file a notice or that has unpaid fees or penalties is not capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the corporation except with leave of the court. Ability to sue

(2) The court shall grant leave if the court is satisfied that. Idem

- (a) the failure to file the notice or pay the fees or penalties was inadvertent;
- (b) there is no evidence that the public has been deceived or misled; and
- (c) at the time of the application to the court, the corporation has filed all notices required by this Act and has no unpaid fees or penalties.

(3) No contract is void or voidable by reason only that it was entered into by a corporation that was in contravention of this Act or the regulations at the time the contract was made. Contracts valid

(13) Clause 18 (a) of the said Act is amended by striking out “section 3 or 4” in the second line and inserting in lieu thereof “section 3, 4 or 4c”.

(14) Section 18 of the said Act is amended by adding thereto the following clauses:

- (g) prescribing the information required by subsections 3 (1) and 4 (1);
- (h) prescribing late filing fees;
- (i) prescribing the form and manner in which special filings under section 4c shall be made;
- (j) prescribing the time within which special filings under section 4c shall be made;
- (k) prescribing alternative methods of filing;
- (l) prescribing anything referred to in this Act as prescribed.

4. Section 91 of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1988, chapter 42, section 19, is further amended by adding thereto the following subsection:

Exception (4) Notwithstanding subsection (1), the Minister may, upon request of the Minister of Consumer and Commercial Relations, provide addresses of corporations obtained under this Act to authorized employees of the Ministry of Consumer and Commercial Relations for the purpose of sending special filing notices under section 4c of the *Corporations Information Act*.

R.S.O. 1980,
c. 96

5.—(1) Subsection 3 (2) of the *Limited Partnerships Act*, being chapter 241 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Declaration (2) A declaration shall be signed by all of the general partners desiring to form a limited partnership and shall state the prescribed information.

(2) The said Act is amended by adding thereto the following section:

Record of limited partners **3a.—(1) The general partners of every limited partnership other than an extra-provincial limited partnership shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information.**

Where record to be kept (2) The record of limited partners shall be kept at the limited partnership's principal place of business in Ontario.

Right to inspect (3) Any person may inspect the record of limited partners during the normal business hours of the limited partnership and may make copies of and take extracts from it.

Registrar may require copy of record (4) The Registrar may at any time by written notice require any general partner to provide to the Registrar or any other person a copy of the record of limited partners.

Copy of record to be provided (5) Upon receipt of the Registrar's notice, the general partner to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar or any other person specified in the notice.

(3) Section 8 of the said Act is amended by striking out "declaration" in the fourth line and inserting in lieu thereof "record of limited partners".

(4) Subsection 15 (1) of the said Act is amended by striking out "declaration" in the fourth line and inserting in lieu thereof "record of limited partners".

(5) Section 16 of the said Act is amended by striking out "declaration in accordance with section 18" in the second and

third lines and inserting in lieu thereof "record of limited partners".

(6) Subsection 17 (5) of the said Act is amended by striking out "declaration is amended in accordance with section 18" in the third line and inserting in lieu thereof "record of limited partners is amended".

(7) Subsection 17 (6) of the said Act is amended by striking out "the partnership agreement or the declaration" in the fifth line and inserting in lieu thereof "the partnership agreement, the declaration or the record of limited partners".

(8) Subsection 17 (7) of the said Act is amended by striking out "27" in the second line and inserting in lieu thereof "27a".

(9) Subsection 18 (4) of the said Act is repealed.

(10) Section 19 of the said Act is repealed and the following substituted therefor:

19.—(1) No limited partnership that has unpaid fees or penalties or in respect of which a declaration has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the limited partnership except with leave of the court. Ability to sue

(2) The court shall grant leave if the court is satisfied that, Idem

(a) the failure to pay the fees or penalties or file the declaration was inadvertent;

(b) there is no evidence that the public has been deceived or misled; and

(c) at the time of the application to the court, the limited partnership has no unpaid fees or penalties and has filed all declarations required by this Act.

(3) No contract is void or voidable by reason only that it was entered into by a limited partnership that was in contravention of this Act or the regulations at the time the contract was made. Contracts valid

(11) Subsection 24 (3) of the said Act is amended by inserting after "the" in the second line "general".

(12) The said Act is further amended by adding thereto the following section:

Record of
limited
partners

24a.—(1) The general partners of every extra-provincial limited partnership that has filed a declaration under subsection 24 (1) shall maintain a current record of the limited partners stating, for each limited partner, the prescribed information.

Where record
to be kept

(2) Subject to subsection (3), the record of limited partners shall be kept at the limited partnership's principal place of business in Ontario.

Idem

(3) If an extra-provincial limited partnership does not have a principal place of business in Ontario, the record of limited partners shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 24 (4).

Right to
inspect

(4) Any person may inspect the record of limited partners during the normal business hours of the limited partnership or the limited partnership's attorney and representative and may make copies of and take extracts from it.

Registrar
may require
copy of
record

(5) The Registrar may at any time by written notice require any general partner or a limited partnership's attorney and representative to provide to the Registrar or any other person a copy of the record of limited partners.

Copy of
record to be
provided

(6) Upon receipt of the Registrar's notice, the person to whom it is directed shall, within the time specified in the notice, provide a copy of the record of limited partners to the Registrar or other person specified in the notice.

(13) Section 26 of the said Act is repealed and the following substituted therefor:

Ability to
sue

26.—(1) No extra-provincial limited partnership that has unpaid fees or penalties or in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of maintaining a proceeding in a court in Ontario in respect of the business carried on by the extra-provincial limited partnership except with leave of the court.

Idem

(2) The court shall grant leave if the court is satisfied that,

(a) the failure to pay the fees or penalties or file the declaration or power of attorney was inadvertent;

(b) there is no evidence that the public has been deceived or misled; and

(c) at the time of the application to the court, the extra-provincial limited partnership has no unpaid fees or penalties and has filed all declarations and powers of attorney required by this Act.

(3) No contract is void or voidable by reason only that it was entered into by an extra-provincial limited partnership that was in contravention of this Act or the regulations at the time the contract was made. Contracts
valid

(14) Clause 27 (a) of the said Act is amended by inserting after "every" in the first line "general" and by adding at the end thereof "and".

(15) Clause 27 (b) of the said Act is amended by striking out "and" in the fourth line.

(16) Clause 27 (c) of the said Act is repealed.

(17) The said Act is further amended by adding thereto the following section:

27a. Where a record of limited partners contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable. Effect of
false
statement in
record of
limited
partners

(a) every general partner; and

(b) every limited partner who became aware that the statement was false or misleading and failed within reasonable time to take steps to cause the record of limited partners to be corrected.

(18) Clause 28 (d) of the said Act is repealed and the following substituted therefor:

(d) takes steps to cause the record of limited partners to be amended to show the person to be a limited partner.

(19) Subsection 30 (1) of the said Act is amended by inserting after "Every" in the first line "limited".

(20) Clause 33 (b) of the said Act is repealed and the following substituted therefor:

- (b) prescribing information to be set out in a declaration filed under this Act and information to be set out in a record of limited partners.

Commence-
ment

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

Short title

7. The short title of this Act is the *Business Information Statute Law Amendment Act, 1989*.

Bill 80

An Act to amend the Ombudsman Act and the Child and Family Services Act, 1984

The Hon. I. Scott
Attorney General

1st Reading November 21st, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends the *Ombudsman Act* in the following respects:

Jurisdiction.

SECTIONS 5 and 6. The jurisdiction of the Ombudsman is addressed. The existing Act excludes Cabinet deliberations and proceedings from review by the Ombudsman. Decisions of Cabinet will be explicitly excluded from the Ombudsman's review. The decisions of tribunals in proceedings that include a hearing will also be excluded from review by the Ombudsman. The Ombudsman's responsibilities are expanded to include public education.

Scope of investigation.

SECTIONS 10 and 11. The scope of the Ombudsman's investigations is broadened. With the consent of the parties, the Ombudsman will be able to consult with any person concerned in an investigation, and not just the complainant. The Ombudsman's powers to require a person to produce documents are expanded.

Procedural changes.

Subsection 6 (2) and section 9. Under the existing Act, the Ombudsman may only refuse a complaint after beginning an investigation. An amendment will permit the Ombudsman to refuse to investigate a complaint at any stage. The Ombudsman will also be able to apply to the Divisional Court concerning the interpretation of the Act.

Confidential information.

SECTIONS 4, 8 and 15. The Ombudsman will be permitted to disclose confidential information for the prosecution of an offence under the Act or to advise the head of a governmental organization about a breach of duty or misconduct by a government employee. Letters between the Ombudsman and certain children who are in custody shall not be opened by the person with custody of a child. A corresponding amendment is made to the *Child and Family Services Act, 1984*.

Reports by the Ombudsman.

SECTIONS 3 and 13. The Ombudsman's authority to report to the Assembly will be expanded to include general reports. The Ombudsman will be able to report the outcome of an investigation to the head of any governmental organization involved and to any person who gave information in aid of the investigation.

Government ability to respond to the Ombudsman's recommendations.

SECTION 13. Under the amendments, the head of a governmental organization may authorize the reconsideration of a decision in a case, based upon the Ombudsman's recommendation, if there is no other authority for the reconsideration. The Lieutenant Governor in Council or a Minister may authorize a payment to a complainant based upon the Ombudsman's recommendation in a case.

Administration.

SECTIONS 1, 2, 7, 12 and 14. The Ombudsman's staff will be required to swear an oath of secrecy. The Ombudsman may lease or purchase services in the course of administering the Ombudsman's office. If the Assembly intends to make rules for the guidance of the Ombudsman, the Ombudsman will be given reasonable notice and be permitted to make representations. Under the existing Act, the Ombudsman and the Ombudsman's staff cannot be called to give evidence about information acquired in the exercise of the Ombudsman's functions under the Act. This protection is extended to information learned in the intended exercise of the Ombudsman's functions. Subsections 22 (1) and (2) of the Act are consolidated into one subsection to clarify their meaning.

Bill 80

1989

**An Act to amend the Ombudsman Act and the
Child and Family Services Act, 1984**

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

1. The *Ombudsman Act*, being chapter 325 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a.—(1) Every officer and other employee of the Ombudsman shall take an oath of secrecy upon becoming so employed. Oath of
secrecy

(2) A breach of the oath of secrecy is grounds for dismissal. Cause for
dismissal

2. Section 9 of the said Act is amended by inserting after “equipment” in the second line “services”.

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

(2) The Ombudsman may make a report to the Assembly respecting a matter relating to the performance of the Ombudsman's duties. Special
reports

4.—(1) Subsection 13 (1) of the said Act is amended by striking out “subsection (2)” in the fifth line and inserting in lieu thereof “this section”.

(2) Section 13 of the said Act is amended by adding thereto the following subsection:

(3) The Ombudsman may disclose such information as the Ombudsman considers necessary, Idem

(a) in order to prosecute an offence under this Act; or

- (b) to the extent necessary to disclose to the head of a governmental organization a breach of duty or misconduct by an officer or employee of the governmental organization.

5. Clause 14 (b) of the said Act is amended by striking out “deliberations and proceedings” in the first line and inserting in lieu thereof “deliberations, proceedings and decisions”.

6.—(1) Section 15 of the said Act is amended by adding thereto the following subsection:

Public
education

(2a) The Ombudsman may engage in public education to inform members of the public of the Ombudsman’s function.

(2) Subsection 15 (5) of the said Act is repealed and the following substituted therefor:

Idem

(5) Nothing in this Act empowers the Ombudsman to investigate any decision or ruling by a tribunal that is constituted by or under any Act and that has a statutory power of decision in a proceeding in which the tribunal is required by law to hold a hearing or to give the parties to the proceeding an opportunity for a hearing.

Interpretation
R.S.O. 1980,
c. 484

(6) In subsection (5), “statutory power of decision” has the same meaning as set out in clause 1 (1) (d) of the *Statutory Powers Procedure Act*.

Application
to Divisional
Court

(7) The Ombudsman may apply to the Divisional Court for a declaratory order,

- (a) concerning the Ombudsman’s jurisdiction to investigate any case or class of cases under this Act; or
- (b) concerning the interpretation of any provision of this Act.

7. Section 16 of the said Act is amended by adding thereto the following subsection:

Ombudsman
to have
notice, etc.

(1a) The Assembly shall give the Ombudsman reasonable notice of its intention to make rules under subsection (1) and shall permit the Ombudsman to make representations concerning any proposed rules.

8.—(1) Clause 17 (2) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 55, section 225, is repealed and the following substituted therefor:

- (b) a child who is held in a place of open custody under section 91 of the *Child and Family Services Act*, 1984, c. 55, 1984.

(2) Section 17 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 225, is further amended by adding thereto the following subsection:

- (3) The person for the time being in charge of an institution, training school, place of secure or open custody or facility, as the case may be, shall immediately forward, unopened, any letter written by the Ombudsman to a person described in clauses (2) (a) to (d). Idem

9. Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

- (1) The Ombudsman may refuse to investigate or may discontinue an investigation of a complaint within the Ombudsman's jurisdiction if the Ombudsman is satisfied, Ombudsman may refuse to investigate complaint

- (a) that under the law or existing administrative practice there is an adequate remedy for the complainant, whether or not the complainant has pursued the remedy; or
- (b) that, having regard to all the circumstances of the case, any investigation or further investigation is unnecessary.

10. Section 19 of the said Act is amended by adding thereto the following subsection:

- (5a) With the consent of the complainant and the head of the governmental organization affected by an investigation, the Ombudsman may consult with any person that, in the Ombudsman's opinion, is concerned in the matter of an investigation. May consult others

11. Section 20 of the said Act is amended by adding thereto the following subsection:

- (2a) The Ombudsman may require a person referred to in clause (2) (c) to produce any documents or things that, in the Ombudsman's opinion, relate to a matter being investigated and that may be in the possession, control or power of the person. Production of documents, etc.

12. Subsections 22 (1) and (2) of the said Act are repealed and the following substituted therefor:

Procedure
after investi-
gation

(1) This section applies after the Ombudsman's investigation of a decision, recommendation, act or omission if the Ombudsman is of the opinion,

- (a) that the decision, recommendation, act or omission,
 - (i) appears to have been contrary to law,
 - (ii) was unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory,
 - (iii) was based wholly or partly on a mistake of law or fact, or
 - (iv) was wrong;
- (b) that a discretionary power was exercised,
 - (i) for an improper purpose,
 - (ii) on irrelevant grounds, or
 - (iii) after irrelevant considerations were taken into account; or
- (c) that reasons for a decision based on the exercise of a discretionary power should have been given.

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

Ombudsman
may report
results

23a.—(1) If the Ombudsman does not make a report to a governmental organization under subsection 22 (3) relating to a matter being investigated, the Ombudsman may inform the head of the governmental organization of the results of the investigation.

Idem

(2) The Ombudsman may inform any person who gave information or made representations relating to a matter being investigated of the results of the investigation.

Head may
authorize
reconsider-
ation, etc.

23b.—(1) The head of a governmental organization may authorize the reconsideration of a decision or recommendation in a case upon receiving a recommendation of the Ombudsman.

(2) Reasonable notice of the reconsideration of a decision or recommendation under this section shall be given to all persons who were entitled to be heard with respect to the original decision or recommendation.

Reasonable
notice
required

(3) Every person who receives a notice referred to in subsection (2) shall be given an opportunity to make representations respecting the reconsideration of a decision or recommendation in accordance with the normal procedures of the governmental organization that made the decision or recommendation.

Representations

(4) This section applies if there is no other authority for reconsidering a decision or recommendation of a governmental organization on the recommendation of the Ombudsman.

Application

23c.—(1) The minister responsible for the administration of a governmental organization may authorize a payment not exceeding \$1,000 to a complainant if the Ombudsman has recommended that the governmental organization pay a specified amount to the complainant.

Minister may
authorize
payment

(2) The Lieutenant Governor in Council, on the recommendation of the minister responsible for the administration of a governmental organization, may authorize a payment in excess of \$1,000 to a complainant if the Ombudsman has recommended that the governmental organization pay a specified amount to the complainant.

Lieutenant
Governor in
Council may
authorize
payment

(3) A payment under this section shall be made out of the Consolidated Revenue Fund.

Payment out
of the
Consolidated
Revenue
Fund

(4) This section applies if there is no other authority for making a payment that is recommended by the Ombudsman.

Application

14. Subsection 25 (2) of the said Act is amended by inserting after "exercise" in the fourth line "or intended exercise".

15. Section 99 of the *Child and Family Services Act, 1984*, being chapter 55, is amended by adding thereto the following subsection:

(4) The service provider or a member of the service provider's staff shall not read mail addressed to the Ontario Ombudsman from, or mail from the Ontario Ombudsman addressed to, a child described in clause 95 (b).

Idem

Commence-
ment

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

Short title

17. The short title of this Act is the *Ombudsman Statute Law Amendment Act, 1989*.

Bill 81

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

1st Reading November 23rd, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill contains further amendments to those parts of the *Courts of Justice Act, 1984* that were amended by Bill 2. The changes, other than housekeeping changes, are as follows:

Bill 2 allowed the Lieutenant Governor in Council to set the number of judges of the Court of Appeal. This Bill sets the minimum number of judges in addition to the Chief Justice and the Associate Chief Justice at fourteen and allows the Lieutenant Governor in Council to increase that number.

The Bill provides for an Associate Chief Justice of the Ontario Court.

A provision is added to provide for annual meetings of the judges of the Court of Appeal.

It is clarified that those provincial judges who were assigned to the Provincial Court (Criminal Division) or the Provincial Court (Family Division) on the 31st day of December, 1989 are included in the Provincial Division.

It is clarified that the Rules made under Part IV do not apply to the Unified Family Court except as provided in the Unified Family Court rules.

The *Partition Act* is added to the list of Acts in respect of which the Unified Family Court has jurisdiction.

Added to the list of members of the Civil Rules Committee is a provincial judge who was assigned to the Provincial Court (Civil Division) on the 1st day of October, 1989. Two Court of Appeal judges and eight Ontario Court (General Division) judges are to be appointed to that Committee, rather than one Court of Appeal judge and nine General Division judges.

The quorum for each of the rules committees is changed from a majority to one-third.

The Ontario Courts Advisory Council, which was to be discontinued under Bill 2, is revived and its membership is changed to reflect the new court structure.

The senior judge for the Unified Family Court is added to the membership of the Regional Courts Management Advisory Committee for the region in which the Unified Family Court is located.

The Lieutenant Governor in Council is authorized to prescribe by regulation the city or town in each region where the offices of the regional director of courts administration, the regional director of Crown attorneys and the regional senior judges are to be located.

It is clarified that judges who have authority to supervise and direct the sittings and assignment of judicial duties may assign cases and other judicial duties to individual judges.

Bill 2 provided that every judge of the Ontario Court (General Division) and the Unified Family Court may be addressed as "Your Honour" or as "Mr. or Mme. Justice . . .". This Bill provides that on a day to be named by proclamation all judges of the Ontario Court of Justice are to be so addressed.

The provisions concerning the functions of the Accountant of the Ontario Court (General Division) are repealed and replaced with a provision giving the Lieutenant Governor in Council authority to make regulations concerning those functions and providing for the officer or employee who is to exercise them.

As a transitional measure, the Rules Committee of the Supreme and District Courts is authorized to make rules for the Ontario Court (General Division) during the period from December 5th, 1989 to a day to be named by proclamation of the Lieutenant Governor.



Bill 81

1989

**An Act to amend the
Courts of Justice Act, 1984**

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

1. Subsection 2 (2) of the *Courts of Justice Act, 1984*, being chapter 11, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(2) The Court of Appeal has the jurisdiction conferred on it by this or any other Act, and in the exercise of its jurisdiction has all the powers historically exercised by the Court of Appeal for Ontario. Idem

2.—(1) Clause 3 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(c) fourteen other judges.

(2) Subsections 3 (2) and (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, are repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may by regulation increase the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice. Idem

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

8a.—(1) The judges of the Court of Appeal shall meet at least once in each year, on a day fixed by the Chief Justice of Ontario, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

Idem

(2) The judges shall report their recommendations to the Attorney General.

4.—(1) Subsection 11 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

(aa) the Associate Chief Justice of the Ontario Court.

(2) Subsection 11 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Additional judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court, Associate Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court.

R.S.C. 1985, c. J-1

5.—(1) Subsection 13 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Absence of Chief Justice of Ontario Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of the Ontario Court or, if both are unable to act, by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court.

(2) Subsection 13 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by inserting after “with” in the second line “the Associate Chief Justice of the Ontario Court and”.

6. Section 34 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding thereto the following clause:

(d) such provincial judges as were assigned to the Provincial Court (Criminal Division) or the Provincial Court (Family Division) on the 31st day of December, 1989.

7. Subsection 41 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “to the same position” in the last line and insert-

ing in lieu thereof "as Chief Judge or as a regional senior judge, as the case may be".

8. Subsection 46 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

(ca) the Associate Chief Justice of the Ontario Court.

9.—(1) Subsection 51 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(2) The regional senior judges of the General Division shall meet at least once in each year with the Chief Justice and the Associate Chief Justice of the Ontario Court, on a day fixed by the Chief Justice, in order to consider this Act, the rules of court and the administration of justice generally.

Meeting of regional senior judges

(2a) The regional senior judges of the Provincial Division shall meet at least once in each year with the Chief Judge of the Provincial Division, on a day fixed by the Chief Judge, in order to consider this Act, the rules of court and the administration of justice generally.

Idem

(2) Subsection 51 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(4) The judges meeting under this section shall report their recommendations to the Attorney General.

Report of recommendations

10. Clause 52 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by inserting after "Justice" in the second line "the Associate Chief Justice".

11. Subsection 63 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding at the end thereof "except as provided by the rules made under this section".

12. The Schedule to Part III of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following item:

9a. Partition Act

All

13.—(1) Clause 64 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Clause 64 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “one judge” in the first line and inserting in lieu thereof “two judges”.

(3) Clause 64 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “nine” in the first line and inserting in lieu thereof “eight”.

(4) Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

- (ca) one judge who was assigned to the Provincial Court (Civil Division) on the 1st day of October, 1989, who shall be appointed by the Chief Justice of the Ontario Court.

(5) Subsection 64 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “A majority” in the first line and inserting in lieu thereof “One-third”.

14.—(1) Clause 66 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 66 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “A majority” in the first line and inserting in lieu thereof “One-third”.

15.—(1) Clause 68 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 68 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out "A majority" in the first line and inserting in lieu thereof "One-third".

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

70.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts as it was constituted on the 1st day of November, 1989 may make rules for the Ontario Court (General Division) in relation to its practice and procedure, and may make rules for the General Division, even though they alter or conform to the substantive law, in relation to any of the matters set out in subsection 66 (2).

Transitional,
rule making
for General
Division

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

Idem

(3) Subsections (1) and (2) are repealed on a day to be named by proclamation of the Lieutenant Governor.

Repeal of
subss. (1)
and (2)

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

91a.—(1) There shall be an advisory council to be known as the Ontario Courts Advisory Council composed of,

Ontario
Courts
Advisory
Council

- (a) the Chief Justice of Ontario, who shall preside;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Justice of the Ontario Court;
- (d) the Associate Chief Justice of the Ontario Court;

- (e) the Chief Judge of the Ontario Court (Provincial Division);
- (f) the regional senior judges of the Ontario Court (General Division);
- (g) the regional senior judges of the Ontario Court (Provincial Division);
- (h) the senior judge for the Unified Family Court; and
- (i) the Co-ordinator of Justices of the Peace.

Mandate

(2) The Ontario Courts Advisory Council shall meet to consider any matter relating to the administration of the courts that is referred to it by the Attorney General or that it considers appropriate on its own initiative, and shall make recommendations on the matter to the Attorney General and to its members.

18. Clause 92 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

19. Subsection 92a (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act and prescribing the municipality in each region where the offices of the regional senior judges, the regional director of courts administration and the regional director of Crown attorneys are to be located.

20. Clause 92b (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (a) the regional senior judge of the Ontario Court (General Division), the regional senior judge of the Ontario Court (Provincial Division) and, in the region that includes the Unified Family Court, the senior judge for the Unified Family Court.

21. Paragraph 3 of subsection 93 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

3. Assigning cases and other judicial duties to individual judges.

22.—(1) Subsection 94 (1) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(1) Registrars, sheriffs, court clerks, assessment officers and any other administrative officers and employees that are considered necessary for the administration of the courts in Ontario may be appointed under the *Public Service Act*.

Appointment
of court
officers and
staff
R.S.O. 1980,
c. 418

(2) Subsection 94 (2) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 4, is amended by inserting after "clerk" in the second line "bailiff".

23. Section 100b of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 9, is amended by adding thereto the following subsection:

(3) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "(General Division)" in the first line and inserting in lieu thereof "of Justice".

Subs. (1)
amended

24. Sections 101a and 101b of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 10, are repealed and the following substituted therefor:

101a. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the officer or employee to whom money paid into the Ontario Court (General Division) shall be paid and providing for the vesting of that money and any securities in which that money is invested in that officer or employee;
- (b) governing the management and investment of money paid into a court;
- (c) providing for the payment of interest on money paid into a court and fixing the rate of interest so paid;

- (d) prescribing the officer or employee in whose name mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken;
- (e) respecting the deposit of the mortgages, securities and instruments and the duty or obligation, if any, in respect of them of the officer or employee in whose name they are taken.

25. Subsection 104 (2), as amended by the Statutes of Ontario, 1989, chapter 55, section 13, and subsection 104 (3) of the said Act are repealed.

Commence-
ment

26.—(1) This Act, except section 16, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 16 shall be deemed to have come into force on the 5th day of December, 1989.

Short title

27. The short title of this Act is the *Courts of Justice Amendment Act, 1989*.

Bill 81

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

1st Reading November 23rd, 1989
2nd Reading December 6th, 1989
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The Bill contains further amendments to those parts of the *Courts of Justice Act, 1984* that were amended by Bill 2. The changes, other than housekeeping changes, are as follows:

Bill 2 allowed the Lieutenant Governor in Council to set the number of judges of the Court of Appeal. This Bill sets the minimum number of judges in addition to the Chief Justice and the Associate Chief Justice at fourteen and allows the Lieutenant Governor in Council to increase that number.

The Bill provides for an Associate Chief Justice of the Ontario Court.

A provision is added to provide for annual meetings of the judges of the Court of Appeal.

It is clarified that those provincial judges who were assigned to the Provincial Court (Criminal Division) or the Provincial Court (Family Division) on the 31st day of December, 1989 are included in the Provincial Division.

It is clarified that the Rules made under Part IV do not apply to the Unified Family Court except as provided in the Unified Family Court rules.

The *Partition Act* is added to the list of Acts in respect of which the Unified Family Court has jurisdiction.

Added to the list of members of the Civil Rules Committee is a provincial judge who was assigned to the Provincial Court (Civil Division) on the 1st day of October, 1989. Two Court of Appeal judges and eight Ontario Court (General Division) judges are to be appointed to that Committee, rather than one Court of Appeal judge and nine General Division judges.

The quorum for each of the rules committees is changed from a majority to one-third.

The Ontario Courts Advisory Council, which was to be discontinued under Bill 2, is revived and its membership is changed to reflect the new court structure.

The senior judge for the Unified Family Court is added to the membership of the Regional Courts Management Advisory Committee for the region in which the Unified Family Court is located.

The Lieutenant Governor in Council is authorized to prescribe by regulation the city or town in each region where the offices of the regional director of courts administration, the regional director of Crown attorneys and the regional senior judges are to be located.

It is clarified that judges who have authority to supervise and direct the sittings and assignment of judicial duties may assign cases and other judicial duties to individual judges.

Bill 2 provided that every judge of the Ontario Court (General Division) and the Unified Family Court may be addressed as "Your Honour" or as "Mr. or Mme. Justice . . .". This Bill provides that on a day to be named by proclamation all judges of the Ontario Court of Justice are to be so addressed.

The provisions concerning the functions of the Accountant of the Ontario Court (General Division) are repealed and replaced with a provision giving the Lieutenant Governor in Council authority to make regulations concerning those functions and providing for the officer or employee who is to exercise them.

As a transitional measure, the Rules Committee of the Supreme and District Courts is authorized to make rules for the Ontario Court (General Division) during the period from December 5th, 1989 to a day to be named by proclamation of the Lieutenant Governor.



Bill 81**1989**

**An Act to amend the
Courts of Justice Act, 1984**

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

1. Subsection 2 (2) of the *Courts of Justice Act, 1984*, being chapter 11, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(2) The Court of Appeal has the jurisdiction conferred on it by this or any other Act, and in the exercise of its jurisdiction has all the powers historically exercised by the Court of Appeal for Ontario. Idem

2.—(1) Clause 3 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(c) fourteen other judges.

(2) Subsections 3 (2) and (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, are repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may by regulation increase the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice. Idem

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

8a.—(1) The judges of the Court of Appeal shall meet at least once in each year, on a day fixed by the Chief Justice of Ontario, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

Idem

(2) The judges shall report their recommendations to the Attorney General.

4.—(1) Subsection 11 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

(aa) the Associate Chief Justice of the Ontario Court.

(2) Subsection 11 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Additional judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court, Associate Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court.

R.S.C. 1985, c. J-1

5.—(1) Subsection 13 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Absence of Chief Justice of Ontario Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of the Ontario Court or, if both are unable to act, by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court.

(2) Subsection 13 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by inserting after “with” in the second line “the Associate Chief Justice of the Ontario Court and”.

6. Section 34 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding thereto the following clause:

(d) such provincial judges as were assigned to the Provincial Court (Criminal Division) or the Provincial Court (Family Division) on the 31st day of December, 1989.

7. Subsection 41 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “to the same position” in the last line and insert-

ing in lieu thereof "as Chief Judge or as a regional senior judge, as the case may be".

8. Subsection 46 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

(ca) the Associate Chief Justice of the Ontario Court.

9.—(1) Subsection 51 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(2) The regional senior judges of the General Division shall meet at least once in each year with the Chief Justice and the Associate Chief Justice of the Ontario Court, on a day fixed by the Chief Justice, in order to consider this Act, the rules of court and the administration of justice generally.

Meeting of regional senior judges

(2a) The regional senior judges of the Provincial Division shall meet at least once in each year with the Chief Judge of the Provincial Division, on a day fixed by the Chief Judge, in order to consider this Act, the rules of court and the administration of justice generally.

Idem

(2) Subsection 51 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(4) The judges meeting under this section shall report their recommendations to the Attorney General.

Report of recommendations

10. Clause 52 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by inserting after "Justice" in the second line "the Associate Chief Justice".

11. Subsection 63 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding at the end thereof "except as provided by the rules made under this section".

12. The Schedule to Part III of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following item:

9a. Partition Act

All

13.—(1) Clause 64 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Clause 64 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “one judge” in the first line and inserting in lieu thereof “two judges”.

(3) Clause 64 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “nine” in the first line and inserting in lieu thereof “eight”.

(4) Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

- (ca) one judge who was assigned to the Provincial Court (Civil Division) on the 1st day of October, 1989, who shall be appointed by the Chief Justice of the Ontario Court.

(5) Subsection 64 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “A majority” in the first line and inserting in lieu thereof “One-third”.

14.—(1) Clause 66 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 66 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “A majority” in the first line and inserting in lieu thereof “One-third”.

15.—(1) Clause 68 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 68 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out "A majority" in the first line and inserting in lieu thereof "One-third".

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

70.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts as it was constituted on the 1st day of November, 1989 may make rules for the Ontario Court (General Division) in relation to its practice and procedure, and may make rules for the General Division, even though they alter or conform to the substantive law, in relation to any of the matters set out in subsection 65 (2).

Transitional,
rule making
for General
Division

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

Idem

(3) Subsections (1) and (2) are repealed on a day to be named by proclamation of the Lieutenant Governor.

Repeal of
subss. (1)
and (2)

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

91a.—(1) There shall be an advisory council to be known as the Ontario Courts Advisory Council composed of,

Ontario
Courts
Advisory
Council

- (a) the Chief Justice of Ontario, who shall preside;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Justice of the Ontario Court;
- (d) the Associate Chief Justice of the Ontario Court;

- (e) the Chief Judge of the Ontario Court (Provincial Division);
- (f) the regional senior judges of the Ontario Court (General Division);
- (g) the regional senior judges of the Ontario Court (Provincial Division);
- (h) the senior judge for the Unified Family Court; and
- (i) the Co-ordinator of Justices of the Peace.

Mandate

(2) The Ontario Courts Advisory Council shall meet to consider any matter relating to the administration of the courts that is referred to it by the Attorney General or that it considers appropriate on its own initiative, and shall make recommendations on the matter to the Attorney General and to its members.

18.—(1) Clause 92 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).



(2) Subsection 92 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

Function of Committee

(3) The function of the Committee is to consider and recommend to the relevant bodies or authorities policies and procedures to promote the better administration of justice and the effective use of human and other resources in the public interest.

19. Subsection 92a (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act and prescribing the municipality in each region where the offices of the regional senior judges, the regional director of courts administration and the regional director of Crown attorneys are to be located.

20.—(1) Clause 92b (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (a) the regional senior judge of the Ontario Court (General Division), the regional senior judge of the Ontario Court (Provincial Division) and, in the region that includes the Unified Family Court, the senior judge for the Unified Family Court.

(2) Subsection 92b (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (3) The function of the Committee is to consider and recommend to the relevant bodies or authorities policies and procedures for the region to promote the better administration of justice and the effective use of human and other resources in the public interest.

Function of
Committee

21. Paragraph 3 of subsection 93 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

3. Assigning cases and other judicial duties to individual judges.

22.—(1) Subsection 94 (1) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

- (1) Registrars, sheriffs, court clerks, assessment officers and any other administrative officers and employees that are considered necessary for the administration of the courts in Ontario may be appointed under the *Public Service Act*.

Appointment
of court
officers and
staff

R.S.O. 1980,
c. 418

(2) Subsection 94 (2) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 4, is amended by inserting after "clerk" in the second line "bailiff".

23. Section 100b of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 9, is amended by adding thereto the following subsection:

- (3) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "(General Division)" in the first line and inserting in lieu thereof "of Justice".

Subs. (1)
amended

24. Sections 101a and 101b of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 10, are repealed and the following substituted therefor:

Regulations

101a. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the officer or employee to whom money paid into the Ontario Court (General Division) shall be paid and providing for the vesting of that money and any securities in which that money is invested in that officer or employee;
- (b) governing the management and investment of money paid into a court;
- (c) providing for the payment of interest on money paid into a court and fixing the rate of interest so paid;
- (d) prescribing the officer or employee in whose name mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken;
- (e) respecting the deposit of the mortgages, securities and instruments and the duty or obligation, if any, in respect of them of the officer or employee in whose name they are taken.

25. Subsection 104 (2), as amended by the Statutes of Ontario, 1989, chapter 55, section 13, and subsection 104 (3) of the said Act are repealed.

Commence-
ment

26.—(1) This Act, except section 16, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 16 shall be deemed to have come into force on the 5th day of December, 1989.

Short title

27. The short title of this Act is the *Courts of Justice Amendment Act, 1989.*

Bill 81

*(Chapter 70
Statutes of Ontario, 1989)*

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	November 23rd, 1989
<i>2nd Reading</i>	December 6th, 1989
<i>3rd Reading</i>	December 14th, 1989
<i>Royal Assent</i>	December 14th, 1989



Bill 81**1989**

**An Act to amend the
Courts of Justice Act, 1984**

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

1. Subsection 2 (2) of the *Courts of Justice Act, 1984*, being chapter 11, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(2) The Court of Appeal has the jurisdiction conferred on it by this or any other Act, and in the exercise of its jurisdiction has all the powers historically exercised by the Court of Appeal for Ontario. Idem

2.—(1) Clause 3 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(c) fourteen other judges.

(2) Subsections 3 (2) and (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, are repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may by regulation increase the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice. Idem

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

8a.—(1) The judges of the Court of Appeal shall meet at least once in each year, on a day fixed by the Chief Justice of Ontario, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

Idem

(2) The judges shall report their recommendations to the Attorney General.

4.—(1) Subsection 11 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

(aa) the Associate Chief Justice of the Ontario Court.

(2) Subsection 11 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Additional judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court, Associate Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court.

R.S.C. 1985, c. J-1

5.—(1) Subsection 13 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Absence of Chief Justice of Ontario Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of the Ontario Court or, if both are unable to act, by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court.

(2) Subsection 13 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by inserting after “with” in the second line “the Associate Chief Justice of the Ontario Court and”.

6. Section 34 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding thereto the following clause:

(d) such provincial judges as were assigned to the Provincial Court (Criminal Division) or the Provincial Court (Family Division) on the 31st day of December, 1989.

7. Subsection 41 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “to the same position” in the last line and insert-

ing in lieu thereof "as Chief Judge or as a regional senior judge, as the case may be".

8. Subsection 46 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

(ca) the Associate Chief Justice of the Ontario Court.

9.—(1) Subsection 51 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(2) The regional senior judges of the General Division shall meet at least once in each year with the Chief Justice and the Associate Chief Justice of the Ontario Court, on a day fixed by the Chief Justice, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of regional senior judges

(2a) The regional senior judges of the Provincial Division shall meet at least once in each year with the Chief Judge of the Provincial Division, on a day fixed by the Chief Judge, in order to consider this Act, the rules of court and the administration of justice generally. Idem

(2) Subsection 51 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

(4) The judges meeting under this section shall report their recommendations to the Attorney General. Report of recommendations

10. Clause 52 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by inserting after "Justice" in the second line "the Associate Chief Justice".

11. Subsection 63 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding at the end thereof "except as provided by the rules made under this section".

12. The Schedule to Part III of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following item:

9a. Partition Act

All

13.—(1) Clause 64 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Clause 64 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “one judge” in the first line and inserting in lieu thereof “two judges”.

(3) Clause 64 (1) (c) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “nine” in the first line and inserting in lieu thereof “eight”.

(4) Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clause:

- (ca) one judge who was assigned to the Provincial Court (Civil Division) on the 1st day of October, 1989, who shall be appointed by the Chief Justice of the Ontario Court.

(5) Subsection 64 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “A majority” in the first line and inserting in lieu thereof “One-third”.

14.—(1) Clause 66 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 66 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out “A majority” in the first line and inserting in lieu thereof “One-third”.

15.—(1) Clause 68 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 68 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by striking out "A majority" in the first line and inserting in lieu thereof "One-third".

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

70.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts as it was constituted on the 1st day of November, 1989 may make rules for the Ontario Court (General Division) in relation to its practice and procedure, and may make rules for the General Division, even though they alter or conform to the substantive law, in relation to any of the matters set out in subsection 65 (2).

Transitional,
rule making
for General
Division

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

Idem

(3) Subsections (1) and (2) are repealed on a day to be named by proclamation of the Lieutenant Governor.

Repeal of
subss. (1)
and (2)

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

91a.—(1) There shall be an advisory council to be known as the Ontario Courts Advisory Council composed of.

Ontario
Courts
Advisory
Council

- (a) the Chief Justice of Ontario, who shall preside;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Justice of the Ontario Court;
- (d) the Associate Chief Justice of the Ontario Court;

- (e) the Chief Judge of the Ontario Court (Provincial Division);
- (f) the regional senior judges of the Ontario Court (General Division);
- (g) the regional senior judges of the Ontario Court (Provincial Division);
- (h) the senior judge for the Unified Family Court; and
- (i) the Co-ordinator of Justices of the Peace.

Mandate

(2) The Ontario Courts Advisory Council shall meet to consider any matter relating to the administration of the courts that is referred to it by the Attorney General or that it considers appropriate on its own initiative, and shall make recommendations on the matter to the Attorney General and to its members.

18.—(1) Clause 92 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division).

(2) Subsection 92 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

Function of
Committee

(3) The function of the Committee is to consider and recommend to the relevant bodies or authorities policies and procedures to promote the better administration of justice and the effective use of human and other resources in the public interest.

19. Subsection 92a (2) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act and prescribing the municipality in each region where the offices of the regional senior judges, the regional director of courts administration and the regional director of Crown attorneys are to be located.

20.—(1) Clause 92b (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (a) the regional senior judge of the Ontario Court (General Division), the regional senior judge of the Ontario Court (Provincial Division) and, in the region that includes the Unified Family Court, the senior judge for the Unified Family Court.

(2) Subsection 92b (3) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

- (3) The function of the Committee is to consider and recommend to the relevant bodies or authorities policies and procedures for the region to promote the better administration of justice and the effective use of human and other resources in the public interest.

Function of
Committee

21. Paragraph 3 of subsection 93 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 3, is repealed and the following substituted therefor:

3. Assigning cases and other judicial duties to individual judges.

22.—(1) Subsection 94 (1) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

- (1) Registrars, sheriffs, court clerks, assessment officers and any other administrative officers and employees that are considered necessary for the administration of the courts in Ontario may be appointed under the *Public Service Act*.

Appointment
of court
officers and
staff

R.S.O. 1980,
c. 418

(2) Subsection 94 (2) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 4, is amended by inserting after "clerk" in the second line "bailiff".

23. Section 100b of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 9, is amended by adding thereto the following subsection:

- (3) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "(General Division)" in the first line and inserting in lieu thereof "of Justice".

Subs. (1)
amended

24. Sections 101a and 101b of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 10, are repealed and the following substituted therefor:

Regulations

101a. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the officer or employee to whom money paid into the Ontario Court (General Division) shall be paid and providing for the vesting of that money and any securities in which that money is invested in that officer or employee;
- (b) governing the management and investment of money paid into a court;
- (c) providing for the payment of interest on money paid into a court and fixing the rate of interest so paid;
- (d) prescribing the officer or employee in whose name mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken;
- (e) respecting the deposit of the mortgages, securities and instruments and the duty or obligation, if any, in respect of them of the officer or employee in whose name they are taken.

25. Subsection 104 (2), as amended by the Statutes of Ontario, 1989, chapter 55, section 13, and subsection 104 (3) of the said Act are repealed.

Commence-
ment

26.—(1) This Act, except section 16, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 16 shall be deemed to have come into force on the 5th day of December, 1989.

Short title

27. The short title of this Act is the *Courts of Justice Amendment Act, 1989*.

Bill 82

No. 5F.



Bill 82

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading November 27th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that the minimum wage cannot be less than 65 per cent of the previous year's industrial aggregate average wage for Ontario, as published by Statistics Canada.

Bill 82

1989

An Act to amend the Employment Standards Act

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

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

24. The minimum hourly wage established under this Act shall not be less than 65 per cent of the number obtained by dividing the industrial aggregate average weekly earnings (excluding overtime) for Ontario for the previous year, as published by Statistics Canada, by 44.

Limitation on minimum wage

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

Commencement

3. The short title of this Act is the *Employment Standards Amendment Act, 1989*.

Short title



Bill 83

An Act to amend the Education Act

Mr. Johnston
(Scarborough-West)

1st Reading November 27th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to require that American Sign Language (A.S.L.) or la Langue des signes québécois (L.S.Q.) be used as the language of instruction in schools for the deaf and in other schools in Ontario where the number of pupils warrants its use.

The Bill also recognizes A.S.L. and L.S.Q. as heritage languages.

Bill 83

1989

An Act to amend the Education Act

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

1. Subsection 10 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding thereto the following paragraphs:

- 19a. requiring that American Sign Language or la Langue des signes québécois, as the case requires, be used as the language of instruction, language of instruction for the deaf
- i. in any subject or subjects in any year of the primary, junior, intermediate or senior division where the number of pupils exceeds the number that is prescribed by the regulations, and
 - ii. in any subject or subjects in schools for the deaf.

35. requiring boards to offer programs in American Sign Language or la Langue des signes québécois, as the case requires, and governing the establishment and operation of such programs. programs in sign language

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

3. The short title of this Act is the *Education Amendment Act, 1989*. Short title



Bill 84

**An Act to amend the
Freedom of Information and Protection
of Privacy Act, 1987 and certain other
Acts in respect of Confidentiality Provisions**

The Hon. M. Elston
Chairman of the Management Board of Cabinet

1st Reading November 28th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Subsection 67 (2) of the Act provides as follows:

(2) This Act prevails over a confidentiality provision in any other Act unless the other Act specifically provides otherwise.

That subsection will have effect on January 1st, 1990.

The purpose of the Bill is to ensure that the confidentiality of certain information and records now protected in other Acts will be preserved after January 1st, 1990, despite subsection 67 (2).

Bill 84

1989

**An Act to amend the
Freedom of Information and Protection
of Privacy Act, 1987 and certain other
Acts in respect of Confidentiality Provisions**

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

1.—(1) Subsection 17 (1) of the *Freedom of Information and Protection of Privacy Act, 1987*, being chapter 25, 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) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute.

(2) Subsection 17 (2) of the said Act is repealed and the following substituted therefor:

(2) A head shall refuse to disclose a record that reveals information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.

Tax
information

(3) A head may disclose a record described in subsection (1) or (2) if the person to whom the information relates consents to the disclosure.

Consent to
disclosure

2.—(1) Subsection 67 (2) of the said Act is amended by inserting after “unless” in the second line “subsection (3) or”.

(2) Subsection 67 (3) of the said Act is repealed and the following substituted therefor:

(3) The following confidentiality provisions prevail over this Act:

Idem

- R.S.O. 1980,
c. 31
- 1984, c. 55
- R.S.O. 1980,
c. 74
- R.S.O. 1980,
c. 78
- R.S.O. 1980,
c. 108
- 1984, c. 11
- R.S.O. 1980,
c. 228
- 1987, c. 34
- R.S.O. 1980,
c. 466
- R.S.O. 1980,
c. 480
- R.S.O. 1980,
c. 524
1. Subsection 57 (1) of the *Assessment Act*.
 2. Subsections 41 (8), (9) and (10), 50 (4) and (5), 70 (5), 71 (6), 72 (11) and 112 (6) and section 158a of the *Child and Family Services Act, 1984*.
 3. Subsection 77 (6) of the *Colleges Collective Bargaining Act*.
 4. Section 10 of the *Commodity Futures Act*.
 5. Subsection 51 (1) of the *Crown Employees Collective Bargaining Act*.
 6. Subsection 147 (2) of the *Courts of Justice Act, 1984*.
 7. Subsection 111 (1) of the *Labour Relations Act*.
 8. Subsection 32 (4) of the *Pay Equity Act, 1987*.
 9. Section 14 of the *Securities Act*.
 10. Subsection 4 (2) of the *Statistics Act*.
 11. Subsection 24 (2) of the *Vital Statistics Act*.

3. Section 30 of the *Environmental Assessment Act*, being chapter 140 of the Revised Statutes of Ontario, 1980, is repealed.

4. Section 6 of *The North Pickering Development Corporation Act, 1974*, being chapter 124, is repealed.

5. Section 6 of the *Ontario Land Corporation Act*, being chapter 342 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

6. This Act shall be deemed to have come into force on the 1st day of January, 1990.

Short title

7. The short title of this Act is the *Freedom of Information and Protection of Privacy Amendment Act, 1989*.

Bill 84

*(Chapter 71
Statutes of Ontario, 1989)*

**An Act to amend the
Freedom of Information and Protection
of Privacy Act, 1987 and certain other
Acts in respect of Confidentiality Provisions**

The Hon. M. Elston
Chairman of the Management Board of Cabinet

<i>1st Reading</i>	November 28th, 1989
<i>2nd Reading</i>	December 13th, 1989
<i>3rd Reading</i>	December 14th, 1989
<i>Royal Assent</i>	December 14th, 1989



Bill 84

1989

**An Act to amend the
Freedom of Information and Protection
of Privacy Act, 1987 and certain other
Acts in respect of Confidentiality Provisions**

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

1.—(1) Subsection 17 (1) of the *Freedom of Information and Protection of Privacy Act, 1987*, being chapter 25, 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) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute.

(2) Subsection 17 (2) of the said Act is repealed and the following substituted therefor:

(2) A head shall refuse to disclose a record that reveals information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.

Tax
information

(3) A head may disclose a record described in subsection (1) or (2) if the person to whom the information relates consents to the disclosure.

Consent to
disclosure

2.—(1) Subsection 67 (2) of the said Act is amended by inserting after “unless” in the second line “subsection (3) or”.

(2) Subsection 67 (3) of the said Act is repealed and the following substituted therefor:

(3) The following confidentiality provisions prevail over this Act:

Idem

- R.S.O. 1980,
c. 31
1. Subsection 57 (1) of the *Assessment Act*.
- 1984, c. 55
2. Subsections 41 (8), (9) and (10), 50 (4) and (5), 70 (5), 71 (6), 72 (11) and 112 (6) and section 158a of the *Child and Family Services Act, 1984*.
- R.S.O. 1980,
c. 74
3. Subsection 77 (6) of the *Colleges Collective Bargaining Act*.
- R.S.O. 1980,
c. 78
4. Section 10 of the *Commodity Futures Act*.
- R.S.O. 1980,
c. 108
5. Subsection 51 (1) of the *Crown Employees Collective Bargaining Act*.
- 1984, c. 11
6. Subsection 147 (2) of the *Courts of Justice Act, 1984*.
- R.S.O. 1980,
c. 228
7. Subsection 111 (1) of the *Labour Relations Act*.
- 1987, c. 34
8. Subsection 32 (4) of the *Pay Equity Act, 1987*.
- R.S.O. 1980,
c. 466
9. Section 14 of the *Securities Act*.
- R.S.O. 1980,
c. 480
10. Subsection 4 (2) of the *Statistics Act*.
- R.S.O. 1980,
c. 524
11. Subsection 24 (2) of the *Vital Statistics Act*.

3. Section 30 of the *Environmental Assessment Act*, being chapter 140 of the Revised Statutes of Ontario, 1980, is repealed.

4. Section 6 of *The North Pickering Development Corporation Act, 1974*, being chapter 124, is repealed.

5. Section 6 of the *Ontario Land Corporation Act*, being chapter 342 of the Revised Statutes of Ontario, 1980, is repealed.

**Commence-
ment**

6. This Act comes into force on the 1st day of January, 1990.

Short title

7. The short title of this Act is the *Freedom of Information and Protection of Privacy Amendment Act, 1989*.

Bill 85

An Act to amend the Intervenor Funding Project Act, 1988

Mr. Chiarelli

1st Reading November 28th, 1989
2nd Reading
3rd Reading
Royal Assent

Projet de loi 85

Loi portant modification de la Loi de 1988 sur le projet d'aide financière aux intervenants

M. Chiarelli

1^{re} lecture 28 novembre 1989
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The purpose of the Bill is to add the Ontario Municipal Board as a board to which the Act applies. The reference to "a major financial beneficiary" in the definition of "proponent" is broadened to include other areas in addition to financial matters.

NOTE EXPLICATIVE

Le projet de loi a pour objet d'ajouter la Commission des affaires municipales de l'Ontario à la liste des commissions auxquelles la Loi s'applique. Le sens de «bénéficiaire financier majeur» dans la définition de «proposant» est étendu de façon à recouvrir d'autres considérations que les seules questions financières.

Bill 85**1989****An Act to amend the
Intervenor Funding Project Act, 1988**

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

1.—(1) The definition of “board” in section 1 of the *Intervenor Funding Project Act, 1988*, being chapter 71, is repealed and the following substituted therefor:

“board” means a joint board, the Ontario Energy Board, the Environmental Assessment Board or the Ontario Municipal Board.

(2) The definition of “proponent” in the said section 1 is repealed and the following substituted therefor:

“proponent” means a party whose undertaking, in the opinion of a funding panel, is the subject-matter of the hearing or another party, individual or corporation, who, in the opinion of a funding panel, is potentially a major beneficiary of the decision of the board.

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 *Intervenor Funding Project Amendment Act, 1989*.

Projet de loi 85**1989****Loi portant modification de la Loi de 1988 sur le projet d'aide financière aux intervenants**

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

1 (1) La définition de «commission» donnée à l'article 1 de la Loi de 1988 sur le projet d'aide financière aux intervenants, qui constitue le chapitre 71, est abrogée et remplacée par ce qui suit :

«commission» Une commission mixte, la Commission de l'énergie de l'Ontario, la Commission des évaluations environnementales ou la Commission des affaires municipales de l'Ontario.

(2) La définition de «proposant» donnée à ce même article 1 est abrogée et remplacée par ce qui suit :

«proposant» Partie dont l'entreprise, de l'avis d'un comité d'aide financière, fait l'objet de l'audience, ou une autre partie, personne physique ou personne morale qui, de l'avis d'un comité d'aide financière, est potentiellement un bénéficiaire important de la décision de la commission.

2 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

3 Le titre abrégé de la présente loi est *Loi de 1989 modifiant la Loi sur le projet d'aide financière aux intervenants.*

Titre abrégé

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Bill 86

2nd SESSN



Bill 86

An Act respecting the Custody of Unclaimed Intangible Property

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 5th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill provides for the transfer to the Public Trustee of intangible property held by business organizations, government organizations and others and not claimed by the owners within the time periods set out in the Bill.

The term "intangible property" is defined in the Bill.

The Public Trustee will be required to publish notices of property that holders intend to transfer and of property actually transferred to the Public Trustee.

Owners of such property will have the opportunity to reclaim untransferred property from the holders, and the right to reclaim the value of property that has been transferred to the Public Trustee.

Bill 86

1989

**An Act respecting the
Custody of Unclaimed Intangible Property**

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PART VII—MISCELLANEOUS

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

INTERPRETATION

1. In this Act,

Definitions

“business organization” means a corporation, a partnership or a sole proprietorship and, without limiting the generality of the foregoing, includes a financial organization, an insurer or a public utility;

“communication” means any form of contact, and includes oral, written or electronic communication;

“financial organization” means a trust company, a bank to which the *Bank Act* (Canada) applies, a loan company or a credit union;

R.S.C. 1985,
c. B-1

“governmental organization” means,

- (a) a ministry of the Crown and a Crown agency, board or commission,
- (b) a municipality, including a district, metropolitan or regional municipality,

R.S.O. 1980,
c. 303

(c) a local board as defined in the *Municipal Affairs Act*;

“holder”, in respect of intangible property, includes any person, business organization, governmental organization or other entity,

- (a) that is in possession of intangible property belonging to another,
- (b) that is a trustee or other fiduciary, or
- (c) that is indebted to another on an obligation;

“inspector” means an inspector appointed under this Act by the Public Trustee;

R.S.O. 1980,
c. 218

“insurer” means an insurer licensed under the *Insurance Act*;

“intangible property” means a right of ownership over any personal property that is not a chattel or a mortgage, and includes, without limiting the generality of the foregoing,

- (a) money, a cheque, a bank draft, a deposit, interest, a dividend and income,
- (b) a credit balance, a customer overpayment, a gift certificate, a security deposit, a refund, a credit memo, an unpaid wage and an unused airline ticket,
- (c) a share or any other intangible ownership interest in a business organization,
- (d) money deposited to redeem a share, a bond, a coupon or other security, or to make a distribution,
- (e) an amount due and payable by the insurer under the terms of an insurance policy, and
- (f) an amount distributable from a trust or custodial fund established under a plan to provide education, health, welfare, vacation, severance, retirement, death, share purchase, profit sharing, employee savings, supplemental unemployment insurance or a similar benefit;

“owner”, in respect of intangible property, means the legal owner or the equitable owner of the intangible property, and includes an executor or administrator of the owner;

“prescribed” means prescribed by the regulations;

“public utility” means a public utility within the meaning of the *Public Utilities Act*, a regional, metropolitan or municipal corporation that operates a water or sewage works, an electrical supply system or other similar works or service, and a business organization that operates a system for the transmission of communications;

R.S.O. 1980,
c. 423

“regulations” means regulations made under this Act.

PART I

GENERAL

2.—(1) This Act safeguards the rights of owners of intangible property by providing a method for them to recover, in perpetuity, their intangible property that has been held by others. Purpose

(2) This Act also allows unclaimed intangible property to be used for the benefit of the people of Ontario until the property is claimed by its owner. Idem

3. The Crown in right of Ontario has the right to claim and receive unclaimed intangible property that is in Ontario or the ownership of which is governed by the law of Ontario. Right to unclaimed intangible property

4.—(1) Intangible property is unclaimed if no communication is received from the owner by the holder of the property within the time set out in subsection (2) and, where applicable, in the manner specified in that subsection. Unclaimed intangible property

(2) Intangible property becomes unclaimed five years after the date on which it becomes payable or distributable by the holder, but intangible property represented by the following instruments, obligations or arrangements is subject to the following exceptions: Time periods

1. A traveller's cheque becomes unclaimed fifteen years after the date of the issue of the traveller's cheque.
2. A money order becomes unclaimed seven years after the date of the issuance of the money order.
3. A cheque, bank draft or other similar instrument becomes unclaimed five years after the date on which the cheque, bank draft or other similar instrument becomes payable or, if payable on

demand, five years after the date of issuance of the cheque, bank draft or other similar instrument.

4. Subject to section 14, a demand deposit, savings deposit or matured time deposit with a financial organization becomes unclaimed five years after the last date on which the owner of the deposit,
 - i. last increased or decreased the amount of the deposit,
 - ii. last presented the passbook or other similar evidence of the deposit for the crediting of interest, or
 - iii. last communicated with the financial organization on any matter as evidenced by a record on file at the financial organization.
5. Subject to section 16, an amount held or owing under a life insurance contract, an endowment insurance contract or an annuity contract that has matured becomes unclaimed three years after the date on which the money becomes due and payable according to the records of the insurer under the contract.
6. A deposit made by a customer with a public utility as a deposit to secure payment or as payment in advance for utility services to be furnished becomes unclaimed one year after the date of termination of the utility services to the customer.
7. A refund becomes unclaimed one year after the date on which it becomes payable.
8. Subject to section 17, a share or other intangible ownership interest in a business organization becomes unclaimed five years after the date on which a dividend, distribution or other amount becomes payable or distributable or, where no dividend, distribution or other amount has become payable or distributable, twenty years from the prescribed date if the owner has not communicated with the holder during the twenty-year period.
9. Subject to section 17, dividend, distribution or other amount payable or distributable in respect of a share or other intangible ownership interest mentioned in paragraph 8 is unclaimed at the time when

that share or other intangible ownership interest becomes unclaimed.

10. Intangible property that is distributable in the course of the dissolution of a business organization becomes unclaimed one year after the date specified for final distribution if it remains undistributed at that time.
11. Intangible property held in a fiduciary capacity becomes unclaimed five years after the last to occur of any date on which,
 - i. the property, income or increment becomes payable or distributable,
 - ii. the beneficiary has accepted payment of principal or income, or
 - iii. the beneficiary has communicated with the holder, or otherwise indicated an interest in the property, as evidenced by the records of the holder.
12. Intangible property that is held for the owner by a court, a tribunal or governmental organization becomes unclaimed one year after the date on which the intangible property becomes payable or distributable.
13. An unpaid wage, including a wage represented by an un-presented payroll cheque, that is owing in the ordinary course of business becomes unclaimed one year after the date on which the wage becomes payable.

(3) When any intangible property becomes unclaimed, all interest, income and other accretions to the property held by the holder at the time the property is transferred to the Public Trustee are unclaimed and shall be transferred to the Public Trustee with the property. Interest, etc.

PART II

NOTICE, REPORT, TRANSFER

5.—(1) A holder of unclaimed intangible property that has a value of more than \$100 who has an address for the owner of the property shall send written notice to the owner. Notice to owner

- Time** (2) The holder shall send the notice not less than ninety days and not more than twelve months before the date by which the holder is required to report to the Public Trustee as required by this Part.
- Content** (3) The notice shall state that the holder is holding the property, that the property is subject to this Act and any other prescribed information.
- Inaccurate address** (4) Subsection (1) does not apply if the holder has reasonable grounds for believing that the address of the owner in the records of the holder is inaccurate.
- Charge for notice** (5) No holder shall charge more than the prescribed amount for sending written notice under this section.
- Report to Public Trustee** **6.**—(1) Every holder of unclaimed intangible property shall file annually with the Public Trustee a report within the prescribed time and in the prescribed form in respect of the property.
- Earlier payment or transfer** (2) A holder of unclaimed intangible property who is exempt by the regulations from reporting the name of the owner of the property to the Public Trustee shall transfer the property to the Public Trustee at the time of filing the report with the Public Trustee.
- Extension of time** (3) The Public Trustee may extend the time for filing the report if satisfied that there are reasonable grounds for granting the extension.
- Time of grant of extension** (4) The Public Trustee may grant an extension before or after expiry of the time for filing the report.
- Notice of proposed transfer** **7.** The Public Trustee shall cause notices to be published, in accordance with the regulations, listing the names of, and other prescribed information relating to, the owners of property recorded in reports filed under this Act and the regulations with the Public Trustee by holders of such property.
- Transfer to Public Trustee** **8.**—(1) Within six months after the date on which a holder of unclaimed intangible property is required to file a report under section 6 in respect of the property, the holder shall transfer the property to the Public Trustee.
- Exception** (2) Subsection (1) does not apply in respect of property that has been claimed by the owner.
- Further reports** (3) A holder who transfers property under this section shall file with the Public Trustee, at the time of the transfer,

- (a) a second report in the prescribed form in respect of the property mentioned in the first report; and
- (b) a report in the prescribed form in respect of any property claimed by the owner from the holder between the dates of filing the first and second reports.

9.—(1) The Public Trustee may require the transfer to the Public Trustee of records related to unclaimed intangible property transferred under this Act.

Transfer of records

(2) The Public Trustee may extend the time for making a transfer under subsection (1) if the Public Trustee is satisfied that there are reasonable grounds for granting the extension.

Extension of time

(3) The Public Trustee may grant an extension before or after expiry of the time for making the transfer.

Time of grant of extension

(4) A holder of unclaimed intangible property may transfer to the Public Trustee any record in respect of the property that the Public Trustee is willing to accept.

Voluntary transfer

10. The holder of unclaimed intangible property composed of shares or any other intangible ownership interest in a business organization who is required to transfer the property to the Public Trustee shall, at the request of the Public Trustee, issue and deliver to the Public Trustee a certificate showing the Public Trustee as owner of the property or, if the holder does not issue certificates of ownership, other evidence of ownership satisfactory to the Public Trustee, and the change of ownership shall be recorded in the records of the holder.

Certificate of ownership

11. The Public Trustee shall cause a notice in the prescribed form to be published annually in *The Ontario Gazette*, listing the names of, and other prescribed information relating to, the owners of unclaimed intangible property transferred to the Public Trustee in the previous year.

Notice by Public Trustee

12. The owner of unclaimed intangible property transferred to the Public Trustee has the right to claim the property from the Public Trustee in accordance with Part V.

Right of owner

PART III

SPECIAL RULES

13.—(1) A holder of intangible property shall not impose a charge against the owner of the property because the owner

Charges to reduce value prohibited

has failed to communicate with the holder or because there have been no transactions with respect to the property.

Exception

(2) Subsection (1) does not apply if the charge is authorized under any Act or if there is a written contract between the holder and the owner pursuant to which the holder may impose the charge and,

- (a) the holder regularly imposes such charges; and
- (b) the holder does not regularly reverse or otherwise cancel such charges after imposing them.

Limit

(3) Despite subsection (2), a charge mentioned in subsection (1) that exceeds the prescribed amount is void.

Deemed charge

(4) For the purposes of this section, ceasing to make payment of interest shall be deemed to be the imposition of a charge and the amount of the unpaid interest shall be deemed to be the amount of the charge.

Automatic renewal of deposits

14.—(1) For the purposes of paragraph 4 of subsection 4 (2), the automatic renewal of a demand deposit, savings deposit or matured time deposit with a financial organization does not prevent the commencement of the period of time.

Exception

(2) Subsection (1) does not apply if the owner of the deposit communicated with the bank or financial organization at or about the time of renewal to consent to the renewal.

Travellers' cheques and money orders

15. Ontario does not have the right to unclaimed intangible property represented by a traveller's cheque, money order or similar written instrument unless,

- (a) the records of the issuer show that the traveller's cheque, money order or similar written instrument was purchased in the Province; or
- (b) the issuer has its principal place of business in the Province and the records of the issuer do not show that the traveller's cheque, money order or similar written instrument was purchased in another jurisdiction.

Insurance and annuity contracts

16.—(1) For the purposes of paragraph 5 of subsection 4 (2), an annuity contract, a life insurance contract or an endowment insurance contract not matured by proof of the death of the annuitant or the person whose life was insured according to the records of the insurer shall be deemed to be matured and the proceeds are due and payable if,

- (a) the insurer has reasonable grounds for belief that the person has died, and the contract was in force on the date the person is believed to have died; or
- (b) the person, if alive, would have attained the limiting age under the mortality table on which the reserve for the contract is based, and the contract was in force on the date on which the person would have attained that age.

(2) Subsection (1) does not apply if, within the preceding three years, any person who is entitled to do so has assigned an interest in the contract, readjusted or paid premiums on the contract, borrowed from the insurer against the contract or otherwise communicated with the insurer.

Application of subs. (1)

17.—(1) For the purposes of paragraph 8 of subsection 4 (2), a share or any other intangible ownership interest in a business organization is not unclaimed unless,

Shares

- (a) there have been at least five consecutive dividends, distributions or other sums payable or distributable in respect of the share or other intangible ownership interest; and
- (b) at least five years have elapsed since the date when the earliest of the five consecutive dividends, distributions or other sums mentioned in clause (a) became payable or distributable and no dividend, distribution or other sum that became payable or distributable on or after that date has been claimed by the owner.

(2) If five dividends, distributions or other sums are payable or distributable, the period of time for determining whether the interest is unclaimed intangible property shall be calculated from the date of payment or distribution of the first unclaimed dividend, distribution or other sum.

Calculation of time

(3) For the purposes of this Act, a person who holds intangible property as a transfer agent for the issuer of shares is the holder of the property only in so far as the interest of the issuer is concerned, and the issuer is the holder of the property in respect of the interest of the owner.

Holder

(4) Where a broker, depository or other fiduciary is the holder of a share or other intangible ownership interest and has not paid or distributed to the owner the dividends, distributions or other sums payable or distributable mentioned in subsection (1) in respect of the share or interest for the period

Application to brokers, etc.

mentioned in that subsection, the share or other interest, including the dividends, distribution or other sums payable or distributable, is unclaimed.

Retirement
accounts and
plans
R.S.C. 1952,
c. 148

18. Funds in a registered retirement savings plan, as defined by the *Income Tax Act* (Canada), or similar plan are not payable or distributable for the purposes of this Act until five years after the date when, under the terms of the plan, distribution of all or part of the funds is mandatory and the owner or beneficiary of the funds has not communicated with the holder in that time as evidenced by the records of the holder.

PART IV

PUBLIC TRUSTEE

Adminis-
trator

19. The Public Trustee is the administrator of unclaimed intangible property on behalf of Ontario.

Authority of
Public
Trustee

20.—(1) Subject to this Act, the Public Trustee has and may exercise all the rights and powers related to ownership in respect of unclaimed intangible property transferred, or required to be transferred, to the Public Trustee.

Powers and
duties
R.S.O. 1980,
c. 422

(2) The Public Trustee has in respect of this Act the powers, capacities, duties and liabilities under the *Public Trustee Act*.

Unclaimed
Intangible
Property
Account

21.—(1) The Public Trustee shall establish in the accounts of the Public Trustee an account to be known as the "Unclaimed Intangible Property Account".

Record

(2) The Public Trustee shall record in the Unclaimed Intangible Property Account all unclaimed intangible property transferred to the Public Trustee and the disposition of the property.

Fees and
expenses

22. The Public Trustee is entitled to charge against the Unclaimed Intangible Property Account the expenses of administration approved by the Management Board of Cabinet in respect of property received and administered under this Act.

Transfer to
Treasurer of
Ontario

23.—(1) The Public Trustee shall transfer to the Treasurer of Ontario at the close of each fiscal year for deposit into the Consolidated Revenue Fund the balance remaining recorded in the Unclaimed Intangible Property Account.

(2) The Public Trustee may retain out of the moneys to be transferred a reasonable reserve, in an amount approved by the Treasurer of Ontario, against future claims and expenses against the Account. Reserve

(3) If the amount held in the Account, together with the reserve retained under subsection (2), is insufficient to meet claims against it, the Treasurer of Ontario may pay from the Consolidated Revenue Fund to the credit of the Account such sum as is, in the opinion of the Treasurer, sufficient to meet the claims that cannot be satisfied from it. Insufficient reserve

PART V

CLAIMS

24. A person claiming an interest in unclaimed intangible property transferred to the Public Trustee may file a claim with the Public Trustee in the prescribed form. Filing of claim

25. The Public Trustee shall consider and respond in writing to each claim within ninety days after the claim is filed. Response to claim

26.—(1) If a claim is allowed, the Public Trustee shall transfer to the claimant the intangible property transferred to the Public Trustee or, if the property has been sold by the Public Trustee, the net proceeds of the sale. Return of intangible property

(2) The Public Trustee is entitled to be paid by the person to whom intangible property is transferred under subsection (1) or to retain out of the net proceeds of sale the expenses and prescribed fees of the Public Trustee. Expenses and fees

(3) Expenses and fees mentioned in subsection (2) shall be deposited in the Unclaimed Intangible Property Account. Idem

27.—(1) If unclaimed intangible property in respect of which a claim is allowed was interest-bearing to the owner on the date of transfer to the Public Trustee, the Public Trustee shall pay to the claimant an amount in respect of interest calculated at the lesser of the prescribed rate or the rate the property was earning immediately before transfer to the Public Trustee. Interest

(2) If unclaimed intangible property in respect of which a claim is allowed is transferred to the Public Trustee in a form other than money, the Public Trustee also shall pay to the claimant any dividend, interest or other increment realized or accrued on the property from the date the property was trans- Idem

ferred to the Public Trustee to and including the date the property was converted into money and thereafter shall pay an amount in respect of interest in accordance with subsection (1).

Calculation
of interest

(3) Interest begins to accrue on the date when the unclaimed intangible property is transferred to the Public Trustee, in the case of money, and, in the case of property other than money, on the date when the property was converted into money, and ceases on the earlier of the expiration of ten years after that date or the date on which the property is transferred to the owner.

Liability

28.—(1) A holder who transfers property to the Public Trustee for the purposes of this Act in good faith is relieved of all liability to the extent of the value of the property paid or transferred for any claim in respect of the property.

Indemnity

(2) Subject to subsection (3), if a holder transfers property to the Public Trustee in good faith and thereafter another person claims the property from the person who was the holder or another jurisdiction claims the property under its laws relating to escheat or unclaimed property, the Public Trustee, upon proof of the claim, will indemnify the person who was the holder as to the claim and legal costs.

Conditions

(3) The Public Trustee is not required to pay an indemnity unless the person who was the holder,

- (a) gives to the Public Trustee written notice of the claim forthwith after becoming aware of the claim;
- (b) takes no action that would prejudice any settlement of the claim by the Public Trustee and takes no action that would prejudice any defence of the claim or any appeal in relation thereto; and
- (c) assists (except monetarily) the Public Trustee in such manner as may be reasonably necessary to settle the claim or as may be reasonably necessary in defence of the claim or in any appeal in relation thereto.

Rights of
Public
Trustee

(4) Upon receipt of a written notice from a person who was a holder, the Public Trustee may defend or contest the claim to which the notice relates and the Public Trustee may exercise and make any defence that the person could make.

Claim for
appreciation
in value

29. No person has the right to a claim against the Crown, the Public Trustee, the holder, or a transfer agent, a registrar

or other person acting for or on behalf of a holder for any appreciation in the value of unclaimed intangible property occurring after transfer by the holder to the Public Trustee.

30.—(1) Upon application, a court of competent jurisdiction may determine the rights of a claimant under this Part. Determination of rights by court

(2) An application under subsection (1) shall not be commenced before the expiry of the period of time within which the Public Trustee is required to respond to a claim under this Part. Time

31.—(1) A court that determines an application respecting property transferred to the Public Trustee under this Act may award costs to be paid out of the value of the property. Costs

(2) The court shall not award costs against the Public Trustee or the holder who transferred the property to the Public Trustee. Exception

(3) Subsection (2) does not apply if the court determines that the Public Trustee or the holder who transferred the property to the Public Trustee failed to act in accordance with this Act or the regulations and the failure to act prejudiced the interest of the owner of the property. Application of subs. (2)

PART VI

INSPECTION

32. The Public Trustee may appoint in writing one or more persons as inspectors. Appointment of inspectors

33. An inspector may at any reasonable time, without a warrant, enter the business premises of a holder of intangible property to make an inspection for the purposes of this Act and the regulations. Entry

34. Upon an inspection, an inspector has the right to examine the business records of the holder to determine whether the holder is complying with this Act and the regulations. Inspection

35.—(1) Every holder of intangible property whose business records are the subject of an inspection shall co-operate fully with the inspector, including, Co-operation

- (a) permitting the inspector to enter all premises where the holder keeps business records;

- (b) producing to the inspector the holder's business records;
- (c) permitting the inspector to examine the holder's business records and providing such assistance as is requested by the inspector; and
- (d) providing to the inspector information requested by the inspector in respect of the holder's business records and in respect of intangible property held by the holder for any other person.

Employees

(2) Every employee of a business organization whose business records are the subject of an inspection also shall provide the co-operation specified in subsection (1).

Powers of inspection

- (3) Upon an inspection under this section, the inspector,
- (a) has the right to inspect the premises and the operations carried out on the premises;
 - (b) has the right to free access, at any reasonable time, to all books of account, documents, correspondence and records, including all records that are relevant to the purposes of the inspection, regardless of the form or medium in which such records are kept, but, if such books, documents, correspondence or records are kept in a form or medium that is not legible, the inspector is entitled to require the person apparently in charge of them to produce a legible physical copy for examination by the inspector;
 - (c) has the right to remove, upon giving a receipt therefor and showing the certificate of appointment issued by the Public Trustee, any material referred to in clause (b) that relates to the purposes of the inspection for the purpose of making a copy thereof, provided that the material is promptly returned to the person apparently in charge of the premises from which the material was removed; and
 - (d) may question a person on matters that are or may be relevant to an inspection under this Act, subject to the person's right to have counsel or some other representative present during the examination.

Obstruction

36. No person shall hinder, obstruct or fail to co-operate with an inspector carrying out an inspection.

37.—(1) An inspector may apply to a justice of the peace for a warrant if a holder of intangible property, or a person believed to be a holder of intangible property,

Application
for warrant

- (a) denies an inspector entry to the holder's business premises;
- (b) instructs an inspector to leave the holder's business premises;
- (c) obstructs an inspector carrying out an inspection; or
- (d) fails to co-operate with an inspector carrying out an inspection.

(2) A justice of the peace may issue a warrant in the prescribed form if satisfied on evidence upon oath or affirmation,

Issuance of
warrant

- (a) that there is reasonable ground for believing that it is necessary to enter any business premises and to examine a holder's business records for the purposes of this Act; and
- (b) that an inspector has been denied entry, instructed to leave, obstructed or refused production of any business record.

(3) A warrant under this section authorizes the inspector, and any person acting under the direction of the inspector, to enter the business premises of the holder named in the warrant, to examine the holder's business records and, upon giving a receipt therefor, to remove the business records or any part of them for the purpose of making copies by force, if necessary, together with such police officer or officers as they call upon to assist them.

Action under
warrant

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

Execution of
warrant

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

Expiry of
warrant

(6) 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 a representative of the holder whose records are to be inspected.

Notice of
application

PART VII

MISCELLANEOUS

Failure to report

38.—(1) Every person who fails, without reasonable excuse, to file a report as required by this Act and the regulations shall pay a penalty of not more than \$500 for each day or part of a day on which the failure occurs or continues.

Failure to transfer

(2) Every person who fails, without reasonable excuse, to transfer unclaimed intangible property to the Public Trustee when required by this Act and the regulations shall pay a penalty in an amount equal to 10 per cent of the value of the unclaimed intangible property.

Interest

(3) Every person who fails, without reasonable excuse, to transfer unclaimed intangible property to the Public Trustee when required by this Act and the regulations shall pay a penalty in an amount equal to interest at the prescribed rate on the value of the property calculated from the date when the person should have transferred the property to the Public Trustee to and including the date on which the property is transferred to the Public Trustee.

Payment

(4) Every penalty under subsection (1), (2) or (3) shall be paid to the Public Trustee and shall form part of the Unclaimed Intangible Property Account.

Order

(5) Upon application by the Public Trustee, a court of competent jurisdiction may order a person to pay a penalty that the person owes under subsection (1), (2) or (3).

Application to court

39. Upon application by the Public Trustee, a court of competent jurisdiction may order a holder of unclaimed intangible property to transfer the property to the Public Trustee in accordance with this Act and the regulations.

Copies

40. A copy of any business record related to an inspection and purporting to be certified by an inspector is admissible in evidence in any action, application or prosecution as proof, in the absence of evidence to the contrary, of the original.

Retention of property

41. Every person who is required to file a report with the Public Trustee in respect of intangible property shall preserve the records relating to the property for the prescribed period of time.

Offences

42.—(1) Every person who obstructs or hinders an inspector carrying out or attempting to carry out an inspection under this Act is guilty of an offence.

(2) Every person who participates in, assents to or acquiesces in the making of an incorrect statement or omission in a report or return under this Act or the regulations is guilty of an offence. Idem

(3) Every person who fails to preserve a record in accordance with this Act or the regulations is guilty of an offence. Records

(4) Every director or officer of a body corporate that is guilty of an offence under this Act who authorizes, permits or acquiesces in the offence is guilty of an offence. Director or officer

43. Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 or, if the person is a body corporate, to a fine of not more than \$25,000 for every day or part of a day on which the offence occurs or continues. Penalty

44.—(1) A provision of an agreement to recover or assist in recovering unclaimed intangible property that provides for compensation or for payment of expenses, or for both, is not valid in respect of that part of the compensation or expenses, or both, that exceeds 20 per cent of the value of the property. Compensation

(2) Despite the existence of an agreement to recover or assist in recovering unclaimed intangible property, the Public Trustee has the right to transfer property or to make payment, or both, directly to the owner of the property. Public Trustee

45. Despite the *Freedom of Information and Protection of Privacy Act, 1987*, the Public Trustee shall provide to officials of the Ministry of Treasury and Economics such records and information as they request for the purposes of developing policies for the Province of Ontario. Records and information
1987, c. 25

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

(a) prescribing any matter referred to in this Act as prescribed;

(b) respecting the times within which holders of unclaimed intangible property shall report thereon to the Public Trustee;

(c) requiring that reports to the Public Trustee respecting unclaimed intangible property be accompanied by certificates verifying their accuracy and completeness as reflecting the records of the holder

making the report, prescribing the forms of such reports and by whom such reports shall be signed;

- (d) exempting holders of unclaimed intangible property of prescribed classes or of less than the prescribed value from reporting the names and addresses of the owners of the property to the Public Trustee;
- (e) exempting kinds or classes of property from the application of this Act or the regulations;
- (f) exempting classes of persons from reporting or transferring property under this Act or the regulations;
- (g) respecting the records that shall be kept by the Public Trustee in respect of property transferred to the Public Trustee under this Act;
- (h) respecting the publication of notices by the Public Trustee listing property paid or transferred to the Public Trustee under this Act;
- (i) respecting the fees and expenses that may be charged by the Public Trustee for the care and administration of property under this Act;
- (j) prescribing rules and conditions for determining when intangible property is or is not in Ontario for the purposes of this Act;
- (k) prescribing the time when and the circumstances in which intangible property not mentioned in section 4 becomes unclaimed;
- (l) prescribing for the purposes of subsection 5 (1) an amount other than \$100.

Transitional

47.—(1) The periods of time set out in this Act for calculating when intangible property becomes unclaimed apply in respect of periods of time before as well as after the coming into force of this Act.

Void provisions

(2) Every provision of any by-law, letters patent or articles of incorporation or association or in any other similar instrument, whether made before or after the coming into force of this Act, that extinguishes or forfeits an owner's interest in intangible property before it is to be transferred to the Public Trustee under this Act is void.

(3) Subsection (2) does not apply in respect of the extinguishment or forfeiture of an owner's interest in intangible property before a date that is ten years before the date on which this Act comes into force. Exception

(4) This Act applies despite the provisions of any other Act that, after the coming into force of this Act, extinguish or make unenforceable an owner's interest in intangible property or limit the commencement or continuation of any action or proceeding with respect to the owner's interest in intangible property. Conflict with other Acts

(5) Subject to this section, this Act does not revive the interest of an owner in intangible property if that interest has, before the 18th day of May, 1989, been extinguished or made unenforceable unless, Interest not revived

- (a) on or after that date, the financial or other records of the holder show the entitlement of the owner to that interest; or
- (b) the holder regularly waives the extinguishment or unenforceability of such interests.

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

49. The short title of this Act is the *Unclaimed Intangible Property Act, 1989*. Short title





Bill 86

(Chapter 83
Statutes of Ontario, 1989)

An Act respecting the Custody of Unclaimed Intangible Property

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	December 5th, 1989
<i>2nd Reading</i>	December 13th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

Bill 86

1989

**An Act respecting the
Custody of Unclaimed Intangible Property**

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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:

INTERPRETATION

1. In this Act,

Definitions

“business organization” means a corporation, a partnership or a sole proprietorship and, without limiting the generality of the foregoing, includes a financial organization, an insurer or a public utility;

“communication” means any form of contact, and includes oral, written or electronic communication;

“financial organization” means a trust company, a bank to which the *Bank Act* (Canada) applies, a loan company or a credit union;

R.S.C. 1985,
c. B-1

“governmental organization” means,

- (a) a ministry of the Crown and a Crown agency, board or commission,
- (b) a municipality, including a district, metropolitan or regional municipality,

R.S.O. 1980,
c. 303

(c) a local board as defined in the *Municipal Affairs Act*;

“holder”, in respect of intangible property, includes any person, business organization, governmental organization or other entity,

- (a) that is in possession of intangible property belonging to another,
- (b) that is a trustee or other fiduciary, or
- (c) that is indebted to another on an obligation;

“inspector” means an inspector appointed under this Act by the Public Trustee;

R.S.O. 1980,
c. 218

“insurer” means an insurer licensed under the *Insurance Act*;

“intangible property” means a right of ownership over any personal property that is not a chattel or a mortgage, and includes, without limiting the generality of the foregoing,

- (a) money, a cheque, a bank draft, a deposit, interest, a dividend and income,
- (b) a credit balance, a customer overpayment, a gift certificate, a security deposit, a refund, a credit memo, an unpaid wage and an unused airline ticket,
- (c) a share or any other intangible ownership interest in a business organization,
- (d) money deposited to redeem a share, a bond, a coupon or other security, or to make a distribution,
- (e) an amount due and payable by the insurer under the terms of an insurance policy, and
- (f) an amount distributable from a trust or custodial fund established under a plan to provide education, health, welfare, vacation, severance, retirement, death, share purchase, profit sharing, employee savings, supplemental unemployment insurance or a similar benefit;

“owner”, in respect of intangible property, means the legal owner or the equitable owner of the intangible property, and includes an executor or administrator of the owner;

“prescribed” means prescribed by the regulations;

“public utility” means a public utility within the meaning of the *Public Utilities Act*, a regional, metropolitan or municipal corporation that operates a water or sewage works, an electrical supply system or other similar works or service, and a business organization that operates a system for the transmission of communications;

R.S.O. 1980,
c. 423

“regulations” means regulations made under this Act.

PART I

GENERAL

2.—(1) This Act safeguards the rights of owners of intangible property by providing a method for them to recover, in perpetuity, their intangible property that has been held by others.

Purpose

(2) This Act also allows unclaimed intangible property to be used for the benefit of the people of Ontario until the property is claimed by its owner.

Idem

3. The Crown in right of Ontario has the right to claim and receive unclaimed intangible property that is in Ontario or the ownership of which is governed by the law of Ontario.

Right to
unclaimed
intangible
property

4.—(1) Intangible property is unclaimed if no communication is received from the owner by the holder of the property within the time set out in subsection (2) and, where applicable, in the manner specified in that subsection.

Unclaimed
intangible
property

(2) Intangible property becomes unclaimed five years after the date on which it becomes payable or distributable by the holder, but intangible property represented by the following instruments, obligations or arrangements is subject to the following exceptions:

Time periods

1. A traveller's cheque becomes unclaimed fifteen years after the date of the issue of the traveller's cheque.
2. A money order becomes unclaimed seven years after the date of the issuance of the money order.
3. A cheque, bank draft or other similar instrument becomes unclaimed five years after the date on which the cheque, bank draft or other similar instrument becomes payable or, if payable on

demand, five years after the date of issuance of the cheque, bank draft or other similar instrument.

4. Subject to section 14, a demand deposit, savings deposit or matured time deposit with a financial organization becomes unclaimed five years after the last date on which the owner of the deposit,
 - i. last increased or decreased the amount of the deposit,
 - ii. last presented the passbook or other similar evidence of the deposit for the crediting of interest, or
 - iii. last communicated with the financial organization on any matter as evidenced by a record on file at the financial organization.
5. Subject to section 16, an amount held or owing under a life insurance contract, an endowment insurance contract or an annuity contract that has matured becomes unclaimed three years after the date on which the money becomes due and payable according to the records of the insurer under the contract.
6. A deposit made by a customer with a public utility as a deposit to secure payment or as payment in advance for utility services to be furnished becomes unclaimed one year after the date of termination of the utility services to the customer.
7. A refund becomes unclaimed one year after the date on which it becomes payable.
8. Subject to section 17, a share or other intangible ownership interest in a business organization becomes unclaimed five years after the date on which a dividend, distribution or other amount becomes payable or distributable or, where no dividend, distribution or other amount has become payable or distributable, twenty years from the prescribed date if the owner has not communicated with the holder during the twenty-year period.
9. Subject to section 17, a dividend, distribution or other amount payable or distributable in respect of a share or other intangible ownership interest mentioned in paragraph 8 is unclaimed at the time when

that share or other intangible ownership interest becomes unclaimed.

10. Intangible property that is distributable in the course of the dissolution of a business organization becomes unclaimed one year after the date specified for final distribution if it remains undistributed at that time.
11. Intangible property held in a fiduciary capacity becomes unclaimed five years after the last to occur of any date on which,
 - i. the property, income or increment becomes payable or distributable,
 - ii. the beneficiary has accepted payment of principal or income, or
 - iii. the beneficiary has communicated with the holder, or otherwise indicated an interest in the property, as evidenced by the records of the holder.
12. Intangible property that is held for the owner by a court, a tribunal or governmental organization becomes unclaimed one year after the date on which the intangible property becomes payable or distributable.
13. An unpaid wage, including a wage represented by an unrepresented payroll cheque, that is owing in the ordinary course of business becomes unclaimed one year after the date on which the wage becomes payable.

(3) When any intangible property becomes unclaimed, all interest, income and other accretions to the property held by the holder at the time the property is transferred to the Public Trustee are unclaimed and shall be transferred to the Public Trustee with the property.

PART II

NOTICE, REPORT, TRANSFER

5.—(1) A holder of unclaimed intangible property that has a value of more than \$100 who has an address for the owner of the property shall send written notice to the owner.

Notice to
owner

- Time** (2) The holder shall send the notice not less than ninety days and not more than twelve months before the date by which the holder is required to report to the Public Trustee as required by this Part.
- Content** (3) The notice shall state that the holder is holding the property, that the property is subject to this Act and any other prescribed information.
- Inaccurate address** (4) Subsection (1) does not apply if the holder has reasonable grounds for believing that the address of the owner in the records of the holder is inaccurate.
- Charge for notice** (5) No holder shall charge more than the prescribed amount for sending written notice under this section.
- Report to Public Trustee** **6.—**(1) Every holder of unclaimed intangible property shall file annually with the Public Trustee a report within the prescribed time and in the prescribed form in respect of the property.
- Earlier payment or transfer** (2) A holder of unclaimed intangible property who is exempt by the regulations from reporting the name of the owner of the property to the Public Trustee shall transfer the property to the Public Trustee at the time of filing the report with the Public Trustee.
- Extension of time** (3) The Public Trustee may extend the time for filing the report if satisfied that there are reasonable grounds for granting the extension.
- Time of grant of extension** (4) The Public Trustee may grant an extension before or after expiry of the time for filing the report.
- Notice of proposed transfer** **7.** The Public Trustee shall cause notices to be published, in accordance with the regulations, listing the names of, and other prescribed information relating to, the owners of property recorded in reports filed under this Act and the regulations with the Public Trustee by holders of such property.
- Transfer to Public Trustee** **8.—**(1) Within six months after the date on which a holder of unclaimed intangible property is required to file a report under section 6 in respect of the property, the holder shall transfer the property to the Public Trustee.
- Exception** (2) Subsection (1) does not apply in respect of property that has been claimed by the owner.
- Further reports** (3) A holder who transfers property under this section shall file with the Public Trustee, at the time of the transfer,

- (a) a second report in the prescribed form in respect of the property mentioned in the first report; and
- (b) a report in the prescribed form in respect of any property claimed by the owner from the holder between the dates of filing the first and second reports.

9.—(1) The Public Trustee may require the transfer to the Public Trustee of records related to unclaimed intangible property transferred under this Act.

Transfer of records

(2) The Public Trustee may extend the time for making a transfer under subsection (1) if the Public Trustee is satisfied that there are reasonable grounds for granting the extension.

Extension of time

(3) The Public Trustee may grant an extension before or after expiry of the time for making the transfer.

Time of grant of extension

(4) A holder of unclaimed intangible property may transfer to the Public Trustee any record in respect of the property that the Public Trustee is willing to accept.

Voluntary transfer

10. The holder of unclaimed intangible property composed of shares or any other intangible ownership interest in a business organization who is required to transfer the property to the Public Trustee shall, at the request of the Public Trustee, issue and deliver to the Public Trustee a certificate showing the Public Trustee as owner of the property or, if the holder does not issue certificates of ownership, other evidence of ownership satisfactory to the Public Trustee, and the change of ownership shall be recorded in the records of the holder.

Certificate of ownership

11. The Public Trustee shall cause a notice in the prescribed form to be published annually in *The Ontario Gazette*, listing the names of, and other prescribed information relating to, the owners of unclaimed intangible property transferred to the Public Trustee in the previous year.

Notice by Public Trustee

12. The owner of unclaimed intangible property transferred to the Public Trustee has the right to claim the property from the Public Trustee in accordance with Part V.

Right of owner

PART III

SPECIAL RULES

13.—(1) A holder of intangible property shall not impose a charge against the owner of the property because the owner

Charges to reduce value prohibited

has failed to communicate with the holder or because there have been no transactions with respect to the property.

Exception

(2) Subsection (1) does not apply if the charge is authorized under any Act or if there is a written contract between the holder and the owner pursuant to which the holder may impose the charge and,

- (a) the holder regularly imposes such charges; and
- (b) the holder does not regularly reverse or otherwise cancel such charges after imposing them.

Limit

(3) Despite subsection (2), a charge mentioned in subsection (1) that exceeds the prescribed amount is void.

Deemed charge

(4) For the purposes of this section, ceasing to make payment of interest shall be deemed to be the imposition of a charge and the amount of the unpaid interest shall be deemed to be the amount of the charge.

Automatic renewal of deposits

14.—(1) For the purposes of paragraph 4 of subsection 4 (2), the automatic renewal of a demand deposit, savings deposit or matured time deposit with a financial organization does not prevent the commencement of the period of time.

Exception

(2) Subsection (1) does not apply if the owner of the deposit communicated with the bank or financial organization at or about the time of renewal to consent to the renewal.

Travellers' cheques and money orders

15. Ontario does not have the right to unclaimed intangible property represented by a traveller's cheque, money order or similar written instrument unless,

- (a) the records of the issuer show that the traveller's cheque, money order or similar written instrument was purchased in the Province; or
- (b) the issuer has its principal place of business in the Province and the records of the issuer do not show that the traveller's cheque, money order or similar written instrument was purchased in another jurisdiction.

Insurance and annuity contracts

16.—(1) For the purposes of paragraph 5 of subsection 4 (2), an annuity contract, a life insurance contract or an endowment insurance contract not matured by proof of the death of the annuitant or the person whose life was insured according to the records of the insurer shall be deemed to be matured and the proceeds are due and payable if,

- (a) the insurer has reasonable grounds for belief that the person has died, and the contract was in force on the date the person is believed to have died; or
- (b) the person, if alive, would have attained the limiting age under the mortality table on which the reserve for the contract is based, and the contract was in force on the date on which the person would have attained that age.

(2) Subsection (1) does not apply if, within the preceding three years, any person who is entitled to do so has assigned an interest in the contract, readjusted or paid premiums on the contract, borrowed from the insurer against the contract or otherwise communicated with the insurer. Application of subs. (1)

17.—(1) For the purposes of paragraph 8 of subsection 4 (2), a share or any other intangible ownership interest in a business organization is not unclaimed unless, Shares

- (a) there have been at least five consecutive dividends, distributions or other sums payable or distributable in respect of the share or other intangible ownership interest; and
- (b) at least five years have elapsed since the date when the earliest of the five consecutive dividends, distributions or other sums mentioned in clause (a) became payable or distributable and no dividend, distribution or other sum that became payable or distributable on or after that date has been claimed by the owner.

(2) If five dividends, distributions or other sums are payable or distributable, the period of time for determining whether the interest is unclaimed intangible property shall be calculated from the date of payment or distribution of the first unclaimed dividend, distribution or other sum. Calculation of time

(3) For the purposes of this Act, a person who holds intangible property as a transfer agent for the issuer of shares is the holder of the property only in so far as the interest of the issuer is concerned, and the issuer is the holder of the property in respect of the interest of the owner. Holder

(4) Where a broker, depository or other fiduciary is the holder of a share or other intangible ownership interest and has not paid or distributed to the owner the dividends, distributions or other sums payable or distributable mentioned in subsection (1) in respect of the share or interest for the period Application to brokers, etc.

mentioned in that subsection, the share or other interest, including the dividends, distribution or other sums payable or distributable, is unclaimed.

Retirement
accounts and
plans
R.S.C. 1952,
c. 148

18. Funds in a registered retirement savings plan, as defined by the *Income Tax Act* (Canada), or similar plan are not payable or distributable for the purposes of this Act until five years after the date when, under the terms of the plan, distribution of all or part of the funds is mandatory and the owner or beneficiary of the funds has not communicated with the holder in that time as evidenced by the records of the holder.

PART IV

PUBLIC TRUSTEE

Adminis-
trator

19. The Public Trustee is the administrator of unclaimed intangible property on behalf of Ontario.

Authority of
Public
Trustee

20.—(1) Subject to this Act, the Public Trustee has and may exercise all the rights and powers related to ownership in respect of unclaimed intangible property transferred, or required to be transferred, to the Public Trustee.

Powers and
duties
R.S.O. 1980,
c. 422

(2) The Public Trustee has in respect of this Act the powers, capacities, duties and liabilities under the *Public Trustee Act*.

Unclaimed
Intangible
Property
Account

21.—(1) The Public Trustee shall establish in the accounts of the Public Trustee an account to be known as the "Unclaimed Intangible Property Account".

Record

(2) The Public Trustee shall record in the Unclaimed Intangible Property Account all unclaimed intangible property transferred to the Public Trustee and the disposition of the property.

Fees and
expenses

22. The Public Trustee is entitled to charge against the Unclaimed Intangible Property Account the expenses of administration approved by the Management Board of Cabinet in respect of property received and administered under this Act.

Transfer to
Treasurer of
Ontario

23.—(1) The Public Trustee shall transfer to the Treasurer of Ontario at the close of each fiscal year for deposit into the Consolidated Revenue Fund the balance remaining recorded in the Unclaimed Intangible Property Account.

(2) The Public Trustee may retain out of the moneys to be transferred a reasonable reserve, in an amount approved by the Treasurer of Ontario, against future claims and expenses against the Account. Reserve

(3) If the amount held in the Account, together with the reserve retained under subsection (2), is insufficient to meet claims against it, the Treasurer of Ontario may pay from the Consolidated Revenue Fund to the credit of the Account such sum as is, in the opinion of the Treasurer, sufficient to meet the claims that cannot be satisfied from it. Insufficient reserve

PART V

CLAIMS

24. A person claiming an interest in unclaimed intangible property transferred to the Public Trustee may file a claim with the Public Trustee in the prescribed form. Filing of claim

25. The Public Trustee shall consider and respond in writing to each claim within ninety days after the claim is filed. Response to claim

26.—(1) If a claim is allowed, the Public Trustee shall transfer to the claimant the intangible property transferred to the Public Trustee or, if the property has been sold by the Public Trustee, the net proceeds of the sale. Return of intangible property

(2) The Public Trustee is entitled to be paid by the person to whom intangible property is transferred under subsection (1) or to retain out of the net proceeds of sale the expenses and prescribed fees of the Public Trustee. Expenses and fees

(3) Expenses and fees mentioned in subsection (2) shall be deposited in the Unclaimed Intangible Property Account. Idem

27.—(1) If unclaimed intangible property in respect of which a claim is allowed was interest-bearing to the owner on the date of transfer to the Public Trustee, the Public Trustee shall pay to the claimant an amount in respect of interest calculated at the lesser of the prescribed rate or the rate the property was earning immediately before transfer to the Public Trustee. Interest

(2) If unclaimed intangible property in respect of which a claim is allowed is transferred to the Public Trustee in a form other than money, the Public Trustee also shall pay to the claimant any dividend, interest or other increment realized or accrued on the property from the date the property was trans- Idem

ferred to the Public Trustee to and including the date the property was converted into money and thereafter shall pay an amount in respect of interest in accordance with subsection (1).

Calculation
of interest

(3) Interest begins to accrue on the date when the unclaimed intangible property is transferred to the Public Trustee, in the case of money, and, in the case of property other than money, on the date when the property was converted into money, and ceases on the earlier of the expiration of ten years after that date or the date on which the property is transferred to the owner.

Liability

28.—(1) A holder who transfers property to the Public Trustee for the purposes of this Act in good faith is relieved of all liability to the extent of the value of the property paid or transferred for any claim in respect of the property.

Indemnity

(2) Subject to subsection (3), if a holder transfers property to the Public Trustee in good faith and thereafter another person claims the property from the person who was the holder or another jurisdiction claims the property under its laws relating to escheat or unclaimed property, the Public Trustee, upon proof of the claim, will indemnify the person who was the holder as to the claim and legal costs.

Conditions

(3) The Public Trustee is not required to pay an indemnity unless the person who was the holder,

- (a) gives to the Public Trustee written notice of the claim forthwith after becoming aware of the claim;
- (b) takes no action that would prejudice any settlement of the claim by the Public Trustee and takes no action that would prejudice any defence of the claim or any appeal in relation thereto; and
- (c) assists (except monetarily) the Public Trustee in such manner as may be reasonably necessary to settle the claim or as may be reasonably necessary in defence of the claim or in any appeal in relation thereto.

Rights of
Public
Trustee

(4) Upon receipt of a written notice from a person who was a holder, the Public Trustee may defend or contest the claim to which the notice relates and the Public Trustee may exercise and make any defence that the person could make.

Claim for
appreciation
in value

29. No person has the right to a claim against the Crown, the Public Trustee, the holder, or a transfer agent, a registrar

or other person acting for or on behalf of a holder for any appreciation in the value of unclaimed intangible property occurring after transfer by the holder to the Public Trustee.

30.—(1) Upon application, a court of competent jurisdiction may determine the rights of a claimant under this Part. Determination of rights by court

(2) An application under subsection (1) shall not be commenced before the expiry of the period of time within which the Public Trustee is required to respond to a claim under this Part. Time

31.—(1) A court that determines an application respecting property transferred to the Public Trustee under this Act may award costs to be paid out of the value of the property. Costs

(2) The court shall not award costs against the Public Trustee or the holder who transferred the property to the Public Trustee. Exception

(3) Subsection (2) does not apply if the court determines that the Public Trustee or the holder who transferred the property to the Public Trustee failed to act in accordance with this Act or the regulations and the failure to act prejudiced the interest of the owner of the property. Application of subs. (2)

PART VI

INSPECTION

32. The Public Trustee may appoint in writing one or more persons as inspectors. Appointment of inspectors

33. An inspector may at any reasonable time, without a warrant, enter the business premises of a holder of intangible property to make an inspection for the purposes of this Act and the regulations. Entry

34. Upon an inspection, an inspector has the right to examine the business records of the holder to determine whether the holder is complying with this Act and the regulations. Inspection

35.—(1) Every holder of intangible property whose business records are the subject of an inspection shall co-operate fully with the inspector, including, Co-operation

- (a) permitting the inspector to enter all premises where the holder keeps business records;

- (b) producing to the inspector the holder's business records;
- (c) permitting the inspector to examine the holder's business records and providing such assistance as is requested by the inspector; and
- (d) providing to the inspector information requested by the inspector in respect of the holder's business records and in respect of intangible property held by the holder for any other person.

Employees

(2) Every employee of a business organization whose business records are the subject of an inspection also shall provide the co-operation specified in subsection (1).

Powers of inspection

- (3) Upon an inspection under this section, the inspector,
- (a) has the right to inspect the premises and the operations carried out on the premises;
 - (b) has the right to free access, at any reasonable time, to all books of account, documents, correspondence and records, including all records that are relevant to the purposes of the inspection, regardless of the form or medium in which such records are kept, but, if such books, documents, correspondence or records are kept in a form or medium that is not legible, the inspector is entitled to require the person apparently in charge of them to produce a legible physical copy for examination by the inspector;
 - (c) has the right to remove, upon giving a receipt therefor and showing the certificate of appointment issued by the Public Trustee, any material referred to in clause (b) that relates to the purposes of the inspection for the purpose of making a copy thereof, provided that the material is promptly returned to the person apparently in charge of the premises from which the material was removed; and
 - (d) may question a person on matters that are or may be relevant to an inspection under this Act, subject to the person's right to have counsel or some other representative present during the examination.

Obstruction

36. No person shall hinder, obstruct or fail to co-operate with an inspector carrying out an inspection.

37.—(1) An inspector may apply to a justice of the peace for a warrant if a holder of intangible property, or a person believed to be a holder of intangible property,

Application
for warrant

- (a) denies an inspector entry to the holder's business premises;
- (b) instructs an inspector to leave the holder's business premises;
- (c) obstructs an inspector carrying out an inspection; or
- (d) fails to co-operate with an inspector carrying out an inspection.

(2) A justice of the peace may issue a warrant in the prescribed form if satisfied on evidence upon oath or affirmation,

Issuance of
warrant

- (a) that there is reasonable ground for believing that it is necessary to enter any business premises and to examine a holder's business records for the purposes of this Act; and
- (b) that an inspector has been denied entry, instructed to leave, obstructed or refused production of any business record.

(3) A warrant under this section authorizes the inspector, and any person acting under the direction of the inspector, to enter the business premises of the holder named in the warrant, to examine the holder's business records and, upon giving a receipt therefor, to remove the business records or any part of them for the purpose of making copies by force, if necessary, together with such police officer or officers as they call upon to assist them.

Action under
warrant

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

Execution of
warrant

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

Expiry of
warrant

(6) 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 a representative of the holder whose records are to be inspected.

Notice of
application

PART VII

MISCELLANEOUS

- Failure to report **38.**—(1) Every person who fails, without reasonable excuse, to file a report as required by this Act and the regulations shall pay a penalty of not more than \$500 for each day or part of a day on which the failure occurs or continues.
- Failure to transfer (2) Every person who fails, without reasonable excuse, to transfer unclaimed intangible property to the Public Trustee when required by this Act and the regulations shall pay a penalty in an amount equal to 10 per cent of the value of the unclaimed intangible property.
- Interest (3) Every person who fails, without reasonable excuse, to transfer unclaimed intangible property to the Public Trustee when required by this Act and the regulations shall pay a penalty in an amount equal to interest at the prescribed rate on the value of the property calculated from the date when the person should have transferred the property to the Public Trustee to and including the date on which the property is transferred to the Public Trustee.
- Payment (4) Every penalty under subsection (1), (2) or (3) shall be paid to the Public Trustee and shall form part of the Unclaimed Intangible Property Account.
- Order (5) Upon application by the Public Trustee, a court of competent jurisdiction may order a person to pay a penalty that the person owes under subsection (1), (2) or (3).
- Application to court **39.** Upon application by the Public Trustee, a court of competent jurisdiction may order a holder of unclaimed intangible property to transfer the property to the Public Trustee in accordance with this Act and the regulations.
- Copies **40.** A copy of any business record related to an inspection and purporting to be certified by an inspector is admissible in evidence in any action, application or prosecution as proof, in the absence of evidence to the contrary, of the original.
- Retention of property **41.** Every person who is required to file a report with the Public Trustee in respect of intangible property shall preserve the records relating to the property for the prescribed period of time.
- Offences **42.**—(1) Every person who obstructs or hinders an inspector carrying out or attempting to carry out an inspection under this Act is guilty of an offence.

(2) Every person who participates in, assents to or acquiesces in the making of an incorrect statement or omission in a report or return under this Act or the regulations is guilty of an offence. Idem

(3) Every person who fails to preserve a record in accordance with this Act or the regulations is guilty of an offence. Records

(4) Every director or officer of a body corporate that is guilty of an offence under this Act who authorizes, permits or acquiesces in the offence is guilty of an offence. Director or officer

43. Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 or, if the person is a body corporate, to a fine of not more than \$25,000 for every day or part of a day on which the offence occurs or continues. Penalty

44.—(1) A provision of an agreement to recover or assist in recovering unclaimed intangible property that provides for compensation or for payment of expenses, or for both, is not valid in respect of that part of the compensation or expenses, or both, that exceeds 20 per cent of the value of the property. Compensation

(2) Despite the existence of an agreement to recover or assist in recovering unclaimed intangible property, the Public Trustee has the right to transfer property or to make payment, or both, directly to the owner of the property. Public Trustee

45. Despite the *Freedom of Information and Protection of Privacy Act, 1987*, the Public Trustee shall provide to officials of the Ministry of Treasury and Economics such records and information as they request for the purposes of developing policies for the Province of Ontario. Records and information
1987, c. 25

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

(a) prescribing any matter referred to in this Act as prescribed;

(b) respecting the times within which holders of unclaimed intangible property shall report thereon to the Public Trustee;

(c) requiring that reports to the Public Trustee respecting unclaimed intangible property be accompanied by certificates verifying their accuracy and completeness as reflecting the records of the holder

making the report, prescribing the forms of such reports and by whom such reports shall be signed;

- (d) exempting holders of unclaimed intangible property of prescribed classes or of less than the prescribed value from reporting the names and addresses of the owners of the property to the Public Trustee;
- (e) exempting kinds or classes of property from the application of this Act or the regulations;
- (f) exempting classes of persons from reporting or transferring property under this Act or the regulations;
- (g) respecting the records that shall be kept by the Public Trustee in respect of property transferred to the Public Trustee under this Act;
- (h) respecting the publication of notices by the Public Trustee listing property paid or transferred to the Public Trustee under this Act;
- (i) respecting the fees and expenses that may be charged by the Public Trustee for the care and administration of property under this Act;
- (j) prescribing rules and conditions for determining when intangible property is or is not in Ontario for the purposes of this Act;
- (k) prescribing the time when and the circumstances in which intangible property not mentioned in section 4 becomes unclaimed;
- (l) prescribing for the purposes of subsection 5 (1) an amount other than \$100.

Transitional

47.—(1) The periods of time set out in this Act for calculating when intangible property becomes unclaimed apply in respect of periods of time before as well as after the coming into force of this Act.

Void provisions

(2) Every provision of any by-law, letters patent or articles of incorporation or association or in any other similar instrument, whether made before or after the coming into force of this Act, that extinguishes or forfeits an owner's interest in intangible property before it is to be transferred to the Public Trustee under this Act is void.

(3) Subsection (2) does not apply in respect of the extinguishment or forfeiture of an owner's interest in intangible property before a date that is ten years before the date on which this Act comes into force. Exception

(4) This Act applies despite the provisions of any other Act that, after the coming into force of this Act, extinguish or make unenforceable an owner's interest in intangible property or limit the commencement or continuation of any action or proceeding with respect to the owner's interest in intangible property. Conflict with other Acts

(5) Subject to this section, this Act does not revive the interest of an owner in intangible property if that interest has, before the 18th day of May, 1989, been extinguished or made unenforceable unless, Interest not revived

- (a) on or after that date, the financial or other records of the holder show the entitlement of the owner to that interest; or
- (b) the holder regularly waives the extinguishment or unenforceability of such interests.

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

49. The short title of this Act is the *Unclaimed Intangible Property Act, 1989*. Short title

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Bill 87

An Act to amend the Education Act

Mrs. Cunningham

1st Reading December 5th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to update the terminology used in the Act with respect to developmentally disabled children and pupils.

Bill 87**1989****An Act to amend the Education Act**

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

1. Paragraph 68 of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

68. "trainable developmentally disabled child" or "trainable developmentally disabled pupil" means an exceptional pupil whose intellectual functioning is below the level at which the pupil could profit from a special education program for educable developmentally disabled pupils.

2. The said Act is amended by,

- (a) striking out "trainable retarded child" wherever it occurs and inserting in lieu thereof "trainable developmentally disabled child"; and
- (b) striking out "trainable retarded pupil" wherever it occurs and inserting in lieu thereof "trainable developmentally disabled pupil".

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Education Amendment Act, 1989*. Short title

1871

1872

1873

1874

1875

1876

Bill 88

An Act to regulate Alarm Systems

Mr. McLean

1st Reading December 5th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to regulate alarm systems installed on real property.

The Bill establishes a licensing system for persons engaged in the business of providing alarm services and persons employed as alarm installers. The Bill provides for investigations regarding the suitability of persons applying for licences and investigations of complaints against persons providing alarm services.

In addition, the Bill prohibits the sale of alarm systems not meeting minimum technical standards and requires occupiers of real property on which an alarm system is installed to notify the local police of the installation.

The Bill establishes a system of fines for false alarms that cause the unnecessary response of the police, a fire department or an ambulance service. Higher fines are specified for subsequent false alarms occurring within twelve months of a first false alarm. The Bill also permits a court to order the disconnection of an alarm system after the third false alarm within any twelve-month period.

Bill 88

1989

An Act to regulate Alarm Systems

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

1. In this Act,

Definitions

“alarm installer” means a person who installs, maintains or repairs alarm systems while employed by a person engaged in the business of providing alarm services;

“alarm services” means services involving the installation, maintenance or repair of alarm systems;

“alarm system” means a device or series of devices installed on real property for the purpose of detecting an emergency that requires a response by the police, a fire department or an ambulance service;

“licence” means a licence under this Act;

“licensee” means the holder of a licence under this Act;

“prescribed” means prescribed by the regulations;

“Registrar” means the Registrar under the *Private Investigators and Security Guards Act*; R.S.O. 1980, c. 390

“regulations” means the regulations made under this Act.

2.—(1) No person shall engage in the business of providing alarm services unless the person holds a licence for that purpose. Licences

(2) No person shall act as an alarm installer unless the person is licensed for that purpose. Idem

(3) No person shall hold out as acting as an alarm installer or as being engaged in the business of providing alarm services unless the person is licensed under this Act. Holding out

Application
for licence

3.—(1) A person may apply to the Registrar for a licence to engage in the business of providing alarm services or a licence to act as an alarm installer.

Idem

(2) An application for a licence shall be made on the form supplied by the Registrar and shall be accompanied by the prescribed fees.

Employer to
ensure
employees
licensed

(3) No person engaged in the business of providing alarm services shall employ as an alarm installer a person who is not the holder of a licence.

Address for
service

4.—(1) Every applicant for a licence shall state in the application an address for service in Ontario.

Notice of
change in
address

(2) Every person licensed to engage in the business of providing alarm services shall within five days notify the Registrar in writing of any change in the person's address for service or in the address of any place at which the person carries on business.

Service

(3) All notices under this Act or the regulations are sufficiently given or served for all purposes if sent by registered mail or delivered to the latest address given under this section.

Investigation
of applicant

5.—(1) The Registrar or any person authorized by the Registrar may make such inquiry and investigation as he or she considers sufficient regarding the character, financial position and competence of an applicant or licensee and may require an applicant to try such examinations to determine competence as the Registrar considers necessary.

Verification

(2) The Registrar may require verification by statutory declaration of any information or material submitted in relation to an application.

Issuance of
licence

6.—(1) The Registrar shall issue a licence or renewal of a licence if, in the opinion of the Registrar, the proposed licensing is not against the public interest.

Conditions
attaching to
licence

(2) A licence is subject to such conditions as may be imposed by the Registrar or The Commercial Registration Appeal Tribunal or as may be prescribed.

Transfers

7. A licence is not transferable.

Expiry of
licences

8. Every licence and renewal of a licence expires on the 31st day of March in each year.

9.—(1) Every applicant for renewal of a licence shall, on or before the 1st day of March in each year, apply to the Registrar for the renewal of the licence. Renewals

(2) An application for renewal of a licence shall be made on the form supplied by the Registrar and be accompanied by the prescribed fees. Idem

10. Subject to section 11, the Registrar may suspend or revoke a licence if, Suspension and revocation of licence

(a) the licensee is convicted of an offence under the *Criminal Code* (Canada) or under this Act; R.S.C. 1985, c. C-46

(b) the licensee is in breach of a term or condition of the licence; or

(c) in the opinion of the Registrar, to do so is in the public interest.

11.—(1) If the Registrar proposes to refuse to issue or renew a licence, proposes to impose conditions on a licence or proposes to suspend or revoke a licence, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or the licensee. Proposal

(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by The Commercial Registration Appeal Tribunal if the applicant or licensee mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the applicant or licensee, notice in writing requiring a hearing and the applicant or licensee may so require such a hearing. Notice

(3) If an applicant or licensee does not require a hearing by the Tribunal, the Registrar may carry out the proposal stated in the notice to the applicant or licensee. No hearing

(4) If an applicant or licensee requires a hearing, the Tribunal shall appoint a time for and hold a hearing. Hearing

(5) After holding a hearing, the Tribunal may by order direct the Registrar to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Registrar. Order

- Conditions (6) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.
- Parties (7) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
- Records and information **12.** Every person engaged in the business of providing alarm services shall maintain such records and information as are prescribed.
- Complaints **13.** If the Registrar receives a complaint in respect of the carrying on of the business of providing alarm services and so requests in writing, the person carrying on the business shall furnish the Registrar with such records or information respecting the matter complained of as the Registrar may require.
- Technical standards—prohibition **14.** No person shall offer for sale, sell or lease an alarm system not meeting the prescribed technical standards for alarm systems.
- Notice to local police force of alarm system **15.** The occupier of real property on which an alarm system is installed shall give notice of the installation to the police force having jurisdiction in the area where the property is located,
- (a) within ninety days after the day this Act comes into force, if the alarm system was installed before that day; or
 - (b) within thirty days after the date of installation, if the alarm system is installed on or after the day this Act comes into force.
- False alarm—offence **16.—(1)** The occupier of real property on which an alarm system is installed is guilty of an offence if the alarm system is activated, whether intentionally or not, when there is no emergency requiring response by the police, a fire department or an ambulance service and there is a response to the alarm by the police, a fire department or an ambulance service.
- Penalty (2) On conviction for an offence under subsection (1), the convicted person is liable to a fine of,
- (a) not more than \$500 for the first offence within any twelve-month period;

- (b) not less than \$250 and not more than \$1,000 for the second offence within any twelve-month period; or
- (c) not less than \$500 and not more than \$2,000 for the third offence or any further subsequent offence within any twelve-month period.

(3) In convicting a person of a third offence or any further subsequent offence under subsection (1) within any twelve-month period, a court may, in addition to the fine imposed under subsection (2), order the disconnection of the alarm system relating to the offence.

Disconnection of alarm system

17.—(1) Every person who,

Offences

- (a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act;
- (b) fails to comply with any order, direction or other requirement made under this Act;
- (c) contravenes a condition of a licence; or
- (d) contravenes subsection 2 (1), (2), (3), 3 (3) or 4 (2) or section 13, 14 or 15,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

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

Corporations

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

Regulations

- (a) exempting any person or class of persons from any provision of this Act or the regulations;
- (b) prescribing fees for licences and the renewal of licences;
- (c) prescribing conditions that attach to a licence;
- (d) prescribing records and information to be kept by licensees;
- (e) prescribing technical standards for alarm systems;

- (f) requiring licensees to maintain liability insurance and prescribing the amount thereof;
- (g) requiring licensees to be bonded;
- (h) prescribing the amount, form and terms of bonds;
- (i) providing for the forfeiture of bonds and the disposition of the proceeds on forfeiture.

Adoption of
codes by
reference

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and may require compliance with any code or standard adopted.

Scope of
regulations

(3) A regulation may be general or particular in its application.

Commence-
ment

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

Short title

20. The short title of this Act is the *Alarm Systems Act, 1989*.

Bill 89

An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading December 5th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

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

Bill 89

1989

An Act to amend the Labour Relations Act

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

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

67a.—(1) In this section,

Definitions

“employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;

“legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

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

Unlawful
employment

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

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

Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;

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

Duty of
police officer

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

Trespass

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

R.S.O. 1980,
c. 511

2. Section 71a of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 42, section 1, is repealed.

Commence-
ment

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

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1989*.

Bill 90

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. J. Sweeney
Minister of Municipal Affairs

1st Reading December 6th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTIONS 2, 5 and 8 to 19. Amendments are made to the *Municipal Act*, the *Municipality of Metropolitan Toronto Act*, the *District Municipality of Muskoka Act* and each regional Act to achieve the following:

1. Municipalities may compute sewer or water rates on any basis that they consider appropriate.
2. Sewer or water rates may be established to recover both capital and operating costs.
3. The requirement for Ontario Municipal Board approval of sewer or water rates for capital purposes is eliminated. Approval of the O.M.B. would still be required if a capital project requires long-term financing.
4. All land is subject to sewer or water charges even though it may be exempt from taxation under the *Assessment Act*, unless specifically exempted by the municipality.
5. Municipalities may apportion future charges in respect of water works rates or sewer rates among the new owners where land is subdivided or severed.

Amendments to the *Municipal Act*.

SECTION 1. The proposed amendment to section 116 of the *Municipal Act* would allow municipalities and their local boards to use photocopied or microfilmed copies of records for the purpose of complying with a record retention by-law passed under clause 116 (1) (b) of that Act.

SECTION 3.—Subsection 1. Each regional, metropolitan and district corporation and the County of Oxford is given the power to enter into agreements respecting the joint management of matters under paragraph 5 of section 208 of the *Municipal Act*.

Subsection 2. The proposed amendments to paragraph 55 of section 208 broaden the power to impose a parking lot levy on land that receives a benefit therefrom.

SECTION 4.—Subsections 1 to 4. The proposed amendments to section 210 would broaden the powers of municipalities in respect of animal control. The municipality could require the owners of domestic animals to use an animal identification system including tagging, tattooing or microchip implantation. The requirement that dogs be leashed is made to apply in respect of all land in the municipality. Currently, this requirement applies only to land municipally-owned. The proposed paragraph 6c would allow municipalities to require the muzzling or leashing of a dog that has bitten a person or domestic animal. The proposed paragraph 6d would permit different fees for licensing dogs depending on the gender of the dogs, the number of dogs per household and whether a dog has been spayed or neutered. The proposed paragraph 6e would allow municipalities to establish clinics for the spaying or neutering of dogs and cats and to charge fees for these services. The proposed paragraph 6f continues existing authority for by-laws to prohibit dogs from running at large and for impounding and killing dogs so found.

Subsection 5. The amendment to paragraph 117 of section 210 clarifies that municipalities have the power to pass by-laws prohibiting or regulating the parking or stopping of vehicles on highways.

Subsections 6 and 7. The proposed changes to paragraph 125 of section 210 would require that a municipal council train and supervise persons appointed as municipal law enforcement officers who are not employees of the municipality. The re-enactment of clause (f) of subparagraph ii of paragraph 125 provides that oral or written evidence of a police officer or municipal law enforcement officer respecting whether the owner of prop-

erty consented to a vehicle being left on that property is admissible in any court. A document signed by the owner attesting to the lack of consent is similarly admissible.

SECTION 6. The proposed amendment would permit different fees for parking meters on highways depending on their location.

SECTION 7. The proposed section 499a would permit the Lieutenant Governor in Council to make regulations respecting the impounding and killing of dogs running at large in areas without municipal organization. An owner who allows his or her dog to run at large contrary to the regulations would be guilty of an offence.

Amendments to the *Dog Owners' Liability Act*.

SECTION 20. Consequential amendments are made to the *Dog Owners' Liability Act* to reflect the changes made in the *Municipal Act*. A new section 5 to the *Dog Owners' Liability Act* creates an offence if an owner of a dog does not take reasonable precautions to prevent the dog from biting or attacking a person or domestic animal.

Amendments to the *Evidence Act*.

SECTION 21. Section 31 of the *Evidence Act*, as it now reads, allows the federal and provincial governments to submit true copies of entries in books of account as evidence if the required conditions have been met. The proposed re-enactment would make this provision also applicable to municipalities.

The amendment to subsection 34 (4) would give municipalities the same rights as other governments in respect of the admissibility of documents destroyed before the expiration of six years as set out in subsection 34 (3).

Amendment to the *Dog Licensing and Live Stock and Poultry Protection Act*.

SECTION 22. The provisions respecting dog licensing are repealed as the subject-matter is transferred to the *Municipal Act* under section 4 of the Bill.



Bill 90

1989

**An Act to amend the Municipal Act and
certain other Acts
related to Municipalities**

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

1. Section 116 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(6) Notwithstanding any other provision of this section, a by-law or resolution passed under this section may provide that a photographic copy of a receipt, voucher, instrument, roll or other document, record or paper shall be deemed to be the original thereof for the purposes of the by-law or resolution if the original has been destroyed in accordance with this section or the by-law or resolution.

Photographic
copies

(7) Nothing in this section renders admissible in evidence a copy of a receipt, voucher, instrument, roll or other document, record or paper that is not otherwise admissible by statute or the law of evidence.

Admissibility

2. Subsection 160a (2) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 50, section 19, is repealed and the following substituted therefor:

(2) Real property occupied by a non-profit hospital service corporation and used chiefly by the corporation for one or both of the services mentioned in subsection (1) is exempt from taxation for municipal and school purposes but, subject to subsection (2a), is not exempt from a sewer rate or water works rate imposed under subsection 218 (2) or (10) or from a sewage service rate imposed under subsection 218 (16).

Tax
exemption

(2a) The council of a municipality that imposed the rate may pass a by-law exempting the property exempted from taxation for municipal and school purposes under subsection (2)

Exemption
from sewer,
water rates

from all or part of the rate based on the amount of service received or the amount of benefit derived or derivable from the construction of the sewage works or water works.

3.—(1) Paragraph 5 of section 208 of the said Act is amended by adding thereto the following clause:

- (a) Each regional, metropolitan and district municipality and the County of Oxford may make by-laws for the purpose of this paragraph.

(2) Clause (h) of paragraph 55 of the said section 208 is repealed and the following substituted therefor:

Change in
area
receiving
benefit

- (h) If a by-law imposing a levy under clause (g) is in effect and the council is of the opinion that,

(i) there has been an increase in special benefit derived from the parking facilities by a parcel of land in the defined area against which a portion of the cost has been levied,

(ii) a parcel of land in the defined area has begun to derive or has ceased to derive a special benefit from the parking facilities, or

(iii) a parcel of land outside the defined area has begun to derive a special benefit from the parking facilities,

the council may by by-law passed with the approval of the Municipal Board,

(iv) redefine the areas in the municipality that contain the lands that derive a special benefit from the by-law, and

(v) amend the schedule to the by-law imposing the special levy so as to reapportion the costs against each parcel of land in the defined areas that derive a special benefit.

Rates

- (i) A by-law passed under this paragraph may establish parking rates which vary according to the location of the land, building or structure used for parking.

Removal of
vehicle

- (j) A by-law passed under this paragraph may provide for the removal or impounding, at the owner's expense, of any vehicle parked or left contrary to the by-law.

- (k) Subsection 147 (13) of the *Highway Traffic Act* applies with necessary modifications to a by-law passed under this paragraph.

Application
of
R.S.O. 1980,
c. 198

4.—(1) Section 210 of the said Act is amended by adding thereto the following paragraph:

4a. For providing for animal identification systems including tagging, tattooing or microchip implantation and for requiring owners to identify their domestic animals by those systems and for charging such fees as may be set out in the by-law in respect of the identification system.

Animal
identification
system

(2) Paragraph 6a of the said section 210, as enacted by the Statutes of Ontario, 1987, chapter 10, section 21, is repealed and the following substituted therefor:

6a. For requiring, within any defined areas of the municipality, an owner of a dog to keep the dog leashed and under the control of some person when the dog is on land in the municipality other than that of the owner, unless prior consent is given by the person owning the land on which the dog is found.

Leashing of
dogs

- (a) In this paragraph and in paragraphs 6b, 6c, 6d and 6f, "owner" of a dog includes a person who possesses or harbours a dog and, where the owner is a minor, the person responsible for the custody of the minor.

(3) Paragraph 6b of the said section 210, as enacted by the Statutes of Ontario, 1987, chapter 10, section 21, is amended by striking out "any person who owns or harbours" in the first line and inserting in lieu thereof "an owner of".

(4) The said section 210 is further amended by adding thereto the following paragraphs:

6c. For requiring the muzzling or leashing of a dog after it has bitten a person or a domestic animal, but the owner of the dog may request and is entitled to a hearing by the council or a committee thereof or the animal control official of the municipality if so delegated by council, which or who may exempt the owner from the muzzling or leashing requirement, or both.

Muzzling and
leashing of
dogs

6d. For licensing and regulating and requiring the registration of dogs and for imposing a licence fee on the owners of them including the imposition of a higher fee in the case of female dogs or for each additional dog or female dog where

Licensing of
dogs

more than one is owned by any one person or in any one household and a lower fee in the case of dogs that are at least six months old that have been spayed or neutered.

- (a) On payment of the licence fee, the owner shall be furnished with a dog tag.
- (b) The owner shall keep the tag securely fixed on the dog at all times until the tag is renewed or replaced, but the tag may be removed while the dog is being lawfully used for hunting in the bush.
- (c) A tag shall bear a serial number and the year in which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.
- (d) Instead of furnishing the owner with a dog tag under clause (a), the council may require an owner to identify the dog under a by-law enacted under paragraph 4a.
- (e) If a by-law is passed under this paragraph, the owner of a kennel of dogs that are registered or eligible for registration with an association incorporated under the *Animal Pedigree Act* (Canada) shall pay an annual licence fee fixed by the by-law as a licence fee for the kennel instead of a licence fee for each dog.

35-36-37
Eliz. 11,
c. 13 (Can.)

Clinics

6e. The council may by by-law establish clinics for the spaying or neutering of dogs and cats and may charge such fees as may be set out in the by-law.

Dogs running
at large

6f. For prohibiting or regulating the running at large of dogs in the municipality or in any defined area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as is provided by the by-law.

- (a) A dog shall be deemed to be running at large if found in any place other than the premises of the owner of the dog and not under the control of any person.
- (b) A by-law under this paragraph may establish procedures for the voluntary payment of penalties out of court in cases where it is alleged that the by-law

respecting dogs running at large has been contravened and, if payment is not made in accordance with the procedures, the fine is recoverable under the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

(5) Paragraph 117 of the said section 210 is amended by adding thereto the following clause:

- (a) A by-law passed under this paragraph may prohibit or regulate the parking, standing or stopping of vehicles, or any class thereof, on highways or any part of a highway, and such by-law may classify vehicles according to size or weight.

(6) Clause (d) of subparagraph ii of paragraph 125 of the said section 210, as re-enacted by the Statutes of Ontario, 1987, chapter 10, section 21, is repealed and the following substituted therefor:

- (d) If a municipal council has appointed a person who is not an employee of the municipality as a municipal law enforcement officer under section 70 of the *Police Act* for enforcing a by-law under this paragraph, the municipal council shall ensure that the person is properly trained to perform the duties arising out of the appointment and is properly supervised by an employee of the municipality having regard to the nature of those duties.

R.S.O. 1980,
c. 381

- (i) In this clause, "employee" means an employee as defined in paragraph 46 of section 208.

(7) Clause (f) of subparagraph ii of paragraph 125 of the said section 210 is repealed and the following substituted therefor:

- (f) If it is alleged in a proceeding that a by-law passed under this paragraph has been contravened, the oral or written evidence of a police officer, police cadet or municipal law enforcement officer is receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein in respect of,

(i) the ownership or occupancy of the property.

(ii) the absence of the consent of the owner or occupant, and

(iii) whether any person is an owner under sub-subclause (g) (i) (E) or an occupant under sub-subclause (g) (ii) (D).

R.S.O. 1980,
c. 145

(fa) A document offered as evidence under clause (f) shall be admitted without notice under the *Evidence Act*.

5.—(1) Subsection 218 (2) of the said Act is repealed and the following substituted therefor:

Sewer, water
works rate

(2) The council of a local municipality, in authorizing the construction of sewage works or water works may by by-law impose a sewer rate or water works rate upon owners or occupants of land who derive or will or may derive a benefit therefrom sufficient to pay all or such portion of the capital costs of the works as the by-law may specify.

(2) Subsection 218 (7) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is further amended by adding thereto the following clauses:

(f) A fixed charge for each parcel of land, comprising the land designated under subsection (4), which is a parcel separately assessed according to the last returned assessment roll.

(g) Any other method which the council considers to be fair.

(3) Subsection 218 (8) of the said Act is amended by adding at the end thereof “(f) or (g)”.

(4) Subsection 218 (10) of the said Act is amended by striking out “passed with the approval of the Municipal Board” in the eleventh and twelfth lines.

(5) Subsection 218 (14) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is repealed and the following substituted therefor:

Rate
structure

(14) The council of a local municipality for the purposes of subsections (2) and (10) may,

(a) establish a sewer rate structure or a water works rate structure upon which the sewer rate or water works rate shall be calculated having regard to differences in the several classes of works, the kinds of benefits accruing and all other relevant matters to ensure that rates are imposed on a fair basis; and

- (b) provide for increasing the metre frontage rate upon lands that are triangular or irregularly shaped and for terminating the increased rate on a fair basis.

(6) Section 218 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25 and 1988, chapter 31, section 9, is further amended by adding thereto the following subsection:

(15a) If a council has commuted a sewer rate or water works rate under subsection (15) and subsequently amends the rating by-law establishing the rate to which the commutation applies, the council shall in its amendment provide for the application of the same commutation to the amended rates.

Commutation
continued

(7) Subsection 218 (18) of the said Act is amended by striking out "and shall be deemed to be a user charge and no property shall be exempt from such charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*" in the eleventh, twelfth, thirteenth and fourteenth lines.

(8) The said section 218 is further amended by adding thereto the following subsections:

(18a) If a council does not impose a sewage service rate under subsection (16), it may by by-law include as part of a sewer rate imposed under subsection (2) or (10) a charge which could otherwise be imposed as a sewage service rate.

Equivalent
charges,
sewers

(18b) If a council does not impose a water rate, it may by by-law include as part of a water works rate imposed under subsection (2) or (10) a charge which could otherwise be imposed as a water rate.

Idem. water

(9) Subsection 218 (22) of the said Act is repealed and the following substituted therefor:

(22) No property is exempt from a sewer rate or a water works rate imposed under subsection (2) or (10) or from a sewage service rate imposed under subsection (16) by reason only that it is exempt from taxation under the *Assessment Act* but the council of a local municipality may by by-law exempt any property or class of property from all or part of the rate based on the amount of service received or the amount of benefit derived or derivable from the construction of the sewage works or water works.

Exemption
from rates

R.S.O. 1980,
c. 31

(10) The said section 218 is further amended by adding thereto the following subsections:

Apportionment

(23) Notwithstanding any other provision, if a new part or parcel of land is created within an existing part or parcel of land in respect of which a sewer rate or water works rate has been imposed under this section,

- (a) the council of a local municipality may impose the rate on each new part or parcel; and
- (b) the revenue from the sewer rate or water works rate imposed under this subsection, if not required for payment of any part of the outstanding capital cost of the sewage works or water works, shall be used only for future capital improvements of the sewage works or water works.

Notice

(24) The clerk of the municipality shall give the owners of the parts into which the land is divided at least fourteen days notice by mail of the time and place the council will determine the rates under subsection (23).

Basis of decision

(25) The council in determining the rates shall have regard to the effect of the sewage works or water works on each part into which the parcel of land is divided and such other matters as it considers appropriate.

Decision final

(26) The decision of the council with respect to the imposition of rates under subsection (23) is final.

Order to be filed with the clerk

(27) The order imposing the rate shall be filed with the clerk and thereafter the rates shall be imposed and collected in accordance with the order.

Existing by-laws

(28) Subsection (22) does not affect a sewer rate, water works rate or sewage service rate by-law in force on the day that this subsection comes into force.

6. Paragraph 8 of section 315 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 12, is further amended by adding thereto the following clause:

- (b) A fee prescribed by a by-law under this paragraph may vary according to the location of the highway or part of a highway on which parking meters or devices are located.

7. Part XXIII of the said Act is amended by adding thereto the following section:

Regulations respecting dogs running at large

499a.—(1) The Lieutenant Governor in Council may make regulations for prohibiting or regulating the running at

large of dogs in territory without municipal organization or in any defined area thereof, for seizing and impounding, and for killing, whether before or after impounding, dogs running at large contrary to the regulations, and for selling dogs so impounded at such time and in such manner as may be provided in the regulations.

(2) A dog shall be deemed to be running at large when found on any place other than the premises of the owner and not under the control of any person.

Deeming provision

(3) Every owner of a dog who allows it to run at large contrary to the regulations made under this section is guilty of an offence.

Offence

8.—(1) Subsection 24 (2) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(2) Section 24 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 65, section 3, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the District Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the District Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

(3) Clause 25 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 25 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 25 of the said Act is amended by adding thereto the following subsections:

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the District Corporation

Application of certain provisions of R.S.O. 1980, c. 302

in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the District Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

9.—(1) Subsection 36 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Surcharge on water rates

(1) Notwithstanding section 35, the Metropolitan Council may add a surcharge of such percentage as it may determine to the water rates fixed under that section.

Idem

(1a) The surcharge shall be deemed not to be revenue of the waterworks system under section 39 and shall be spent on the collection, treatment and disposal of sewage and land drainage received from the area municipalities.

(2) The said Act is amended by adding thereto the following sections:

Combined rate

36a. The Metropolitan Council may by by-law impose a single combined rate for all or some of the charges which could otherwise be recovered as a rate, charge or surcharge under section 34, 35 or 36.

Application of certain provisions of R.S.O. 1980, c. 302

36b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Metropolitan Council in the imposition of a rate, charge or surcharge under section 30, 34, 35, 36 or 36a.

(3) Subsection 57 (1) of the said Act is amended by striking out “with the approval of the Municipal Board” in the fifth line.

(4) Subsection 57 (3) of the said Act is amended by striking out “subject to the approval of the Municipal Board” in the third line.

(5) Subsection 61 (3) of the said Act is amended by striking out “subject to the approval of the Municipal Board” in the third line.

(6) The said Act is further amended by adding thereto the following section:

61a. The Metropolitan Council may by by-law impose a single combined-rate for the charges which could otherwise be recovered as a charge under section 57 or a rate under section 61. Combined rate

10.—(1) Subsection 52 (2) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 1, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4). Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

(3) Clause 53 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 53 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 53 of the said Act is amended by adding thereto the following subsections:

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4). Application of certain provisions of R.S.O. 1980, c. 302

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

11.—(1) Subsection 74 (2) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised

Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 74 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 4, is further amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Idem

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

(3) Clause 75 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 75 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 75 of the said Act is amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

12.—(1) Subsection 85 (2) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 85 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 7, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

(3) **Clause 86 (2) (a) of the said Act is repealed and the following substituted therefor:**

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) **Clause 86 (2) (b) of the said Act is amended by striking out "with the approval of the Municipal Board" in the first and second lines.**

(5) **Section 86 of the said Act is amended by adding thereto the following subsections:**

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

13.—(1) Subsection 96 (2) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "with the approval of the Municipal Board" in the fourth line.

(2) **Section 96 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 10, is further amended by adding thereto the following subsections:**

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to

Idem

an area municipality with respect to the imposition of a rate under subsection (4).

(3) Clause 97 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 97 (2) (b) of the said Act is amended by striking out "with the approval of the Municipal Board" in the second line.

(5) Section 97 of the said Act is amended by adding thereto the following subsections:

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

14.—(1) The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

Combined rate

33a. The Regional Council may by by-law impose a single combined rate which could otherwise be recovered as a charge under section 32 or a rate under section 33.

Application of certain provisions of R.S.O. 1980, c. 302

33b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge imposed under section 28, 32, 33 or 33a.

(2) Clause 53 (2) (b) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the first line.

(3) The said Act is further amended by adding thereto the following sections:

Combined rate

57a. The Regional Council may by by-law impose a single combined rate for all or some of the charges which could

otherwise be recovered as a rate or charge under section 53 or 57.

57b.—(1) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge under section 53, 57 or 57a.

Application of certain provisions of R.S.O. 1980. c. 302

(2) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Council with respect to the imposition of a rate or charge under section 53 or 57a.

Idem

15.—(1) Subsection 31 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(2) Section 31 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 16, is further amended by adding thereto the following subsections:

(14) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980. c. 302

(15) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

(3) Subsection 39 (1) of the said Act is amended by striking out “with the approval of the Municipal Board” in the fifth line.

(4) Subsection 39 (2) of the said Act is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(5) Subsection 39 (4) of the said Act is amended by striking out “subject to the approval of the Municipal Board” in the second and third lines.

(6) Subsection 39 (5) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 17, is repealed.

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

Combined
rate

43a. The Regional Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a rate under section 39 or 43.

16.—(1) Subsection 80 (2) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 80 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 22, is further amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Idem

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

(3) Clause 81 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 81 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 81 of the said Act is amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

17.—(1) Subsection 25 (2) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of

Ontario, 1980, is amended by striking out "with the approval of the Municipal Board" in the fourth line.

(2) Section 25 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 24, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

(3) Clause 26 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 26 (2) (b) of the said Act is amended by striking out "with the approval of the Municipal Board" in the second line.

(5) Section 26 of the said Act is amended by adding thereto the following subsections:

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

18.—(1) The *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

32a. The Regional Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a charge under section 31 or a rate under section 32.

Combined rate

Application
of certain
provisions of
R.S.O. 1980,
c. 302

32b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge under section 27, 31, 32 or 32a.

(2) Clause 52 (3) (b) of the said Act is amended by striking out “subject to the approval of the Municipal Board” in the first line.

(3) The said Act is further amended by adding thereto the following sections:

Combined
rate

52a. The Regional Council may by by-law impose a single combined rate for all or some of the charges which could otherwise be recovered as a rate under section 52.

Application
of certain
provisions of
R.S.O. 1980,
c. 302

52b.—(1) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge under section 52.

Idem

(2) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Council with respect to the imposition of a rate under subsection 52 (1) and to an area municipality with respect to the imposition of a charge under clause 52 (3) (c).

19.—(1) Subsection 26 (2) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fifth line.

(2) Subsection 26 (3) of the said Act is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(3) Subsection 26 (5) of the said Act is amended by striking out “subject to the approval of the Municipal Board” in the third line.

(4) The said Act is amended by adding thereto the following sections:

Combined
rate

33a. The Regional Council may by by-law impose a single combined rate for all or some of the charges which could otherwise be recovered as a rate or charge under section 26, 32 or 33.

Application
of certain
provisions of
R.S.O. 1980,
c. 302

33b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in

the imposition of a rate or charge under section 28, 32, 33 or 33a.

(5) Subsection 53 (1) of the said Act is amended by striking out "with the approval of the Municipal Board" in the fifth line.

(6) Subsection 53 (2) of the said Act is amended by striking out "with the approval of the Municipal Board" in the fourth and fifth lines.

(7) Subsection 53 (4) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the third line.

(8) The said Act is further amended by adding thereto the following section:

57a. The Regional Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a charge under section 53 or a rate under section 57.

20.—(1) Subsection 2 (1) of the *Dog Owners' Liability Act*, being chapter 124 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof "or domestic animal".

(2) Subsection 4 (1) of the said Act is amended by inserting after "person" in the second line "or domestic animal".

(3) Subsection 4 (2) of the said Act is amended by inserting after "person" in the second line "or domestic animal".

(4) The said Act is amended by adding thereto the following section:

5.—(1) The owner of a dog shall exercise reasonable precautions to prevent the dog from biting or attacking a person or domestic animal.

(2) An owner who contravenes subsection (1) is guilty of an offence.

21.—(1) Section 31 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

31.—(1) In this section, "municipality" means a regional, metropolitan or district municipality, the County of Oxford, a county, city, town, village, township or improvement district.

Entries in
books

(2) A copy of an entry in a book of account kept by a municipality or in a department of the Government of Canada or of Ontario shall be received as *prima facie* evidence of such entry and of the matters, transactions and accounts recorded therein, if it is proved by the oath or affidavit of an officer of the municipality or of the department,

- (a) that the book was, at the time of the making of the entry, one of the ordinary books kept by the municipality or in the department;
- (b) that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of the municipality or department; and
- (c) that such copy is a true copy thereof.

(2) Subsection 34 (4) of the said Act is amended by inserting after "Canada" in the second line "or a municipality as defined in subsection 31 (1)".

22. Sections 1, 2, 3, 4, 5, 6 and 7 of the *Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 123, are repealed.

Commence-
ment

23.—(1) This Act, except subsections 4 (4) and (6) and sections 7 and 22, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 4 (4) and sections 7 and 22 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(3) Subsection 4 (6) comes into force six months after the day this Act receives Royal Assent.

Short title

24. The short title of this Act is the *Municipal Statute Law Amendment Act, 1989*.

Bill 90

*(Chapter 84
Statutes of Ontario, 1989)*

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. J. Sweeney
Minister of Municipal Affairs

<i>1st Reading</i>	December 6th, 1989
<i>2nd Reading</i>	December 14th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989



Bill 90

1989

**An Act to amend the Municipal Act and
certain other Acts
related to Municipalities**

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

1. Section 116 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(6) Notwithstanding any other provision of this section, a by-law or resolution passed under this section may provide that a photographic copy of a receipt, voucher, instrument, roll or other document, record or paper shall be deemed to be the original thereof for the purposes of the by-law or resolution if the original has been destroyed in accordance with this section or the by-law or resolution.

Photographic
copies

(7) Nothing in this section renders admissible in evidence a copy of a receipt, voucher, instrument, roll or other document, record or paper that is not otherwise admissible by statute or the law of evidence.

Admissibility

2. Subsection 160a (2) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 50, section 19, is repealed and the following substituted therefor:

(2) Real property occupied by a non-profit hospital service corporation and used chiefly by the corporation for one or both of the services mentioned in subsection (1) is exempt from taxation for municipal and school purposes but, subject to subsection (2a), is not exempt from a sewer rate or water works rate imposed under subsection 218 (2) or (10) or from a sewage service rate imposed under subsection 218 (16).

Tax
exemption

(2a) The council of a municipality that imposed the rate may pass a by-law exempting the property exempted from taxation for municipal and school purposes under subsection (2)

Exemption
from sewer,
water rates

from all or part of the rate based on the amount of service received or the amount of benefit derived or derivable from the construction of the sewage works or water works.

3.—(1) Paragraph 5 of section 208 of the said Act is amended by adding thereto the following clause:

- (a) Each regional, metropolitan and district municipality and the County of Oxford may make by-laws for the purpose of this paragraph.

(2) Clause (h) of paragraph 55 of the said section 208 is repealed and the following substituted therefor:

Change in
area
receiving
benefit

- (h) If a by-law imposing a levy under clause (g) is in effect and the council is of the opinion that,

(i) there has been an increase in special benefit derived from the parking facilities by a parcel of land in the defined area against which a portion of the cost has been levied,

(ii) a parcel of land in the defined area has begun to derive or has ceased to derive a special benefit from the parking facilities, or

(iii) a parcel of land outside the defined area has begun to derive a special benefit from the parking facilities,

the council may by by-law passed with the approval of the Municipal Board,

(iv) redefine the areas in the municipality that contain the lands that derive a special benefit from the by-law, and

(v) amend the schedule to the by-law imposing the special levy so as to reappportion the costs against each parcel of land in the defined areas that derive a special benefit.

Rates

- (i) A by-law passed under this paragraph may establish parking rates which vary according to the location of the land, building or structure used for parking.

Removal of
vehicle

- (j) A by-law passed under this paragraph may provide for the removal or impounding, at the owner's expense, of any vehicle parked or left contrary to the by-law.

- (k) Subsection 147 (13) of the *Highway Traffic Act* applies with necessary modifications to a by-law passed under this paragraph.

Application
of
R.S.O. 1980,
c. 198

4.—(1) Section 210 of the said Act is amended by adding thereto the following paragraph:

4a. For providing for animal identification systems including tagging, tattooing or microchip implantation and for requiring owners to identify their domestic animals by those systems and for charging such fees as may be set out in the by-law in respect of the identification system.

Animal
identification
system

(2) Paragraph 6a of the said section 210, as enacted by the Statutes of Ontario, 1987, chapter 10, section 21, is repealed and the following substituted therefor:

6a. For requiring, within any defined areas of the municipality, an owner of a dog to keep the dog leashed and under the control of some person when the dog is on land in the municipality other than that of the owner, unless prior consent is given by the person owning the land on which the dog is found.

Leashing of
dogs

- (a) In this paragraph and in paragraphs 6b, 6c, 6d and 6f, "owner" of a dog includes a person who possesses or harbours a dog and, where the owner is a minor, the person responsible for the custody of the minor.

(3) Paragraph 6b of the said section 210, as enacted by the Statutes of Ontario, 1987, chapter 10, section 21, is amended by striking out "any person who owns or harbours" in the first line and inserting in lieu thereof "an owner of".

(4) The said section 210 is further amended by adding thereto the following paragraphs:

6c. For requiring the muzzling or leashing of a dog after it has bitten a person or a domestic animal, but the owner of the dog may request and is entitled to a hearing by the council or a committee thereof or the animal control official of the municipality if so delegated by council, which or who may exempt the owner from the muzzling or leashing requirement, or both.

Muzzling and
leashing of
dogs

6d. For licensing and regulating and requiring the registration of dogs and for imposing a licence fee on the owners of them including the imposition of a higher fee in the case of female dogs or for each additional dog or female dog where

Licensing of
dogs

more than one is owned by any one person or in any one household and a lower fee in the case of dogs that are at least six months old that have been spayed or neutered.

- (a) On payment of the licence fee, the owner shall be furnished with a dog tag.
- (b) The owner shall keep the tag securely fixed on the dog at all times until the tag is renewed or replaced, but the tag may be removed while the dog is being lawfully used for hunting in the bush.
- (c) A tag shall bear a serial number and the year in which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.
- (d) Instead of furnishing the owner with a dog tag under clause (a), the council may require an owner to identify the dog under a by-law enacted under paragraph 4a.
- (e) If a by-law is passed under this paragraph, the owner of a kennel of dogs that are registered or eligible for registration with an association incorporated under the *Animal Pedigree Act* (Canada) shall pay an annual licence fee fixed by the by-law as a licence fee for the kennel instead of a licence fee for each dog.

35-36-37
Eliz. II,
c. 13 (Can.)

Clinics

6e. The council may by by-law establish clinics for the spaying or neutering of dogs and cats and may charge such fees as may be set out in the by-law.

Dogs running
at large

6f. For prohibiting or regulating the running at large of dogs in the municipality or in any defined area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as is provided by the by-law.

- (a) A dog shall be deemed to be running at large if found in any place other than the premises of the owner of the dog and not under the control of any person.
- (b) A by-law under this paragraph may establish procedures for the voluntary payment of penalties out of court in cases where it is alleged that the by-law

respecting dogs running at large has been contravened and, if payment is not made in accordance with the procedures, the fine is recoverable under the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

(5) Paragraph 117 of the said section 210 is amended by adding thereto the following clause:

- (a) A by-law passed under this paragraph may prohibit or regulate the parking, standing or stopping of vehicles, or any class thereof, on highways or any part of a highway, and such by-law may classify vehicles according to size or weight.

(6) Clause (d) of subparagraph ii of paragraph 125 of the said section 210, as re-enacted by the Statutes of Ontario, 1987, chapter 10, section 21, is repealed and the following substituted therefor:

- (d) If a municipal council has appointed a person who is not an employee of the municipality as a municipal law enforcement officer under section 70 of the *Police Act* for enforcing a by-law under this paragraph, the municipal council shall ensure that the person is properly trained to perform the duties arising out of the appointment and is properly supervised by an employee of the municipality having regard to the nature of those duties.

R.S.O. 1980,
c. 381

- (i) In this clause, "employee" means an employee as defined in paragraph 46 of section 208.

(7) Clause (f) of subparagraph ii of paragraph 125 of the said section 210 is repealed and the following substituted therefor:

- (f) If it is alleged in a proceeding that a by-law passed under this paragraph has been contravened, the oral or written evidence of a police officer, police cadet or municipal law enforcement officer is receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein in respect of,

- (i) the ownership or occupancy of the property,

- (ii) the absence of the consent of the owner or occupant, and

- (iii) whether any person is an owner under sub-subclause (g) (i) (E) or an occupant under sub-subclause (g) (ii) (D).

R.S.O. 1980,
c. 145

- (fa) A document offered as evidence under clause (f) shall be admitted without notice under the *Evidence Act*.

5.—(1) Subsection 218 (2) of the said Act is repealed and the following substituted therefor:

Sewer, water
works rate

- (2) The council of a local municipality, in authorizing the construction of sewage works or water works may by by-law impose a sewer rate or water works rate upon owners or occupants of land who derive or will or may derive a benefit therefrom sufficient to pay all or such portion of the capital costs of the works as the by-law may specify.

(2) Subsection 218 (7) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is further amended by adding thereto the following clauses:

- (f) A fixed charge for each parcel of land, comprising the land designated under subsection (4), which is a parcel separately assessed according to the last returned assessment roll.
- (g) Any other method which the council considers to be fair.

(3) Subsection 218 (8) of the said Act is amended by adding at the end thereof “(f) or (g)”.

(4) Subsection 218 (10) of the said Act is amended by striking out “passed with the approval of the Municipal Board” in the eleventh and twelfth lines.

(5) Subsection 218 (14) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is repealed and the following substituted therefor:

Rate
structure

(14) The council of a local municipality for the purposes of subsections (2) and (10) may,

- (a) establish a sewer rate structure or a water works rate structure upon which the sewer rate or water works rate shall be calculated having regard to differences in the several classes of works, the kinds of benefits accruing and all other relevant matters to ensure that rates are imposed on a fair basis; and

- (b) provide for increasing the metre frontage rate upon lands that are triangular or irregularly shaped and for-terminating the increased rate on a fair basis.

(6) Section 218 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25 and 1988, chapter 31, section 9, is further amended by adding thereto the following subsection:

(15a) If a council has commuted a sewer rate or water works rate under subsection (15) and subsequently amends the rating by-law establishing the rate to which the commutation applies, the council shall in its amendment provide for the application of the same commutation to the amended rates.

Commutation
continued

(7) Subsection 218 (18) of the said Act is amended by striking out "and shall be deemed to be a user charge and no property shall be exempt from such charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*" in the eleventh, twelfth, thirteenth and fourteenth lines.

(8) The said section 218 is further amended by adding thereto the following subsections:

(18a) If a council does not impose a sewage service rate under subsection (16), it may by by-law include as part of a sewer rate imposed under subsection (2) or (10) a charge which could otherwise be imposed as a sewage service rate.

Equivalent
charges,
sewers

(18b) If a council does not impose a water rate, it may by by-law include as part of a water works rate imposed under subsection (2) or (10) a charge which could otherwise be imposed as a water rate.

Idem, water

(9) Subsection 218 (22) of the said Act is repealed and the following substituted therefor:

(22) No property is exempt from a sewer rate or a water works rate imposed under subsection (2) or (10) or from a sewage service rate imposed under subsection (16) by reason only that it is exempt from taxation under the *Assessment Act* but the council of a local municipality may by by-law exempt any property or class of property from all or part of the rate based on the amount of service received or the amount of benefit derived or derivable from the construction of the sewage works or water works.

Exemption
from rates

R.S.O. 1980,
c. 31

(10) The said section 218 is further amended by adding thereto the following subsections:

Apportionment

(23) Notwithstanding any other provision, if a new part or parcel of land is created within an existing part or parcel of land in respect of which a sewer rate or water works rate has been imposed under this section,

- (a) the council of a local municipality may impose the rate on each new part or parcel; and
- (b) the revenue from the sewer rate or water works rate imposed under this subsection, if not required for payment of any part of the outstanding capital cost of the sewage works or water works, shall be used only for future capital improvements of the sewage works or water works.

Notice

(24) The clerk of the municipality shall give the owners of the parts into which the land is divided at least fourteen days notice by mail of the time and place the council will determine the rates under subsection (23).

Basis of decision

(25) The council in determining the rates shall have regard to the effect of the sewage works or water works on each part into which the parcel of land is divided and such other matters as it considers appropriate.

Decision final

(26) The decision of the council with respect to the imposition of rates under subsection (23) is final.

Order to be filed with the clerk

(27) The order imposing the rate shall be filed with the clerk and thereafter the rates shall be imposed and collected in accordance with the order.

Existing by-laws

(28) Subsection (22) does not affect a sewer rate, water works rate or sewage service rate by-law in force on the day that this subsection comes into force.

6. Paragraph 8 of section 315 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 12, is further amended by adding thereto the following clause:

- (b) A fee prescribed by a by-law under this paragraph may vary according to the location of the highway or part of a highway on which parking meters or devices are located.

7. Part XXIII of the said Act is amended by adding thereto the following section:

Regulations respecting dogs running at large

499a.—(1) The Lieutenant Governor in Council may make regulations for prohibiting or regulating the running at

large of dogs in territory without municipal organization or in any defined area thereof, for seizing and impounding, and for killing, whether before or after impounding, dogs running at large contrary to the regulations, and for selling dogs so impounded at such time and in such manner as may be provided in the regulations.

(2) A dog shall be deemed to be running at large when found on any place other than the premises of the owner and not under the control of any person. Deeming provision

(3) Every owner of a dog who allows it to run at large contrary to the regulations made under this section is guilty of an offence. Offence

8.—(1) Subsection 24 (2) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(2) Section 24 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 65, section 3, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the District Corporation in the imposition of a rate under subsection (2) or (4). Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the District Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

(3) Clause 25 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 25 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 25 of the said Act is amended by adding thereto the following subsections:

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the District Corporation Application of certain provisions of R.S.O. 1980, c. 302

in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the District Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

9.—(1) Subsection 36 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Surcharge on water rates

(1) Notwithstanding section 35, the Metropolitan Council may add a surcharge of such percentage as it may determine to the water rates fixed under that section.

Idem

(1a) The surcharge shall be deemed not to be revenue of the waterworks system under section 39 and shall be spent on the collection, treatment and disposal of sewage and land drainage received from the area municipalities.

(2) The said Act is amended by adding thereto the following sections:

Combined rate

36a. The Metropolitan Council may by by-law impose a single combined rate for all or some of the charges which could otherwise be recovered as a rate, charge or surcharge under section 34, 35 or 36.

Application of certain provisions of R.S.O. 1980, c. 302

36b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Metropolitan Council in the imposition of a rate, charge or surcharge under section 30, 34, 35, 36 or 36a.

(3) Subsection 57 (1) of the said Act is amended by striking out "with the approval of the Municipal Board" in the fifth line.

(4) Subsection 57 (3) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the third line.

(5) Subsection 61 (3) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the third line.

(6) The said Act is further amended by adding thereto the following section:

61a. The Metropolitan Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a charge under section 57 or a rate under section 61. Combined
rate

10.—(1) Subsection 52 (2) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 1, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4). Application
of certain
provisions of
R.S.O. 1980,
c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

(3) Clause 53 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 53 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 53 of the said Act is amended by adding thereto the following subsections:

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4). Application
of certain
provisions of
R.S.O. 1980,
c. 302

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

11.—(1) Subsection 74 (2) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised

Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 74 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 4, is further amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Idem

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

(3) Clause 75 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 75 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 75 of the said Act is amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

12.—(1) Subsection 85 (2) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 85 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 7, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

(3) **Clause 86 (2) (a) of the said Act is repealed and the following substituted therefor:**

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) **Clause 86 (2) (b) of the said Act is amended by striking out "with the approval of the Municipal Board" in the first and second lines.**

(5) **Section 86 of the said Act is amended by adding thereto the following subsections:**

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

Idem

13.—(1) Subsection 96 (2) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "with the approval of the Municipal Board" in the fourth line.

(2) **Section 96 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 10, is further amended by adding thereto the following subsections:**

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to

Idem

an area municipality with respect to the imposition of a rate under subsection (4).

(3) Clause 97 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 97 (2) (b) of the said Act is amended by striking out "with the approval of the Municipal Board" in the second line.

(5) Section 97 of the said Act is amended by adding thereto the following subsections:

Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

14.—(1) The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

Combined rate

33a. The Regional Council may by by-law impose a single combined rate which could otherwise be recovered as a charge under section 32 or a rate under section 33.

Application of certain provisions of R.S.O. 1980, c. 302

33b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge imposed under section 28, 32, 33 or 33a.

(2) Clause 53 (2) (b) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the first line.

(3) The said Act is further amended by adding thereto the following sections:

Combined rate

57a. The Regional Council may by by-law impose a single combined rate for all or some of the charges which could

otherwise be recovered as a rate or charge under section 53 or 57.

57b.—(1) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge under section 53, 57 or 57a. Application of certain provisions of R.S.O. 1980, c. 302

(2) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Council with respect to the imposition of a rate or charge under section 53 or 57a. Idem

15.—(1) Subsection 31 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(2) Section 31 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 16, is further amended by adding thereto the following subsections:

(14) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4). Application of certain provisions of R.S.O. 1980, c. 302

(15) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

(3) Subsection 39 (1) of the said Act is amended by striking out “with the approval of the Municipal Board” in the fifth line.

(4) Subsection 39 (2) of the said Act is amended by striking out “with the approval of the Municipal Board” in the fourth and fifth lines.

(5) Subsection 39 (4) of the said Act is amended by striking out “subject to the approval of the Municipal Board” in the second and third lines.

(6) Subsection 39 (5) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 17, is repealed.

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

Combined
rate

43a. The Regional Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a rate under section 39 or 43.

16.—(1) Subsection 80 (2) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out “with the approval of the Municipal Board” in the fourth line.

(2) Section 80 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 22, is further amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4).

Idem

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

(3) Clause 81 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 81 (2) (b) of the said Act is amended by striking out “with the approval of the Municipal Board” in the second line.

(5) Section 81 of the said Act is amended by adding thereto the following subsections:

Application
of certain
provisions of
R.S.O. 1980,
c. 302

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4).

Idem

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4).

17.—(1) Subsection 25 (2) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of

Ontario, 1980, is amended by striking out "with the approval of the Municipal Board" in the fourth line.

(2) Section 25 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 49, section 24, is further amended by adding thereto the following subsections:

(16) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate under subsection (2) or (4). Application of certain provisions of R.S.O. 1980, c. 302

(17) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

(3) Clause 26 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) by imposing a surcharge on the water rate collectable in the same manner as water rates.

(4) Clause 26 (2) (b) of the said Act is amended by striking out "with the approval of the Municipal Board" in the second line.

(5) Section 26 of the said Act is amended by adding thereto the following subsections:

(17) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Corporation in the imposition of a rate or surcharge under subsection (2) or (4). Application of certain provisions of R.S.O. 1980, c. 302

(18) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Corporation with respect to the imposition of a rate or surcharge under subsection (2) and to an area municipality with respect to the imposition of a rate under subsection (4). Idem

18.—(1) The *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

32a. The Regional Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a charge under section 31 or a rate under section 32. Combined rate

Application of certain provisions of R.S.O. 1980, c. 302

32b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge under section 27, 31, 32 or 32a.

(2) Clause 52 (3) (b) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the first line.

(3) The said Act is further amended by adding thereto the following sections:

Combined rate

52a. The Regional Council may by by-law impose a single combined rate for all or some of the charges which could otherwise be recovered as a rate under section 52.

Application of certain provisions of R.S.O. 1980, c. 302

52b.—(1) Subsections 218 (22) and (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in the imposition of a rate or charge under section 52.

Idem

(2) Subsections 218 (23) to (27) of the *Municipal Act* apply with necessary modifications to the Regional Council with respect to the imposition of a rate under subsection 52 (1) and to an area municipality with respect to the imposition of a charge under clause 52 (3) (c).

19.—(1) Subsection 26 (2) of the *Regional Municipality of York Act*, being chapter 443 of the *Revised Statutes of Ontario, 1980*, is amended by striking out "with the approval of the Municipal Board" in the fifth line.

(2) Subsection 26 (3) of the said Act is amended by striking out "with the approval of the Municipal Board" in the fourth and fifth lines.

(3) Subsection 26 (5) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the third line.

(4) The said Act is amended by adding thereto the following sections:

Combined rate

33a. The Regional Council may by by-law impose a single combined rate for all or some of the charges which could otherwise be recovered as a rate or charge under section 26, 32 or 33.

Application of certain provisions of R.S.O. 1980, c. 302

33b. Subsections 218 (22) to (28) of the *Municipal Act* apply with necessary modifications to the Regional Council in

the imposition of a rate or charge under section 28, 32, 33 or 33a.

(5) Subsection 53 (1) of the said Act is amended by striking out "with the approval of the Municipal Board" in the fifth line.

(6) Subsection 53 (2) of the said Act is amended by striking out "with the approval of the Municipal Board" in the fourth and fifth lines.

(7) Subsection 53 (4) of the said Act is amended by striking out "subject to the approval of the Municipal Board" in the third line.

(8) The said Act is further amended by adding thereto the following section:

57a. The Regional Council may by by-law impose a single combined rate for the charges which could otherwise be recovered as a charge under section 53 or a rate under section 57.

20.—(1) Subsection 2 (1) of the *Dog Owners' Liability Act*, being chapter 124 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof "or domestic animal".

(2) Subsection 4 (1) of the said Act is amended by inserting after "person" in the second line "or domestic animal".

(3) Subsection 4 (2) of the said Act is amended by inserting after "person" in the second line "or domestic animal".

(4) The said Act is amended by adding thereto the following section:

5.—(1) The owner of a dog shall exercise reasonable precautions to prevent the dog from biting or attacking a person or domestic animal.

(2) An owner who contravenes subsection (1) is guilty of an offence.

21.—(1) Section 31 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

31.—(1) In this section, "municipality" means a regional, metropolitan or district municipality, the County of Oxford, a county, city, town, village, township or improvement district.

Entries in
books

(2) A copy of an entry in a book of account kept by a municipality or in a department of the Government of Canada or of Ontario shall be received as *prima facie* evidence of such entry and of the matters, transactions and accounts recorded therein, if it is proved by the oath or affidavit of an officer of the municipality or of the department,

- (a) that the book was, at the time of the making of the entry, one of the ordinary books kept by the municipality or in the department;
- (b) that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of the municipality or department; and
- (c) that such copy is a true copy thereof.

(2) Subsection 34 (4) of the said Act is amended by inserting after "Canada" in the second line "or a municipality as defined in subsection 31 (1)".

22. Sections 1, 2, 3, 4, 5, 6 and 7 of the *Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 123 of the Revised Statutes of Ontario, 1980, are repealed.

Commence-
ment

23.—(1) This Act, except subsections 4 (4) and (6) and sections 7 and 22, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 4 (4) and sections 7 and 22 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(3) Subsection 4 (6) comes into force six months after the day this Act receives Royal Assent.

Short title

24. The short title of this Act is the *Municipal Statute Law Amendment Act, 1989*.



Bill 91

An Act to amend the Legislative Assembly Act

The Hon. C. Ward

Government House Leader and Minister of Government Services

1st Reading December 7th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill increases indemnities and allowances by 5.5 per cent.

An additional indemnity is provided in the legislation for chairs of select committees, vice-chairs of standing and select committees, the chair of the caucus of each party, the Deputy House Leader of the party recognized as the Official Opposition and the Deputy House Leader of any other party having at least twelve members.

The additional indemnity of the following members is increased:

1. The House Leader of any party, other than the Government and the Official Opposition, having at least twelve members.
2. The Chief Whip of the Official Opposition.
3. The Chief Whip of any party, other than the Government and the Official Opposition, having at least twelve members.

Bill 91

1989

An Act to amend the Legislative Assembly Act

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

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$43,374 per annum shall be paid to every member of the Assembly. Members' indemnity

(2) An allowance for expenses at the rate of \$14,548 per annum shall be paid to every member of the Assembly. Members' allowances

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 2, is repealed and the following substituted therefor:

61. In addition to the indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

(a) to the Premier, at the rate of \$8,185 per annum;

(b) to the Leader of the Opposition, at the rate of \$5,458 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,728 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 3, is repealed and the following substituted therefor:

Indemnity of Speaker, Leader of Opposition and leader of a minority party

(1) In addition to the indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$23,436 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$31,649 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$15,941.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 4, is repealed and the following substituted therefor:

Chair and deputy chairs of Whole House and chairs of committees

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chair of the Committees of the Whole House at the rate of \$9,808 per annum;
- (b) to the Deputy Chairs of the Committees of the Whole House at the rate of \$6,813 per annum;
- (c) to the chair of each standing and select committee at the rate of \$9,808 per annum; and
- (d) to the vice-chair of each standing and select committee at the rate of \$5,313.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 5, is repealed and the following substituted therefor:

Whips, indemnities

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$12,127 per annum;
- (b) to the Deputy Government Whip, at the rate of \$8,311 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,995 per annum;

- (d) to the Chief Opposition Whip, at the rate of \$9,808 per annum;
- (e) to each of not more than two Opposition Whips, at the rate of \$5,995 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$9,808, and
 - (ii) to the Party Whip of the party, at the rate of \$5,450 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7, 1986, chapter 72, section 6, 1988, chapter 14, section 6 and 1989, chapter 19, section 6, is further amended by striking out "\$74" as set out in the amendment of 1989 and inserting in lieu thereof "\$78" and by striking out "\$86" as set out in that amendment and inserting in lieu thereof "\$90".

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

68a. In addition to the indemnity as a member, an indemnity at the rate of \$8,311 per annum shall be paid to the chair of the caucus of every party, including the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly.

Caucus
chairs,
indemnities

8. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 7, is repealed and the following substituted therefor:

69. In addition to the indemnity as a member, an indemnity shall be paid,

House
Leaders'
indemnities

- (a) to the House Leader of a party, other than the party from which the Government is chosen, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$12,127 per annum; and

(b) to the Deputy House Leader of a party referred to in clause (a), at the rate of \$5,995 per annum.

Commence-
ment

9. This Act shall be deemed to have come into force on the 1st day of April, 1989.

Short title

10. The short title of this Act is the *Legislative Assembly Amendment Act, 1989.*



Bill 91

An Act to amend the Legislative Assembly Act

The Hon. C. Ward

Government House Leader and Minister of Government Services

1st Reading December 7th, 1989

2nd Reading December 18th, 1989

3rd Reading

Royal Assent

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

EXPLANATORY NOTES

The Bill increases indemnities and allowances by 5.5 per cent effective April 1, 1989.

The Bill also makes the following changes in members' additional indemnities, effective January 1, 1990.

The additional indemnity of the following members is increased:

1. The Leader of any party, other than the Government and the Official Opposition, having at least twelve members.
2. The House Leader of any party, other than the Government and the Official Opposition, having at least twelve members.
3. The Chief Whip of the Official Opposition.
4. The Chief Whip of any party, other than the Government and the Official Opposition, having at least twelve members.
5. The chairs of standing committees.

An additional indemnity is provided for the following members:

1. The chairs of select committees.
2. The vice-chairs of standing and select committees.
3. The chair of the caucus of each party.
4. The Deputy House Leader of the party recognized as the Official Opposition and the Deputy House Leader of any other party having at least twelve members.

Bill 91

1989

An Act to amend the Legislative Assembly Act

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

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$43,374 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$14,548 per annum shall be paid to every member of the Assembly. Members' allowances

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 2, is repealed and the following substituted therefor:

61. In addition to the indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$8,185 per annum;
- (b) to the Leader of the Opposition, at the rate of \$5,458 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,728 per annum.

3.—(1) Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 3, is repealed and the following substituted therefor:

Indemnity of Speaker, Leader of Opposition and leader of a minority party

(1) In addition to the indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$23,436 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$31,749 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$15,941 per annum.

➔ (2) Clause 62 (1) (c) of the said Act, as re-enacted by subsection (1), is amended by striking out “\$15,941” in the last line and inserting in lieu thereof “\$22,602”. ➔

4.—(1) Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 4, is repealed and the following substituted therefor:

Chair and deputy chairs of Whole House and chairs of committees

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chair of the Committees of the Whole House at the rate of \$9,808 per annum;
- (b) to the Deputy Chairs of the Committees of the Whole House at the rate of \$6,813 per annum; and
- (c) to the chair of each standing committee at the rate of \$5,313 per annum.

➔ (2) Subsection 64 (1) of the said Act, as re-enacted by subsection (1), is amended by striking out “and” at the end of clause (b) and by striking out clause (c) and inserting in lieu thereof the following:

- (c) to the chair of each standing and select committee at the rate of \$8,827 per annum; and
- (d) to the vice-chair of each standing and select committee at the rate of \$5,313 per annum. ➔

5.—(1) Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 5, is repealed and the following substituted therefor:

(1) In addition to the indemnity as a member, an indemnity shall be paid, Whips,
indemnities

(a) to the Chief Government Whip, at the rate of \$12,127 per annum;

(b) to the Deputy Government Whip, at the rate of \$8,311 per annum;

(c) to each of not more than three Government Whips, at the rate of \$5,995 per annum;

(d) to the Chief Opposition Whip, at the rate of \$8,311 per annum;

(e) to each of not more than two Opposition Whips, at the rate of \$5,995 per annum; and

(f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,

(i) to the Chief Party Whip of the party, at the rate of \$6,813 per annum, and

(ii) to the Party Whip of the party, at the rate of \$5,450 per annum.

↓
(2) Subsection 65 (1) of the said Act, as re-enacted by subsection (1), is amended by striking out “\$8,311” in the first line of clause (d) and inserting in lieu thereof “\$9,297” and by striking out “\$6,813” in the second line of subclause (f) (i) and inserting in lieu thereof “\$8,367”. ▲

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7, 1986, chapter 72, section 6, 1988, chapter 14, section 6 and 1989, chapter 19, section 6, is further amended by striking out “\$74” as set out in the amendment of 1989 and inserting in lieu thereof “\$78” and by striking out “\$86” as set out in that amendment and inserting in lieu thereof “\$90”.

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

Caucus
chairs,
indemnities

68a. In addition to the indemnity as a member, an indemnity at the rate of \$8,311 per annum shall be paid to the chair of the caucus of the party from which the Government is chosen and to the chair of the caucus of the party recognized as the Official Opposition and an indemnity at the rate of \$7,480 per annum shall be paid to the chair of every other party that has a recognized membership of twelve or more persons in the Assembly.

8.—(1) Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 7, is repealed and the following substituted therefor:

House
Leaders'
indemnities

69. In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the House Leader of the party recognized as the Official Opposition, at the rate of \$12,127 per annum; and
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$9,128 per annum.

(2) Section 69 of the said Act, as re-enacted by subsection (1), is amended by striking out "and" at the end of clause (a), by striking out "\$9,128" in the last line of clause (b) and inserting in lieu thereof "\$10,345" and by adding thereto the following clauses:

- (c) to the Deputy House Leader of the party recognized as the Official Opposition, at the rate of \$5,995 per annum; and
- (d) to the Deputy House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$5,450 per annum.

Commence-
ment

9.—(1) This Act, except subsections 3 (2), 4 (2) and 5 (2), section 7 and subsection 8 (2), shall be deemed to have come into force on the 1st day of April, 1989.

▼ (2) Subsections 3 (2), 4 (2) and 5 (2), section 7 and subsection 8 (2) come into force on the 1st day of January, 1990. ▲ ^{Idem}

10. The short title of this Act is the *Legislative Assembly* ^{Short title}
Amendment Act, 1989.



Bill 91

*(Chapter 85
Statutes of Ontario, 1989)*

An Act to amend the Legislative Assembly Act

The Hon. C. Ward

Government House Leader and Minister of Government Services

<i>1st Reading</i>	December 7th, 1989
<i>2nd Reading</i>	December 18th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989



Bill 91

1989

An Act to amend the Legislative Assembly Act

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

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$43,374 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$14,548 per annum shall be paid to every member of the Assembly. Members' allowances

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 2, is repealed and the following substituted therefor:

61. In addition to the indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

(a) to the Premier, at the rate of \$8,185 per annum;

(b) to the Leader of the Opposition, at the rate of \$5,458 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,728 per annum.

3.—(1) Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 3, is repealed and the following substituted therefor:

Indemnity of Speaker, Leader of Opposition and leader of a minority party

(1) In addition to the indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$23,436 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$31,749 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$15,941 per annum.

(2) Clause 62 (1) (c) of the said Act, as re-enacted by subsection (1), is amended by striking out "\$15,941" in the last line and inserting in lieu thereof "\$22,602".

4.—(1) Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 4, is repealed and the following substituted therefor:

Chair and deputy chairs of Whole House and chairs of committees

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chair of the Committees of the Whole House at the rate of \$9,808 per annum;
- (b) to the Deputy Chairs of the Committees of the Whole House at the rate of \$6,813 per annum; and
- (c) to the chair of each standing committee at the rate of \$5,313 per annum.

(2) Subsection 64 (1) of the said Act, as re-enacted by subsection (1), is amended by striking out "and" at the end of clause (b) and by striking out clause (c) and inserting in lieu thereof the following:

- (c) to the chair of each standing and select committee at the rate of \$8,827 per annum; and
- (d) to the vice-chair of each standing and select committee at the rate of \$5,313 per annum.

5.—(1) Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 5, is repealed and the following substituted therefor:

(1) In addition to the indemnity as a member, an indemnity shall be paid, Whips,
indemnities

(a) to the Chief Government Whip, at the rate of \$12,127 per annum;

(b) to the Deputy Government Whip, at the rate of \$8,311 per annum;

(c) to each of not more than three Government Whips, at the rate of \$5,995 per annum;

(d) to the Chief Opposition Whip, at the rate of \$8,311 per annum;

(e) to each of not more than two Opposition Whips, at the rate of \$5,995 per annum; and

(f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,

(i) to the Chief Party Whip of the party, at the rate of \$6,813 per annum, and

(ii) to the Party Whip of the party, at the rate of \$5,450 per annum.

(2) Subsection 65 (1) of the said Act, as re-enacted by subsection (1), is amended by striking out "\$8,311" in the first line of clause (d) and inserting in lieu thereof "\$9,297" and by striking out "\$6,813" in the second line of subclause (f) (i) and inserting in lieu thereof "\$8,367".

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7, 1986, chapter 72, section 6, 1988, chapter 14, section 6 and 1989, chapter 19, section 6, is further amended by striking out "\$74" as set out in the amendment of 1989 and inserting in lieu thereof "\$78" and by striking out "\$86" as set out in that amendment and inserting in lieu thereof "\$90".

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

68a. In addition to the indemnity as a member, an indemnity at the rate of \$8,311 per annum shall be paid to the chair of the caucus of the party from which the Government is cho- Caucus
chairs,
indemnities

sen and to the chair of the caucus of the party recognized as the Official Opposition and an indemnity at the rate of \$7,480 per annum shall be paid to the chair of every other party that has a recognized membership of twelve or more persons in the Assembly.

8.—(1) Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 19, section 7, is repealed and the following substituted therefor:

House
Leaders'
indemnities

69. In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the House Leader of the party recognized as the Official Opposition, at the rate of \$12,127 per annum; and
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$9,128 per annum.

(2) Section 69 of the said Act, as re-enacted by subsection (1), is amended by striking out "and" at the end of clause (a), by striking out "\$9,128" in the last line of clause (b) and inserting in lieu thereof "\$10,345" and by adding thereto the following clauses:

- (c) to the Deputy House Leader of the party recognized as the Official Opposition, at the rate of \$5,995 per annum; and
- (d) to the Deputy House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$5,450 per annum.

Commence-
ment

9.—(1) This Act, except subsections 3 (2), 4 (2) and 5 (2), section 7 and subsection 8 (2), shall be deemed to have come into force on the 1st day of April, 1989.

(2) Subsections 3 (2), 4 (2) and 5 (2), section 7 and subsection 8 (2) come into force on the 1st day of January, 1990. Idem

10. The short title of this Act is the *Legislative Assembly Amendment Act, 1989*. Short title



Bill 92

An Act to amend Fines and Terms of Imprisonment contained in certain Acts

The Hon. I. Scott
Attorney General

1st Reading December 7th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill increases the fines payable under most of the Acts named in the Bill. In certain instances the minimum fines are lowered. The Bill also adjusts imprisonment provisions in certain cases.

Bill 92

1989

**An Act to amend Fines and Terms of Imprisonment
contained in certain Acts**

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

PART I

MINISTRY OF AGRICULTURE AND FOOD

**1. Section 18 of the *Artificial Insemination of Live Stock Act*,
being chapter 29 of the Revised Statutes of Ontario, 1980, is
repealed and the following substituted therefor:**

18. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000 for a first offence, and to a fine of not less than \$200 and not more than \$5,000 for a subsequent offence. Offences

**2. Section 24 of the *Bees Act, 1987*, being chapter 31, is
repealed and the following substituted therefor:**

24. Every person who contravenes any provision of this Act or the regulations or any order of the Director, Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and to a fine of not more than \$5,000 for any subsequent offence. Offence

**3. Section 16 of the *Plant Diseases Act*, being chapter 380 of
the Revised Statutes of Ontario, 1980, is repealed and the
following substituted therefor:**

16.—(1) Except as provided in subsection (2), every person who contravenes any provision of this Act or any by-law passed under subsection 12 (1) or the regulations or any order of an inspector or the Provincial Entomologist is guilty of an offence and on conviction is liable, for a first offence, to a fine Offences

of not more than \$2,000 and, for any subsequent offence, to a fine of not more than \$5,000 or to imprisonment for a term of not more than thirty days.

Idem

(2) Every person who contravenes any provision of subsection 13 (3) is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than \$2,000 and, for any subsequent offence, to a fine of not more than \$5,000.

4. Section 14 of the *Seed Potatoes Act*, being chapter 467 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$25 and not more than \$200" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

5. Subsection 23 (1) of the *Weed Control Act, 1988*, being chapter 51, is repealed and the following substituted therefor:

Offence

(1) A person who contravenes this Act or the regulations, or an order made under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$500 and not more than \$2,000 and for each subsequent offence to a fine of not less than \$1,000 and not more than \$5,000.

6. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Agriculture and Food

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Abandoned Orchards Act	9(1)	\$ 100	\$ 2,000
Agricultural Tile Drainage Installation Act	13	25	2,000
	13	100	5,000
Animals for Research Act	21(1)	500	2,000
	21(1)	1,000	5,000
	21(2)	25	2,000
	21(2)	100	5,000
Beef Cattle Marketing Act	17	1,000	2,000
Bull Owners' Liability Act	1	25	2,000
Commodity Boards and Marketing Agencies Act	4(1)	500	2,000
Dead Animals Disposal Act	17	500	2,000
Drainage Act	96	1,000	2,000
Edible Oil Products Act	15	500	5,000
Farm Income Stabilization Act	4(9)	1,000	2,000

Fur Farms Act	10	100	2,000
	10	500	5,000
Grain Corn Marketing Act, 1984	7	500	2,000
	7	2,000	5,000
Live Stock Branding Act	7	200	2,000
Live Stock Community Sales Act	19	500	2,000
	19	1,000	5,000
Live Stock Medicines Act	12	500	2,000
	12	1,000	5,000
Meat Inspection Act (Ontario)	16	500	2,000
	16	2,000	5,000
Oleomargarine Act	17	500	5,000
Ontario Food Terminal Act	16(1)	50	2,000
	16(1)	200	5,000
Pounds Act	22	10	2,000
Riding Horse Establishments Act	16(1)	500	2,000
	16(1)	1,000	5,000
	16(2)	25	2,000
	16(2)	100	5,000
Sheep and Wool Marketing Act, 1981	12	100	2,000
	12	500	5,000

PART II

MINISTRY OF THE ATTORNEY GENERAL

7. Section 9 of the *Charitable Gifts Act*, being chapter 63 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

9. Every person who contravenes any provision of this Act 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.

8.—(1) Subsection 36 (2) of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 8, section 4, is repealed and the following substituted therefor:

(2) A person who contravenes a restraining order is guilty of an offence and on conviction is liable to either or both a fine of \$5,000 and imprisonment for a term of not more than three months for a first offence and not more than two years for a subsequent offence.

(2) Subsection 39 (1) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Contempt of
orders of
Ontario
Court
(Provincial
Division)

(1) In addition to its powers in respect of contempt, the Ontario Court (Provincial Division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$5,000 nor shall the imprisonment exceed ninety days.

9.—(1) Section 11 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$25 and not more than \$500” in the fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000”.

(2) Section 12 of the said Act is amended by striking out “is liable to a fine of not less than \$25 and not more than \$500” in the seventh and eighth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000”.

10. Subsection 9 (2) of the *Disorderly Houses Act*, being chapter 120 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$1,000 and not more than \$5,000” in the second and third lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

11.—(1) Section 3 of the *Hotel Registration of Guests Act*, being chapter 208 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$50” in the sixth and seventh lines and inserting in lieu thereof “is liable to a fine of not more than \$100”.

(2) Section 4 of the said Act is amended by striking out “is liable to a fine of not less than \$20 and not more than \$200” in the sixth and seventh lines and inserting in lieu thereof “is liable to a fine of not more than \$100”.

12. Section 122 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Idem

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

13.—(1) Subsection 2 (1) of the *Minors' Protection Act*, being chapter 293 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$2

and not more than \$50" in the second and third lines and inserting in lieu thereof "is liable to a fine of not more than \$500".

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

(1a) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed is \$25,000. Idem.
corporation

14.—(1) Subsection 6 (1) of the *Notaries Act*, being chapter 319 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$25 and not more than \$500" in the fifth and sixth lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

(2) Subsection 6 (2) of the said Act is amended by striking out "is liable to a fine of not less than \$25 and not more than \$500" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not more than \$1,000".

(3) Subsection 6 (3) of the said Act is amended by striking out "is liable to a fine of not less than \$25 and not more than \$1,000" in the sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

15.—(1) Section 22 of the *Public Accountancy Act*, being chapter 405 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$100 and not more than \$250" in the sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

(2) Subsection 23 (1) of the said Act is amended by striking out "is liable to a fine of not less than \$10 and not more than \$25, and to a further fine of not less than \$3 and not more than \$5 for every day on which the offence continues after conviction" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

(3) Subsection 23 (2) of the said Act is amended by striking out "is liable to a fine of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further fine of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction" in the ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

(4) Subsection 24 (3) of the said Act is repealed and the following substituted therefor:

Offence

(3) Any person who contravenes any provision of this section, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 for any subsequent offence.

(5) Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Prohibition against a body corporate carrying on business as public accountant

(1) It is not lawful for a body corporate to practise as a public accountant and any body corporate that contravenes the provisions of this subsection, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 for any subsequent offence.

16. Section 3 of the *Public Halls Act*, being chapter 408 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$500" in the second and third lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

17. Section 2 of the *Ticket Speculation Act*, being chapter 499 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$5 and not more than \$50" in the eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not more than \$1,000".

18. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Attorney General

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Architects Act, 1984	46(1)	\$15,000	\$25,000
	46(1)	30,000	50,000
	46(2)	5,000	10,000
	46(2)	15,000	25,000
	46(3)	5,000	10,000
	46(4)	5,000	10,000
	46(4)	15,000	25,000
	46(5)	30,000	50,000
	46(6)	30,000	50,000
	47(1)	5,000	10,000
	47(2)	5,000	10,000

1989	PROVINCIAL PENALTIES ADJUSTMENT	Bill 92	7
Blind Person's Rights Act	6(1)	1,000	5,000
	6(2)	100	500
Compensation for Victims of Crime Act	13(2)	2,000	5,000
	13(3)	25,000	50,000
Courts of Justice Act, 1984	146(4)	10,000	25,000
Dog Owners' Liability Act	4(4)	2,000	5,000
Estates Administration Act	19a(8)	2,000	5,000
	19a(9)	5,000	10,000
Family Law Act, 1986	24(5)(a)	1,000	5,000
	46(2)(a)	1,000	5,000
	49(1)	1,000	5,000
Hotel Registration of Guests Act	5(2)	100	500
Innkeepers Act	7(3)	50	500
Juries Act	42(1)	5,000	10,000
	42(2)	2,000	5,000
	42(3)	1,000	5,000
	45(3)	5,000	10,000
Landlord and Tenant Act	122(1)	2,000	5,000
Metropolitan Toronto Police Force Complaints Act, 1984	30	2,000	5,000
Mortgages Act	4(2)	50	200
Pawnbrokers Act	29(1)	500	2,000
Professional Engineers Act, 1984	41(1)	15,000	25,000
	41(1)	30,000	50,000
	41(2)	5,000	10,000
	41(2)	15,000	25,000
	41(3)	5,000	10,000
	41(3)	15,000	25,000
	41(4)	5,000	10,000
	41(5)	30,000	50,000
	41(6)	30,000	50,000
	42(1)	5,000	10,000
	42(2)	5,000	10,000
	Provincial Offences Act	12(1)	300
43(1)		1,000	2,000
60(3)		2,000	5,000
62		2,000	5,000
70(5)		25	50
86		1,000	2,000
Public Institutions Inspection Act	5(2)	5,000	10,000
Trespass to Property Act	2(1)	1,000	2,000

PART III

MINISTRY OF COLLEGES AND UNIVERSITIES

19.—(1) Subsection 89 (1) of the *Colleges Collective Bargaining Act*, being chapter 74 of the *Revised Statutes of Ontario, 1980*, is amended by striking out "\$500" in the third line and inserting in lieu thereof "\$1,000".

(2) Subsection 89 (2) of the said Act is amended by striking out "\$10,000" in the third line and inserting in lieu thereof "\$25,000".

PART IV

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

20.—(1) Subsection 20 (2) of the *Day Nurseries Act*, being chapter 111 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Idem

(2) Every person who contravenes the provisions of section 16 and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$5,000 for each day on which such offence continues or to imprisonment for a term of not more than two years, or to both.

(2) The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Community and Social Services

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Child and Family Services Act, 1984	160(4)	\$ 5,000	\$25,000
Day Nurseries Act	21(1)	1,000	2,000
Family Benefits Act	19(3)	500	5,000
General Welfare Assistance Act	16(3)	100	5,000
Ministry of Community and Social Services Act	6c(4)	2,000	5,000

PART V

MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

21. Subsection 13 (2) of the *Athletics Control Act*, being chapter 34 of the Revised Statutes of Ontario, 1980, is amended by striking out "to a fine of not less than \$20 and not more than \$1,000" in the third and fourth lines and inserting in lieu thereof "to a fine of not more than \$10,000".

22. Section 41 of the *Boilers and Pressure Vessels Act*, being chapter 46 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

41. Every person who contravenes any of the provisions of this Act or the regulations, or any direction or order given to the person by an inspector, is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000. Offences

23. Subsection 30 (1) of the *Elevating Devices Act*, being chapter 135 of the Revised Statutes of Ontario, 1980, is amended by striking out "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" in the tenth, eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000".

24. Section 27 of the *Energy Act*, being chapter 139 of the Revised Statutes of Ontario, 1980, is amended by striking out "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" in the twelfth, thirteenth and fourteenth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000".

25. Section 17 of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed is \$100,000. Idem.
corporation

26. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Consumer and Commercial Relations

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Amusement Devices Act, 1986	17(1)	\$10,000	\$ 25,000
	17(1)	25,000	100,000
	17(2)	10,000	25,000

Bailiffs Act	18(1)	1,000	5,000
Business Practices Act	17(1)	2,000	25,000
	17(2)	2,000	25,000
	17(3)	25,000	100,000
Collection Agencies Act	28(1)	2,000	25,000
	28(2)	25,000	100,000
Condominium Act	55(a)	25,000	100,000
	55(b)	2,000	25,000
Consumer Protection Act	39(1)	2,000	25,000
	39(2)	25,000	100,000
Consumer Reporting Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Discriminatory Business Practices Act	16(1)	5,000	25,000
	16(2)	50,000	100,000
Gasoline Handling Act	17	10,000	25,000
Liquor Licence Act	55(1)	10,000	25,000
	55(5)	25,000	100,000
Motor Vehicle Dealers Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Ontario New Home Warranties Plan Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Paperback and Periodical Distributors Act	15(1)	2,000	25,000
	15(2)	25,000	100,000
Real Estate and Business Brokers Act	50(1)	2,000	25,000
	50(2)	25,000	100,000
Theatres Act	61(1)	2,000	25,000
	61(2)	25,000	100,000
Travel Industry Act	25(1)	2,000	25,000
	25(2)	25,000	100,000

PART VI

MINISTRY OF CULTURE AND COMMUNICATIONS

27. Subsection 11 (2) of the *Centennial Centre of Science and Technology Act*, being chapter 60 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the second and third lines.

28.—(1) Subsection 69 (1) of the *Ontario Heritage Act*, being chapter 337 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$10,000" in the third last line and inserting in lieu thereof "\$50,000".

(2) Subsection 69 (2) of the said Act is amended by striking out "\$50,000" in the third line and inserting in lieu thereof "\$250,000".

29. Subsection 16 (2) of the *Science North Act, 1986*, being chapter 5, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the second and third lines.

30.—(1) Subsection 15 (2) of the *Telephone Act*, being chapter 496 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the third and fourth lines.

(2) Section 107 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(3) Subsection 109 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(4) Subsection 110 (1) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the sixth and seventh lines.

(5) Subsection 110 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(6) Section 111 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the fifth, sixth and seventh lines.

(7) Section 112 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the sixth, seventh and eighth lines.

(8) Section 113 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the sixth, seventh and eighth lines.

(9) Section 114 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the eighth, ninth and tenth lines.

(10) Subsection 115 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each day during which the default continues" in the third and fourth lines.

PART VII

MINISTRY OF EDUCATION

31. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Education

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>	
Education Act	15(4)	\$ 25	\$ 50	
	15(5)	100	200	
	15(6)	200	500	
	15(9)	200	500	
	29(1)	100	200	
	29(3)	100	200	
	187	100	200	
	188(1)	100	200	
	188(2)	100	200	
	189(1)	100	200	
	189(2)	100	200	
	190	100	200	
	193(4)	500	1,000	
	228(7)	10	20	
	228(7)	50	100	
	School Boards and Teachers Collective Negotiations Act	77(1)	500	1,000
		77(2)	10,000	25,000

PART VIII

MINISTRY OF THE ENVIRONMENT

32. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Environment

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Environmental Assessment Act	39	\$ 5,000	\$10,000
	39	10,000	25,000
Environmental Protection Act	72	1,000	2,000
	78(1)	500	1,000
	78(1)	1,000	2,000
	78(2)	1,000	2,000
	78(2)	2,000	5,000
	78a(1)	1,000	2,000
	78a(1)	2,000	5,000
	78a(2)	3,000	5,000
	78a(2)	6,000	10,000
	146(3)	5,000	10,000
	146(3)	10,000	25,000

	146 (4)	25,000	50,000
	146 (4)	50,000	100,000
	146a (1)	50,000	100,000
	146a (1)	100,000	200,000
	147 (1)	5,000	10,000
	147 (1)	15,000	25,000
	147 (2)	50,000	100,000
	147 (2)	100,000	200,000
	147 (3)	10,000	25,000
	147 (3)	25,000	50,000
	147 (4)	250,000	500,000
	147 (4)	500,000	1,000,000
Ontario Water Resources Act	67 (1)	5,000	10,000
	67 (1)	10,000	25,000
	67 (2)	25,000	50,000
	67 (2)	50,000	100,000
	68 (2)	50,000	100,000
	68 (2)	100,000	200,000
Pesticides Act	34a (1)	5,000	10,000
	34a (1)	10,000	25,000
	34a (2)	25,000	50,000
	34a (2)	50,000	100,000
	34c (2)	50,000	100,000
	34c (2)	100,000	200,000

PART IX

MINISTRY OF FINANCIAL INSTITUTIONS

33. Subsection 55 (1) of the *Commodity Futures Act*, being chapter 78 of the Revised Statutes of Ontario, 1980, is amended by striking out "in the case of a company or a person other than an individual, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000" in the second, third, fourth and fifth last lines and inserting in lieu thereof "to a fine of not more than \$1,000,000".

34. Section 14 of the *Compulsory Automobile Insurance Act*, being chapter 83 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

14.—(1) Except where otherwise provided, every person and every director or officer of an insurer who commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 in the case of an individual and \$200,000 in the case of a corporation.

General
penalty

(2) In addition to any penalty imposed under this Act, where the person who contravenes this Act or the regulations is an insurer, the Lieutenant Governor in Council may, by order and upon the report of the Superintendent, suspend or cancel the insurer's licence issued under the *Insurance Act*.

Suspension
or cancel-
lation of
licence of
insurer

R.S.O. 1980.
c. 218

Contra-
vention by
Association

(3) Where the Association commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$200,000.

35. Section 19 of the *Prepaid Hospital and Medical Services Act*, being chapter 388 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

19. Every person not registered under this Act who contracts to furnish hospital or medical service on a prepayment basis or makes payment therefor is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 in the case of an individual and not more than \$200,000 in the case of a corporation.

36. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Financial Institutions

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Commodity Futures Act	55(3)	\$ 2,000	\$1,000,000
Co-operative Corporations Act	173(1)	2,000	10,000
	174(1)	2,000	10,000
	174(1)	20,000	50,000
	174(2)	2,000	10,000
	176(1)	1,000	5,000
	176(1)	10,000	100,000
	176(2)	1,000	5,000
Credit Unions and Caisses Populaires Act	141(1)	2,000	10,000
	141(2)	2,000	10,000
	143(1)	50	200
	143(2)	50	200
	144(1)	2,000	5,000
	144(1)	10,000	100,000
Deposits Regulation Act	144(2)	2,000	5,000
	8(1)	5,000	100,000
	8(2)	25,000	200,000
Mortgage Brokers Act	8(3)	5,000	100,000
	31(1)	2,000	100,000
	31(2)	25,000	200,000
Registered Insurance Brokers Act	34(1)	5,000	100,000
	34(2)	25,000	200,000

PART X

MINISTRY OF HEALTH

37. Section 9 of the *Cancer Remedies Act*, being chapter 58 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

9. Every person who contravenes a provision of this Act or who fails or neglects to obey any order, direction or requirement of the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$200 and not more than \$1,000 and for any subsequent offence to a fine of not less than \$1,000 and not more than \$5,000.

38. Section 9 of the *Dental Technicians Act*, being chapter 114 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of \$100 for a first offence, \$200 for a second offence, and \$300 for a third or subsequent offence" in the seventh, eighth and ninth lines and inserting in lieu thereof "is liable to a fine of \$10,000 for a first or subsequent offence".

39. Subsection 9 (1) of the *Radiological Technicians Act*, being chapter 430 of the Revised Statutes of Ontario, 1980, is amended,

- (a) by striking out "\$100" in the fourth last line and inserting in lieu thereof "\$2,500";
- (b) by striking out "\$200" in the fourth last line and inserting in lieu thereof "\$5,000";
- (c) by striking out "\$200" in the third last line and inserting in lieu thereof "\$4,000"; and
- (d) by striking out "\$500" in the second last line and inserting in lieu thereof "\$10,000".

40. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Health

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Ambulance Act	23(1)	\$ 1,000	\$ 2,000
	23(2)	10,000	25,000
	23(3)	500	1,000
Chiropody Act	6	100	25,000
Denture Therapists Act	27(1)	2,000	25,000
	27(1)	2,000	25,000
	27(2)	1,000	5,000
	27(2)	2,000	10,000
	27(3)	2,000	10,000
	32(1)	5,000	10,000
	32(2)	5,000	10,000
Drugless Practitioners Act	8	100	25,000
Healing Arts Radiation Act	23(1)	5,000	10,000
	23(2)	25,000	50,000
Health Care Accessibility Act, 1986	8(1)	250	2,000
	8(1)	1,000	2,000
Health Disciplines Act	18(1)	5,000	10,000
	18(2)	5,000	10,000
	18(2)	5,000	10,000
	37(5)(e)	5,000	10,000
	43(1)	5,000	25,000
	43(2)	1,000	5,000
	43(2)	2,000	10,000
	43(3)	2,000	10,000
	60(5)(e)	5,000	10,000
	67(1)	2,000	25,000
	67(1)	2,000	25,000
	67(2)	1,000	5,000
	67(2)	2,000	10,000
	67(3)	2,000	10,000
	83(5)(e)	5,000	10,000
	88(1)	2,000	25,000
	88(1)	2,000	25,000
	88(2)	1,000	10,000
	88(2)	2,000	25,000
	105(5)(e)	5,000	10,000
	112(1)	2,000	25,000
	112(1)	2,000	25,000
	112(2)	1,000	5,000
	112(2)	2,000	10,000
	112(3)	2,000	10,000
	130(5)(e)	5,000	10,000
162(1)	2,000	25,000	
162(1)	2,000	25,000	
162(2)	1,000	5,000	
162(2)	2,000	10,000	
162(3)	2,000	25,000	
Health Insurance Act	50	2,000	5,000
Hypnosis Act	5	100	500
	5	1,000	5,000
	5	200	2,500
	5	2,000	25,000
Mental Health Act	64	10,000	25,000
Mental Hospitals Act	8	10	20
	8	100	1,000
Ontario Drug Benefit Act, 1986	15(1)	5,000	10,000
	15(1)	10,000	25,000
	15(2)	50,000	100,000

Ophthalmic Dispensers Act	16	50	2,500
	16	500	25,000
Prescription Drug Cost Regulation Act, 1986	13(1)	10,000	25,000
	13(2)	50,000	100,000
Private Hospitals Act	3	100	200
	3	500	1,000
	4(2)	500	1,000
	7(6)	25	50
	7(6)	500	1,000
	19(4)	25	50
	21(3)	200	1,000
	21(4)	50	1,000
	23(3)	200	1,000
	24(2)	25	50
	25	25	50
	26	25	50
	26	500	1,000
Psychologists Registration Act	14(1)	100	5,000
	14(1)	500	25,000
Public Hospitals Act	27	25	50
	27	500	1,000

PART XI

MINISTRY OF HOUSING

41.—(1) Subsection 122 (1) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is amended by striking out “\$2,000” in the last line and inserting in lieu thereof “\$5,000”.

(2) Subsection 122 (2) of the said Act is amended by striking out “\$25,000” in the third line and inserting in lieu thereof “\$50,000”.

PART XII

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

42.—(1) Subsection 11 (3) of the *Ministry of Industry and Trade Act, 1982*, being chapter 31, is amended by striking out “\$2,000” in the last line and inserting in lieu thereof “\$10,000”.

(2) Subsection 11 (4) of the said Act is amended by striking out “\$25,000” in the last line and inserting in lieu thereof “\$100,000”.

PART XIII

MINISTRY OF LABOUR

43. Section 13 of the *Employment Agencies Act*, being chapter 136 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$500” in the second and third lines and inserting in lieu thereof “is liable to a fine of not more than \$5,000 or, if the person is a body corporate, to a fine of not more than \$50,000”.

44. Section 4 of the *Government Contracts Hours and Wages Act*, being chapter 190 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$50 and not more than \$500” in the fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$25,000”.

45.—(1) Subsections 19 (1) and (3) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Offence

(1) Every employer who contravenes a schedule that is applicable to the employer or who permits or condones work in contravention thereof is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than six months, and, where the conviction is for failing to pay the minimum rate of wages prescribed by the schedule, shall be ordered to pay to the Director, as an additional penalty, the full amount of the wages found to be unpaid to any employee under the schedule, and the Director, in the Director's discretion, may direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto.

Offence

(3) Every employee who contravenes a provision of a schedule is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(2) Section 20 of the said Act is repealed and the following substituted therefor:

Offence

20. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where no penalty has been specifically provided, is

liable to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than six months.

46. Subsection 9 (5) of the *Ministry of Labour Act*, being chapter 284 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$300" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

47. Subsection 77 (8) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 28, is amended by adding at the end thereof "and on conviction is liable to a fine of not more than \$5,000".

48. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE			
Ministry of Labour			
<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Crown Employees Collective Bargaining Act	44(1)	\$ 500	\$ 2,000
	44(2)	5,000	25,000
Employment Standards Act	47(1)	25	100
	57(3)	100	2,000
	59(1)	10,000	50,000
Labour Relations Act	96(1)	1,000	2,000
	96(1)	10,000	25,000
Ministry of Labour Act	9(4)	20	25,000
	12	500	25,000
One Day's Rest in Seven Act	4	100	25,000
Pay Equity Act, 1987	26(1)	2,000	5,000
	26(1)	25,000	50,000
Workers' Compensation Act	18(2)	50	10,000
	52(9)	50	10,000
	69(2)	50	10,000
	97(6)	500	25,000
	99(3)	500	25,000
	101(2)	500	25,000
	102(2)	50	5,000
	118(3)	200	25,000
	118(3)	20	100
	121(2)	200	25,000

PART XIV

MINISTRY OF MUNICIPAL AFFAIRS

49.—(1) Subsection 48 (4) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 98 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 103 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

50.—(1) Subsection 47 (5) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 88 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the third line.

(3) Section 93 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

51. Subsection 11 (5) of the *Line Fences Act*, being chapter 242 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$1,000” in the fourth and fifth lines.

52.—(1) Subsection 36 (6) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(6) The clerk is guilty of an offence if the certificate is not sent within the prescribed time or if the clerk certifies to a larger number of electors than the last revised polling lists show.

(2) Subsection 211 (21) of the said Act is repealed and the following substituted therefor:

(21) Despite section 321, a by-law passed under this section may provide that a person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not more than the greater of, Fines

(a) \$50,000; or

(b) the gross sales of the shop during the period the shop was open in contravention of the by-law.

(3) Clause (g) of paragraph 1 of subsection 230 (1) of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$5" in the fifth, sixth and seventh lines.

(4) Clause (g) of paragraph 17 of section 232 of the said Act is amended by striking out "and on conviction is liable to a fine equal to the licence fee that he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200" in the second, third, fourth and fifth lines.

(5) Clause (h) of paragraph 17 of the said section 232 is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$10" in the fifth, sixth and seventh lines.

(6) Subsection 297 (3) of the said Act is amended by striking out "and on conviction is liable to a fine of \$5" in the second and third lines.

(7) Subsection 297 (4) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50" in the fourth and fifth lines.

(8) Section 321 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 24, section 13, is amended by striking out "and for providing for the imposition of fines of not more than \$2,000 on every person who is convicted of an offence under any such by-law" in the fifth, sixth and seventh lines.

53.—(1) Section 19 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

19.—(1) Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any Offence

wilful breach of any of the provisions of this Part or of any order of the Ministry made thereunder is guilty of an offence.

Idem

(2) If the person convicted of an offence under subsection (1) is a member of a council or a local board, the person is, upon conviction and in addition to any other penalty provided by law, disqualified from holding any municipal office for a period of two years.

(2) Subsection 58 (2) of the said Act is amended by striking out “and on conviction is liable to a fine of not less than \$25 and not more than \$500 for each offence” in the tenth and eleventh lines.

54.—(1) Subsection 93 (5) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 110 (11) of the said Act is amended by striking out “and on conviction is liable to a fine of \$50 for the first offence and \$300 for each subsequent offence” in the second, third and fourth lines.

(3) Subsection 227 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(4) Section 231 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

55. Subsection 24 (4) of the *Niagara Escarpment Planning and Development Act*, being chapter 316 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(4) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

(a) on a first conviction to a fine of not more than \$25,000; and

(b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.

(4a) Notwithstanding subsection (4), if a corporation is convicted under subsection (1), the maximum penalty that may be imposed is, Corporation

- (a) on a first conviction a fine of not more than \$50,000; and
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.

56.—(1) Subsection 31 (22) of the *Planning Act, 1983*, being chapter 1, is amended by striking out “is liable to a fine of not more than \$500 for each day that the contravention has continued” in the third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000 for a first offence and to a fine of not more than \$10,000 for any subsequent offence”.

(2) Section 31 of the said Act is amended by adding thereto the following subsection:

(22a) Notwithstanding subsection (22), if a corporation is convicted of an offence under subsection (22), the maximum penalty that may be imposed upon the corporation is \$10,000 for a first offence and \$50,000 for any subsequent offence. Idem.
corporation

(3) Subsection 33 (13) of the said Act is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the sixth and seventh lines.

(4) Subsection 67 (2) of the said Act is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the sixth and seventh lines.

57. Subsection 19 (2) of the *Public Parks Act*, being chapter 417 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$1 and not more than \$20; or may be imprisoned for a term of not more than thirty days; and is liable to an action at the suit of the board to make good any damage done by him” in the second, third, fourth and fifth lines.

58.—(1) Section 12 of the *Public Utilities Act*, being chapter 423 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$300 or may be imprisoned without the option of a fine for a term of not more than one month” in the eleventh, twelfth, thirteenth and fourteenth lines.

(2) Section 13 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$300 or may be imprisoned, without the option of a fine, for a term of not more than one month” in the first, second and third last lines.

(3) Section 52 of the said Act is amended by striking out “of not more than \$300” in the eighth line.

(4) Section 53 of the said Act is amended by striking out “of not more than \$300” in the sixth and seventh lines.

59.—(1) Subsection 48 (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 110 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 115 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

60.—(1) Subsection 47 (4) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 92 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 97 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

61.—(1) Subsection 47 (4) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not

more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 103 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 108 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

62.—(1) Subsection 46 (4) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 114 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 119 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

63.—(1) Subsection 87 (5) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 142 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the third and fourth lines.

(3) Section 147 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

64.—(1) Subsection 72 (5) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 133 (39) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 138 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

65.—(1) Subsection 47 (4) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 98 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 103 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

66.—(1) Subsection 63 (5) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 84 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 89 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

67.—(1) Subsection 82 (4) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 132 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 137 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

68.—(1) Subsection 83 (5) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 134 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the third line.

(3) Section 139 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the seventh and eighth lines.

69. Subsection 7 (1) of the *Road Access Act*, being chapter 457 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$2,000" in the second and third lines.

70.—(1) Section 7 of the *Snow Roads and Fences Act*, being chapter 477 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$20" in the fifth and sixth lines.

(2) Section 8 of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$20" in the fourth and fifth lines.

(3) Subsection 12 (4) of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$50" in the fifth and sixth lines.

71. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Municipal Affairs

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Municipal Act	321b(1)	\$ 5,000	\$ 10,000
	321b(1)	10,000	25,000
	321b(2)	25,000	50,000
	321b(2)	50,000	100,000
	328(1)	10,000	25,000
	328(2)	25,000	50,000
Municipal Elections Act	96	2,000	5,000
	97	2,000	5,000
	98	2,000	5,000
	99	2,000	5,000
	100	2,000	5,000
	101	2,000	5,000
	102	2,000	5,000
	103(1)	2,000	5,000
	104	2,000	5,000
	135(1)	10,000	25,000
	135(2)	1,000	5,000
	177(1)	1,000	5,000
	177(2)	1,000	5,000
	178	1,000	5,000
	179	1,000	5,000
180	10,000	25,000	
181	1,000	5,000	
Planning Act, 1983	33(13)	20,000	50,000
	66(1)	20,000	25,000
	67(2)	2,000	5,000

PART XV

MINISTRY OF NATURAL RESOURCES

72. Section 6 of the *Endangered Species Act*, being chapter 138 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

6. Any person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$50,000, or to imprisonment for a term of not more than two years, or to both.

73. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Natural Resources

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Game and Fish Act	19	\$5,000	\$25,000
	91	5,000	25,000
Provincial Parks Act	22(1)	500	5,000

PART XVI

MINISTRY OF MINES

74.—(1) Section 169 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than one year, or to both” in the second, third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$30,000 for every day upon which the offence occurs or continues”.

(2) Subsection 172 (1) of the said Act is amended by striking out “is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues” in the first, second and third last lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

(3) Subsection 172 (2) of the said Act is amended by striking out “is liable to a fine of \$500 or to imprisonment for a term of not more than six months, or to both” in the fourth, fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

(4) Subsection 173 (2) of the said Act is amended by striking out “\$1,000” in the second last line and inserting in lieu thereof “\$30,000”.

(5) Section 174 of the said Act is amended by striking out “a fine of not more than \$250 and, upon conviction thereof, is liable to imprisonment for a term of not more than six months unless the fine and costs are sooner paid” in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof “a fine of not more than \$10,000”.

PART XVII

MINISTRY OF REVENUE

75. Subsection 12 (2a) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 28, section 3, is amended by striking out “an amount of not less than \$50 and not more than \$500” in the seventh and eighth lines and inserting in lieu thereof “an amount of not more than \$2,000”.

76. Subsection 24 (1) of the *Employee Share Ownership Plan Act, 1988*, being chapter 3, is amended by striking out “is liable to a fine of not more than \$2,000 or if such person is a

corporation to a fine of not more than \$20,000" in the first, second and third last lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

77.—(1) Subsection 4 (8) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "is liable to a fine of not less than the amount of the tax that he failed to pay and of an additional amount that is not less than \$100 and not more than \$5,000" in the third, fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than double the amount of the tax that the person failed to pay".

(2) Subsection 8 (12) of the said Act is amended by striking out "is liable to a fine of not more than \$5,000" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$5,000".

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

Offence

(1) Every person who makes a false statement in any return or information made or furnished to the Minister under this Act is guilty of an offence and is liable to a fine of not less than \$500 and not more than \$10,000 plus an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

(4) Subsection 25 (2) of the said Act is amended by striking out "is liable to a fine of not more than \$20,000" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$1,000 and not more than \$10,000".

78.—(1) Subsection 20 (1) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Penalty for failure to collect tax

(1) Every person required to collect the tax imposed by this Act who fails to collect the tax is liable on conviction to a fine of 30 cents per litre of gasoline on which tax should have been collected as determined under subsection (4).

(2) Subsection 21 (1) of the said Act is amended by striking out "is liable to a fine of not less than \$25 for each day during which the default continues" in the third and fourth lines and inserting in lieu thereof "is liable to a penalty of not less than \$50 and not more than 5 per cent of the tax that should have been remitted or declared".

(3) Section 22 of the said Act is amended by striking out "is liable on conviction to a fine of not less than \$200 and not more than" in the fourth and fifth last lines and inserting in lieu thereof "is liable on conviction to a fine of not less than \$500 and not more than \$10,000 plus".

(4) Section 23 of the said Act is repealed and the following substituted therefor:

23. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$2,000. General
penalty

79. Clause 44 (f) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) a fine of not less than \$500 and not more than \$10,000 plus an amount equal to 200 per cent of the amount of the tax that was sought to be evaded; or

80.—(1) Section 5 of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 20, section 4, is amended by striking out "is liable on conviction to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000" in the sixth, seventh, eighth and ninth lines and inserting in lieu thereof "is liable on conviction to a fine of not less than \$500 and not more than double the amount of the tax that, had the facts been truthfully stated, would have been payable".

(2) Subsection 6 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 21, section 4, is repealed and the following substituted therefor:

(1) Every person who knowingly contravenes any provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person or falsely states whether the land being conveyed contains at least one and not more than two single family residences is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not more than \$5,000. Offence

81. Section 20 of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 17, is amended by striking out “is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded” in the second, third, fourth, fifth and sixth last lines and inserting in lieu thereof “is liable on conviction to a fine of not less than the greater of \$500 or 50 per cent of the amount of the tax that should have been shown to be payable or that was sought to be evaded and not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded”.

82. Subsection 16 (1) of the *Ontario Guaranteed Annual Income Act*, being chapter 336 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(1) Every person who does any of the following is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000:

1. Knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a payment of an increment under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
2. Knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a an increment under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
3. Knowingly, converts to the person's own use a payment of an increment under this Act to which the person is not entitled.

Idem

(1a) Every person who contravenes section 11 is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000.

83. Subsection 17 (2) of the *Ontario Home Ownership Savings Plan Act*, 1988, being chapter 35, is amended by striking out “is liable to a fine of not more than \$2,000, or if

such person is a corporation to a fine of not more than \$20,000" in the first, second and third last lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

84. Subsection 15 (1) of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) Every person who does any of the following is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000:

1. Knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a grant under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
2. Knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a grant under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
3. Knowingly, converts to the person's own use a payment of a grant under this Act to which the person is not entitled.

(1a) Every person who contravenes section 11 or 16 is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000.

85. Subsection 30 (1) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000" in the eighth, ninth and tenth lines and inserting in lieu thereof "is liable to a fine of not less than 25 per cent and not more than 200 per cent of the amount of the grant or tax credit sought or received or to imprisonment for a term of not more than two years, or to both a fine and imprisonment".

86.—(1) Subsection 9 (4) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of \$200" in the third and fourth lines and inserting in lieu thereof "is liable to

a fine of not less than \$50 and not more than 5 per cent of the amount of the tax that would have been reported had the return been properly completed and filed”.

(2) Subsection 18 (3) of the said Act is amended by striking out “is liable on conviction to a fine of not less than 25 per cent of the tax that should have been declared to be collectable or payable or that was sought to be evaded and to not more than double the amount of such tax” in the second, third, fourth and fifth last lines and inserting in lieu thereof “is liable on conviction to a fine of not less than \$500 and not more than \$10,000 plus not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded”.

(3) Subsection 21 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 4, is repealed and the following substituted therefor:

Penalty for
selling
tobacco with
no wholesale
dealer's
permit

(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when assessed therefor, pay a penalty of not less than \$200 and not more than \$2,000 plus a penalty computed as follows:

1. 12 cents for every cigarette so sold.
2. 6.6 cents for every gram or part thereof of any tobacco, other than cigarettes or cigars, so sold.
3. 135 per cent of the price at which each cigar was so sold.

(4) Subsections 23 (1) and (2) of the said Act are repealed and the following substituted therefor:

General
penalty

(1) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000 or to a term of imprisonment of not less than three months and not more than six months, or to both a fine and imprisonment.

Offence

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on conviction is liable to a fine equal to the amount of tax that would be exigible on the tobacco so purchased if such tobacco had been purchased by a consumer and is in addition liable to imprisonment for a term not exceeding six months.

87. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE			
Ministry of Revenue			
<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Assessment Act	12(1)	\$ 100	\$1,000
	12(1)	10	100
	12(2)	200	2,000
	12(3)	200	2,000
	57(1)	200	2,000
Corporations Tax Act	98	500	5,000
Fuel Tax Act, 1981	4(9)	100	200
	5(2)	100	200
	5(2)	500	1,000
	5(3)	100	200
	5(3)	500	1,000
	8(11)	1,000	200
	8(13)	50	200
	10(4)	50	200
	22(8)	200	2,000
	27	100	200
28	50	200	
28	1,000	5,000	
Gasoline Tax Act	8(4)	200	500
	20(3)	200	500
	21(2)	25	50
Income Tax Act	43(1)	25	50
	46(1)	200	2,000
Land Transfer Tax Act	8(5)	25	50
Mining Tax Act	14(2)	200	2,000
	19(1)	50	200
	19(2)	25	200
Ontario Guaranteed Annual Income Act	15(5)	25	50
Ontario Home Ownership Savings Plan Act, 1988	17(1)	2,000	5,000
Provincial Land Tax Act	35	100	500
	35	10	50
	36	500	2,000
	37	200	2,000
Race Tracks Tax Act, 1988	12(7)	2,500	5,000
	13(8)	200	2,000
Retail Sales Tax Act	11	2,000	10,000
	30(3)	100	500
	41(1)	2,000	5,000

PART XVIII

MINISTRY OF SKILLS DEVELOPMENT

88. Subsection 26 (1) of the *Apprenticeship and Tradesmen's Qualification Act*, being chapter 24 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the last line and inserting in lieu thereof "\$2,000".

PART XIX

MINISTRY OF THE SOLICITOR GENERAL

89.—(1) Section 15 of the *Fire Marshals Act*, being chapter 166 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not more than \$20" in the third and fourth last lines and inserting in lieu thereof "is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 for any subsequent offence".

(2) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 8, section 2, is amended by striking out "is liable to a fine of not less than \$100 and not more than \$1,000" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

90. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Solicitor General

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Fire Marshals Act	18(18)	\$ 2,000	\$10,000
	18(19)	2,000	10,000
	18a(5)	2,000	25,000
	18a(6)	10,000	50,000
Private Investigators and Security Guards Act	32(1)	2,000	5,000
	32(2)	25,000	50,000
Public Works Protection Act	2(4)	100	500
	5(1)	100	500

PART XX

MINISTRY OF TOURISM AND RECREATION

91. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE			
Ministry of Tourism and Recreation			
Title of Act	Provision	Column 1	Column 2
Ministry of Tourism and Recreation Act, 1982	10(3)	\$ 2,000	\$ 5,000
	10(4)	25,000	50,000
Niagara Parks Act	20	500	10,000
Provincial Parks Act	22(1)	500	1,000
St. Clair Parkway Commission Act	19(1)	300	500
St. Lawrence Parks Commission Act	18(1)	100	500
Tourism Act	15(1)	1,000	5,000
	15(2)	500	2,000
	15(3)	10	50

PART XXI

MINISTRY OF TRANSPORTATION

92. Subsection 42 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (6) Every person who contravenes any of the provisions of, Offence
- (a) subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$100;
 - (b) subsection (2) or (3) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$1,000;
 - (c) subsection (4) is guilty of an offence and on conviction is liable to a fine of not less than \$20 and not more than \$100;

- (d) subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

93.—(1) Subsection 11 (3) of the *Motorized Snow Vehicles Act*, being chapter 301 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not more than \$500” in the last line and inserting in lieu thereof “is liable to a fine of not less than \$200 and not more than \$1,000”.

(2) Subsection 11 (4) of the said Act is amended by striking out “is liable to a fine of not more than \$500” in the third and fourth lines and inserting in lieu thereof “is liable to a fine of not less than \$200 and not more than \$1,000”.

94.—(1) Subsection 28 (5) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

- (5) Every person who without lawful authority,
- (a) uses the King's Highway so closed to traffic while it is protected in accordance with subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$50;
 - (b) defaces any barricade, light, detour sign or notice placed thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not more than \$200; or
 - (c) removes any barricade, light, detour sign or notice placed thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Idem

(6) Every person who is convicted of an offence under clause (5) (a) or (b) is also liable to the Crown for any damage or injury occasioned by such wrongful use, defacement or removal.

(2) Subsection 30 (3) of the said Act is amended by striking out “is liable to a fine of not less than \$10 per tree and not more than \$100 per tree and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning” in the second, third, fourth and fifth lines and inserting in lieu thereof “is liable to a fine of not less than \$50 and not more than \$200”.

(3) Subsection 103 (5) of the said Act is amended by striking out "is liable to a fine of not more than \$50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "is liable to a fine of not more than \$500".

95. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Transportation

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Commuter Services Act	5(1)	\$ 100	\$ 500
Ferries Act	8	20	500
Highway Traffic Act	8(2)	50	100
	8(2)	200	500
	9(1)	50	100
	9(1)	200	500
	12(1)	50	100
	12(1)	500	1,000
	13(3)	5	20
	13(3)	10	50
	18(10)	100	200
	18(10)	500	1,000
	30(3b)	40	60
	30(3b)	200	500
	30(3b)	100	200
	30(3b)	1,000	2,000
	30(3c)	40	60
	30(3c)	200	500
	30(3d)	100	200
	30(3d)	1,000	2,000
	30(3e)	2,000	500
	33	100	200
	33	500	1,000
	35(1)(a)	250	500
	35(1)(a)	2,000	5,000
	35(1)(b)	500	1,000
	35(1)(b)	2,000	5,000
	41(3)	500	1,000
	41(5)	50	100
	41(5)	200	500
	47(4)	100	200
	47(4)	500	1,000
	52(4)	500	1,000
	53(4)	100	200
	53(4)	500	1,000
	54(6)	100	200
	54(6)	500	1,000
	61(5)	50	100
	61(5)	500	1,000
	65(3)	500	1,000
	83(1)	50	100

	83(1)	500	1,000
	83(2)	50	100
	83(2)	500	1,000
	86(4)	100	200
	86(4)	500	1,000
	87(6)	100	200
	87(6)	500	1,000
	89(3)	100	200
	89(3)	500	1,000
	92(11)	100	200
	92(11)	500	1,000
	94(4)	50	100
	94(4)	100	200
	105(6)	100	200
	105(6)	500	1,000
	105(7)	50	100
	105(7)	100	200
	111	100	200
	111	500	1,000
	147(12)	5	20
	147(12)	50	100
	148(2)	100	200
	148(2)	500	1,000
	151(17)(a)	100	200
	151(17)(a)	500	1,000
	151(17)(b)	250	500
	151(17)(b)	1,000	2,000
	160	100	200
	160	500	1,000
	163(4)	5,000	10,000
	174(2)	100	200
	174(2)	500	1,000
	188(1)	40	60
	188(1)	200	500
	189a(2)	100	500
	189a(2)	2,000	5,000
Motorized Snow Vehicles Act	19(2)	500	1,000
	24	300	1,000
Off-Road Vehicles Act, 1983	6(1)	50	100
	6(1)	200	500
	9	50	100
	9	500	1,000
	10(2)	5	20
	10(2)	10	50
	15(6)	10	20
	15(6)	100	200
	15(7)	100	200
	15(7)	500	1,000
	15(8)	100	200
	15(8)	500	1,000
Public Transportation and Highway Improvement Act	26(4)	5	50
	26(4)	50	200
	31(2)	50	200
	31(2)	1,000	5,000
	32(2)	5	50
	98(5)	10	50
	98(5)	100	500
	98(5)	50	200
	98(5)	500	2,000
Public Vehicles Act	32(2)	200	1,000
Toll Bridges Act	3(2)	5	50
	3(2)	10	100
	3(2)	50	500
Toronto Area Transit Operating Authority Act	9(2)	100	500

PART XXII

COMMENCEMENT AND SHORT TITLE

96.—(1) This Act, except subsection 8 (2), comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Subsection 8 (2) comes into force on the day this Act receives Royal Assent or on the day section 2 of the *Courts of Justice Amendment Act, 1989*, being chapter 55, comes into force, whichever day is later. Idem

(3) A proclamation bringing this Act or any provision of this Act into force may provide that an amendment to a provision named in a Schedule set out in this Act does not come into force until such day as is named in the proclamation or that any such provision does not come into force. Idem

97. The short title of this Act is the *Provincial Penalties Adjustment Act, 1989*. Short title



Bill 92

An Act to amend Fines and Terms of Imprisonment contained in certain Acts

The Hon. I. Scott
Attorney General

1st Reading December 7th, 1989
2nd Reading December 13th, 1989
3rd Reading
Royal Assent

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

EXPLANATORY NOTE

The Bill increases the fines payable under most of the Acts named in the Bill. In certain instances the minimum fines are lowered. The Bill also adjusts imprisonment provisions in certain cases.

Bill 92

1989

**An Act to amend Fines and Terms of Imprisonment
contained in certain Acts**

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

PART I

MINISTRY OF AGRICULTURE AND FOOD

1. Section 18 of the *Artificial Insemination of Live Stock Act*, being chapter 29 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

18. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000 for a first offence, and to a fine of not less than \$200 and not more than \$5,000 for a subsequent offence. Offences

2. Section 24 of the *Bees Act, 1987*, being chapter 31, is repealed and the following substituted therefor:

24. Every person who contravenes any provision of this Act or the regulations or any order of the Director, Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and to a fine of not more than \$5,000 for any subsequent offence. Offence

3. Section 16 of the *Plant Diseases Act*, being chapter 380 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

16.—(1) Except as provided in subsection (2), every person who contravenes any provision of this Act or any by-law passed under subsection 12 (1) or the regulations or any order of an inspector or the Provincial Entomologist is guilty of an offence and on conviction is liable, for a first offence, to a fine Offences

of not more than \$2,000 and, for any subsequent offence, to a fine of not more than \$5,000 or to imprisonment for a term of not more than thirty days.

Idem

(2) Every person who contravenes any provision of subsection 13 (3) is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than \$2,000 and, for any subsequent offence, to a fine of not more than \$5,000.

4. Section 14 of the *Seed Potatoes Act*, being chapter 467 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$25 and not more than \$200" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

5. Subsection 23 (1) of the *Weed Control Act, 1988*, being chapter 51, is repealed and the following substituted therefor:

Offence

(1) A person who contravenes this Act or the regulations, or an order made under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$500 and not more than \$2,000 and for each subsequent offence to a fine of not less than \$1,000 and not more than \$5,000.

↓
Le paragraphe 23 (1) de la Loi de 1988 sur la destruction des mauvaises herbes, qui constitue le chapitre 51, est abrogé et remplacé par ce qui suit :

Infraction

(1) Quiconque contrevient à la présente loi ou aux règlements, ou à un ordre donné aux termes de la présente loi, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au moins 500 \$ et d'au plus 2 000 \$ à l'égard d'une première infraction, et d'une amende d'au moins 1 000 \$ et d'au plus 5 000 \$ à l'égard de chaque infraction subséquente. ↑

6. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Agriculture and Food

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Abandoned Orchards Act	9(1)	\$ 100	\$ 2,000
Agricultural Tile Drainage Installation Act	13	25	2,000
	13	100	5,000

1989	PROVINCIAL PENALTIES ADJUSTMENT	Bill 92	3
Animals for Research Act	21(1)	500	2,000
	21(1)	1,000	5,000
	21(2)	25	2,000
	21(2)	100	5,000
Beef Cattle Marketing Act	17	1,000	2,000
Bull Owners' Liability Act	1	25	2,000
Commodity Boards and Marketing Agencies Act	4(1)	500	2,000
Dead Animals Disposal Act	17	500	2,000
Drainage Act	96	1,000	2,000
Edible Oil Products Act	15	500	5,000
Farm Income Stabilization Act	4(9)	1,000	2,000
Fur Farms Act	10	100	2,000
	10	500	5,000
Grain Corn Marketing Act, 1984	7	500	2,000
	7	2,000	5,000
Live Stock Branding Act	7	200	2,000
Live Stock Community Sales Act	19	500	2,000
	19	1,000	5,000
Live Stock Medicines Act	12	500	2,000
	12	1,000	5,000
Meat Inspection Act (Ontario)	16	500	2,000
	16	2,000	5,000
Oleomargarine Act	17	500	5,000
Ontario Food Terminal Act	16(1)	50	2,000
	16(1)	200	5,000
Pounds Act	22	10	2,000
Riding Horse Establishments Act	16(1)	500	2,000
	16(1)	1,000	5,000
	16(2)	25	2,000
	16(2)	100	5,000
Sheep and Wool Marketing Act, 1981	12	100	2,000
	12	500	5,000

PART II

MINISTRY OF THE ATTORNEY GENERAL

7. Section 9 of the *Charitable Gifts Act*, being chapter 63 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

9. Every person who contravenes any provision of this Act 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.

8.—(1) Subsection 36 (2) of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as

re-enacted by the Statutes of Ontario, 1986, chapter 8, section 4, is repealed and the following substituted therefor:

Offence

(2) A person who contravenes a restraining order is guilty of an offence and on conviction is liable to either or both a fine of \$5,000 and imprisonment for a term of not more than three months for a first offence and not more than two years for a subsequent offence.

(2) Subsection 39 (1) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Contempt of
orders of
Ontario
Court
(Provincial
Division)

(1) In addition to its powers in respect of contempt, the Ontario Court (Provincial Division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$5,000 nor shall the imprisonment exceed ninety days.

9.—(1) Section 11 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$25 and not more than \$500” in the fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000”.

(2) Section 12 of the said Act is amended by striking out “is liable to a fine of not less than \$25 and not more than \$500” in the seventh and eighth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000”.

10. Subsection 9 (2) of the *Disorderly Houses Act*, being chapter 120 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$1,000 and not more than \$5,000” in the second and third lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

11.—(1) Section 3 of the *Hotel Registration of Guests Act*, being chapter 208 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$50” in the sixth and seventh lines and inserting in lieu thereof “is liable to a fine of not more than \$100”.

(2) Section 4 of the said Act is amended by striking out “is liable to a fine of not less than \$20 and not more than \$200” in the sixth and seventh lines and inserting in lieu thereof “is liable to a fine of not more than \$100”.

12. Section 122 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

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

13.—(1) Subsection 2 (1) of the *Minors' Protection Act*, being chapter 293 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$2 and not more than \$50" in the second and third lines and inserting in lieu thereof "is liable to a fine of not less than \$50 and not more than \$500".

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

(1a) Where a corporation is convicted of an offence under subsection (1), the minimum fine shall be \$200 and the maximum fine \$25,000. Idem,
corporation

14.—(1) Subsection 6 (1) of the *Notaries Act*, being chapter 319 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$25 and not more than \$500" in the fifth and sixth lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

(2) Subsection 6 (2) of the said Act is amended by striking out "is liable to a fine of not less than \$25 and not more than \$500" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not more than \$1,000".

(3) Subsection 6 (3) of the said Act is amended by striking out "is liable to a fine of not less than \$25 and not more than \$1,000" in the sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

15.—(1) Section 22 of the *Public Accountancy Act*, being chapter 405 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$100 and not more than \$250" in the sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

(2) Subsection 23 (1) of the said Act is amended by striking out "is liable to a fine of not less than \$10 and not more than \$25, and to a further fine of not less than \$3 and not more than \$5 for every day on which the offence continues after convic-

tion" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

(3) Subsection 23 (2) of the said Act is amended by striking out "is liable to a fine of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further fine of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction" in the ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

(4) Subsection 24 (3) of the said Act is repealed and the following substituted therefor:

Offence

(3) Any person who contravenes any provision of this section, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 for any subsequent offence.

(5) Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Prohibition
against a
body
corporate
carrying on
business as
public
accountant

(1) It is not lawful for a body corporate to practise as a public accountant and any body corporate that contravenes the provisions of this subsection, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 for any subsequent offence.

16. Section 3 of the *Public Halls Act*, being chapter 408 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$500" in the second and third lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

17. Section 2 of the *Ticket Speculation Act*, being chapter 499 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$5 and not more than \$50" in the eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not more than \$5,000".

18. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Attorney General

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Architects Act, 1984	46(1)	\$15,000	\$25,000
	46(1)	30,000	50,000
	46(2)	5,000	10,000
	46(2)	15,000	25,000
	46(3)	5,000	10,000
	46(4)	5,000	10,000
	46(4)	15,000	25,000
	46(5)	30,000	50,000
	46(6)	30,000	50,000
	47(1)	5,000	10,000
Blind Person's Rights Act	6(1)	1,000	5,000
	6(2)	100	500
Compensation for Victims of Crime Act	13(2)	2,000	5,000
	13(3)	25,000	50,000
Courts of Justice Act, 1984	146(4)	10,000	25,000
Dog Owners' Liability Act	4(4)	2,000	5,000
Estates Administration Act	19a(8)	2,000	5,000
	19a(9)	5,000	10,000
Family Law Act, 1986	24(5)(a)	1,000	5,000
	46(2)(a)	1,000	5,000
	49(1)	1,000	5,000
Hotel Registration of Guests Act	5(2)	100	500
Innkeepers Act	7(3)	50	500
Juries Act	42(1)	5,000	10,000
	42(2)	2,000	5,000
	42(3)	1,000	5,000
	45(3)	5,000	10,000
Landlord and Tenant Act	122(1)	2,000	5,000
Metropolitan Toronto Police Force Complaints Act, 1984	30	2,000	5,000
Mortgages Act	4(2)	50	200
Pawnbrokers Act	29(1)	500	2,000
Professional Engineers Act, 1984	41(1)	15,000	25,000
	41(1)	30,000	50,000
	41(2)	5,000	10,000
	41(2)	15,000	25,000
	41(3)	5,000	10,000
	41(3)	15,000	25,000
	41(4)	5,000	10,000
	41(5)	30,000	50,000
	41(6)	30,000	50,000
	42(1)	5,000	10,000
	42(2)	5,000	10,000
	Provincial Offences Act	12(1)	300
43(1)		1,000	2,000
60(3)		2,000	5,000
62		2,000	5,000
70(5)		25	50
86		1,000	2,000
Public Institutions Inspection Act	5(2)	5,000	10,000
Trespass to Property Act	2(1)	1,000	2,000

PART III

MINISTRY OF COLLEGES AND UNIVERSITIES

19.—(1) Subsection 89 (1) of the *Colleges Collective Bargaining Act*, being chapter 74 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$500” in the third line and inserting in lieu thereof “\$1,000”.

(2) Subsection 89 (2) of the said Act is amended by striking out “\$10,000” in the third line and inserting in lieu thereof “\$25,000”.

PART IV

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

20.—(1) Subsection 21 (2) of the *Day Nurseries Act*, being chapter 111 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Idem

(2) Every person who contravenes the provisions of section 16 and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. ▲

(2) The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Community and Social Services

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Child and Family Services Act, 1984	160(4)	\$ 5,000	\$25,000
Day Nurseries Act	21(1)	1,000	2,000
Family Benefits Act	19(3)	500	5,000
General Welfare Assistance Act	16(3)	100	5,000
Ministry of Community and Social Services Act	6c(4)	2,000	5,000

PART V

MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

21. Subsection 13 (2) of the *Athletics Control Act*, being chapter 34 of the Revised Statutes of Ontario, 1980, is amended by striking out "to a fine of not less than \$20 and not more than \$1,000" in the third and fourth lines and inserting in lieu thereof "to a fine of not more than \$10,000".

22. Section 41 of the *Boilers and Pressure Vessels Act*, being chapter 46 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

41. Every person who contravenes any of the provisions of this Act or the regulations, or any direction or order given to the person by an inspector, is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000. Offences

23. Subsection 30 (1) of the *Elevating Devices Act*, being chapter 135 of the Revised Statutes of Ontario, 1980, is amended by striking out "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" in the tenth, eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000".

24. Section 27 of the *Energy Act*, being chapter 139 of the Revised Statutes of Ontario, 1980, is amended by striking out "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" in the twelfth, thirteenth and fourteenth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000".

25. Section 17 of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed is \$100,000. Idem,
corporation

26. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Consumer and Commercial Relations

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Amusement Devices Act, 1986	17(1)	\$10,000	\$ 25,000
	17(1)	25,000	100,000
	17(2)	10,000	25,000
Bailiffs Act	18(1)	1,000	5,000
Business Practices Act	17(1)	2,000	25,000
	17(2)	2,000	25,000
	17(3)	25,000	100,000
Collection Agencies Act	28(1)	2,000	25,000
	28(2)	25,000	100,000
Condominium Act	55(a)	25,000	100,000
	55(b)	25,000	25,000
Consumer Protection Act	39(1)	2,000	25,000
	39(2)	25,000	100,000
Consumer Reporting Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Discriminatory Business Practices Act	16(1)	5,000	25,000
	16(2)	50,000	100,000
Gasoline Handling Act	17	10,000	25,000
Liquor Licence Act	55(1)	10,000	25,000
	55(5)	25,000	100,000
Motor Vehicle Dealers Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Ontario New Home Warranties Plan Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Paperback and Periodical Distributors Act	15(1)	2,000	25,000
	15(2)	25,000	100,000
Real Estate and Business Brokers Act	50(1)	2,000	25,000
	50(2)	25,000	100,000
Theatres Act	61(1)	2,000	25,000
	61(2)	25,000	100,000
Travel Industry Act	25(1)	2,000	25,000
	25(2)	25,000	100,000

PART VI

MINISTRY OF CULTURE AND COMMUNICATIONS

27. Subsection 11 (2) of the *Centennial Centre of Science and Technology Act*, being chapter 60 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the second and third lines.

28.—(1) Subsection 69 (1) of the *Ontario Heritage Act*, being chapter 337 of the Revised Statutes of Ontario, 1980, is

amended by striking out "\$10,000" in the third last line and inserting in lieu thereof "\$50,000".

(2) Subsection 69 (2) of the said Act is amended by striking out "\$50,000" in the third line and inserting in lieu thereof "\$250,000".

29. Subsection 16 (2) of the *Science North Act, 1986*, being chapter 5, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the second and third lines.

30.—(1) Subsection 15 (2) of the *Telephone Act*, being chapter 496 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the third and fourth lines.

(2) Section 107 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(3) Subsection 109 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(4) Subsection 110 (1) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the sixth and seventh lines.

(5) Subsection 110 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(6) Section 111 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the fifth, sixth and seventh lines.

(7) Section 112 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the sixth, seventh and eighth lines.

(8) Section 113 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the sixth, seventh and eighth lines.

(9) Section 114 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to

imprisonment for a term of not more than thirty days, or to both" in the eighth, ninth and tenth lines.

(10) Subsection 115 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each day during which the default continues" in the third and fourth lines.

PART VII

MINISTRY OF EDUCATION

31. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Education

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Education Act	15(4)	\$ 25	\$ 50
	15(5)	100	200
	15(6)	200	500
	15(9)	200	500
	29(1)	100	200
	29(3)	100	200
	187	100	200
	188(1)	100	200
	188(2)	100	200
	189(1)	100	200
	189(2)	100	200
	190	100	200
	193(4)	500	1,000
	228(7)	10	20
	228(7)	50	100
School Boards and Teachers	77(1)	500	1,000
Collective Negotiations Act	77(2)	10,000	25,000

PART VIII

MINISTRY OF THE ENVIRONMENT

32. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Environment

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Environmental Assessment Act	39	\$ 5,000	\$10,000
	39	10,000	25,000

Environmental Protection Act	72	1,000	2,000
	78(1)	500	1,000
	78(1)	1,000	2,000
	78(2)	1,000	2,000
	78(2)	2,000	5,000
	78a(1)	1,000	2,000
	78a(1)	2,000	5,000
	78a(2)	3,000	5,000
	78a(2)	6,000	10,000
	146(3)	5,000	10,000
	146(3)	10,000	25,000
	146(4)	25,000	50,000
	146(4)	50,000	100,000
	146a(1)	50,000	100,000
	146a(1)	100,000	200,000
	147(1)	5,000	10,000
	147(1)	15,000	25,000
	147(2)	50,000	100,000
	147(2)	100,000	200,000
	147(3)	100,000	25,000
	147(3)	25,000	50,000
	147(4)	250,000	500,000
	147(4)	500,000	1,000,000
Ontario Water Resources Act	67(1)	5,000	10,000
	67(1)	10,000	25,000
	67(2)	25,000	50,000
	67(2)	50,000	100,000
	68(2)	50,000	100,000
	68(2)	100,000	200,000
Pesticides Act	34a(1)	5,000	10,000
	34a(1)	10,000	25,000
	34a(2)	25,000	50,000
	34a(2)	50,000	100,000
	34c(2)	50,000	100,000
	34c(2)	100,000	200,000

PART IX

MINISTRY OF FINANCIAL INSTITUTIONS

33. Subsection 55 (1) of the *Commodity Futures Act*, being chapter 78 of the Revised Statutes of Ontario, 1980, is amended by striking out "in the case of a company or a person other than an individual, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000" in the second, third, fourth and fifth last lines and inserting in lieu thereof "to a fine of not more than \$1,000,000".

34. Section 14 of the *Compulsory Automobile Insurance Act*, being chapter 83 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

14.—(1) Except where otherwise provided, every person and every director or officer of an insurer who commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 in the case of an individual and \$200,000 in the case of a corporation.

General
penalty

Minimum
fine: insurers

(2) If an insurer is convicted of an offence under subsection (1), the fine shall not be less than \$5,000.

Suspension
or cancel-
lation of
licence of
insurer

(3) In addition to any penalty imposed under this Act, where the person who contravenes this Act or the regulations is an insurer, the Lieutenant Governor in Council may, by order and upon the report of the Superintendent, suspend or cancel the insurer's licence issued under the *Insurance Act*.

R.S.O. 1980,
c. 218

Contra-
vention by
Association

(4) Where the Association commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$200,000.

35. Section 19 of the *Prepaid Hospital and Medical Services Act*, being chapter 388 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

19. Every person not registered under this Act who contracts to furnish hospital or medical service on a prepayment basis or makes payment therefor is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 in the case of an individual and not more than \$200,000 in the case of a corporation.

36. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Financial Institutions

Title of Act	Provision	Column 1	Column 2
Commodity Futures Act	55(3)	\$ 2,000	\$1,000,000
Co-operative Corporations Act	173(1)	2,000	10,000
	174(1)	2,000	10,000
	174(1)	20,000	50,000
	174(2)	2,000	10,000
	176(1)	1,000	5,000
	176(1)	10,000	100,000
	176(2)	1,000	5,000
Credit Unions and Caisses Populaires Act	141(1)	2,000	10,000
	141(2)	2,000	10,000
	143(1)	50	200
	143(2)	50	200
	144(1)	2,000	5,000
	144(1)	10,000	100,000
Deposits Regulation Act	144(2)	2,000	5,000
	8(1)	5,000	100,000
	8(2)	25,000	200,000
	8(3)	5,000	100,000

Mortgage Brokers Act	31(1)	2,000	100,000
	31(2)	25,000	200,000
Registered Insurance Brokers Act	34(1)	5,000	100,000
	34(2)	25,000	200,000

PART X

MINISTRY OF HEALTH

37. Section 9 of the *Cancer Remedies Act*, being chapter 58 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

9. Every person who contravenes a provision of this Act or who fails or neglects to obey any order, direction or requirement of the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$200 and not more than \$1,000 and for any subsequent offence to a fine of not less than \$1,000 and not more than \$5,000. Offence

38. Section 9 of the *Dental Technicians Act*, being chapter 114 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of \$100 for a first offence, \$200 for a second offence, and \$300 for a third or subsequent offence" in the seventh, eighth and ninth lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

39. Subsection 9 (1) of the *Radiological Technicians Act*, being chapter 430 of the Revised Statutes of Ontario, 1980, is amended,

- (a) by striking out "\$100" in the fourth last line and inserting in lieu thereof "\$2,500";
- (b) by striking out "\$200" in the fourth last line and inserting in lieu thereof "\$5,000";
- (c) by striking out "\$200" in the third last line and inserting in lieu thereof "\$4,000"; and
- (d) by striking out "\$500" in the second last line and inserting in lieu thereof "\$10,000".

40. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Health

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Ambulance Act	23(1)	\$ 1,000	\$ 2,000
	23(2)	10,000	25,000
	23(3)	500	1,000
Chiropody Act	6	100	25,000
Denture Therapists Act	27(1)	2,000	25,000
	27(1)	2,000	25,000
	27(2)	1,000	5,000
	27(2)	2,000	10,000
	27(3)	2,000	10,000
	32(1)	5,000	10,000
	32(2)	5,000	10,000
Drugless Practitioners Act	8	100	25,000
Healing Arts Radiation Act	23(1)	5,000	10,000
	23(2)	25,000	50,000
Health Care Accessibility Act, 1986	8(1)	250	2,000
	8(1)	1,000	2,000
Health Disciplines Act	18(1)	5,000	10,000
	18(2)	5,000	10,000
	18(2)	5,000	10,000
	37(5)(e)	5,000	10,000
	43(1)	5,000	25,000
	43(2)	1,000	5,000
	43(2)	2,000	10,000
	43(3)	2,000	10,000
	60(5)(e)	5,000	10,000
	67(1)	2,000	25,000
	67(1)	2,000	25,000
	67(2)	1,000	5,000
	67(2)	2,000	10,000
	67(3)	2,000	10,000
	83(5)(e)	5,000	10,000
	88(1)	2,000	25,000
	88(1)	2,000	25,000
	88(2)	1,000	10,000
	88(2)	2,000	25,000
	105(5)(e)	5,000	10,000
112(1)	2,000	25,000	
112(1)	2,000	25,000	
112(2)	1,000	5,000	
112(2)	2,000	10,000	
112(3)	2,000	10,000	
130(5)(e)	5,000	10,000	
162(1)	2,000	25,000	
162(1)	2,000	25,000	
162(2)	1,000	5,000	
162(2)	2,000	10,000	
162(3)	2,000	25,000	
Health Insurance Act	50	2,000	5,000
Hypnosis Act	5	100	500
	5	1,000	5,000
	5	200	2,500
	5	2,000	25,000
Mental Health Act	64	10,000	25,000
Mental Hospitals Act	8	10	20
	8	100	1,000

Ontario Drug Benefit Act, 1986	15(1)	5,000	10,000
	15(1)	10,000	25,000
	15(2)	50,000	100,000
Ophthalmic Dispensers Act	16	50	2,500
	16	500	25,000
Prescription Drug Cost Regulation Act, 1986	13(1)	10,000	25,000
	13(2)	50,000	100,000
Private Hospitals Act	3	100	200
	3	500	1,000
	4(2)	500	1,000
	7(6)	25	50
	7(6)	500	1,000
	19(4)	25	50
	21(3)	200	1,000
	21(4)	50	1,000
	23(3)	200	1,000
	24(2)	25	50
	25	25	50
26	25	50	
26	500	1,000	
Psychologists Registration Act	14(1)	100	5,000
	14(1)	500	25,000
Public Hospitals Act	27	25	50
	27	500	1,000

PART XI

MINISTRY OF HOUSING

41.—(1) Subsection 122 (1) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is amended by striking out “\$2,000” in the last line and inserting in lieu thereof “\$5,000”.

(2) Subsection 122 (2) of the said Act is amended by striking out “\$25,000” in the third line and inserting in lieu thereof “\$50,000”.

PART XII

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

42.—(1) Subsection 11 (3) of the *Ministry of Industry and Trade Act, 1982*, being chapter 31, is amended by striking out “\$2,000” in the last line and inserting in lieu thereof “\$10,000”.

(2) Subsection 11 (4) of the said Act is amended by striking out “\$25,000” in the last line and inserting in lieu thereof “\$100,000”.

PART XIII

MINISTRY OF LABOUR

43. Section 13 of the *Employment Agencies Act*, being chapter 136 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$500” in the second and third lines and inserting in lieu thereof “is liable to a fine of not more than \$5,000 or, if the person is a body corporate, to a fine of not more than \$50,000”.

44. Section 4 of the *Government Contracts Hours and Wages Act*, being chapter 190 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$50 and not more than \$500” in the fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$25,000”.

45.—(1) Subsections 19 (1) and (3) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Offence

(1) Every employer who contravenes a schedule that is applicable to the employer or who permits or condones work in contravention thereof is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than six months, and, where the conviction is for failing to pay the minimum rate of wages prescribed by the schedule, shall be ordered to pay to the Director, as an additional penalty, the full amount of the wages found to be unpaid to any employee under the schedule, and the Director, in the Director's discretion, may direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto.

Offence

(3) Every employee who contravenes a provision of a schedule is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(2) Section 20 of the said Act is repealed and the following substituted therefor:

Offence

20. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where no penalty has been specifically provided, is

liable to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than six months.

46. Subsection 9 (5) of the *Ministry of Labour Act*, being chapter 284 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$300" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

47. Subsection 77 (8) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 28, is amended by adding at the end thereof "and on conviction is liable to a fine of not more than \$5,000".

48. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE			
Ministry of Labour			
<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Crown Employees Collective Bargaining Act	44(1)	\$ 500	\$ 2,000
	44(2)	5,000	25,000
Employment Standards Act	47(1)	25	100
	57(3)	100	2,000
	59(1)	10,000	50,000
Labour Relations Act	96(1)	1,000	2,000
	96(1)	10,000	25,000
Ministry of Labour Act	9(4)	20	25,000
	12	500	25,000
One Day's Rest in Seven Act	4	100	25,000
Pay Equity Act, 1987	26(1)	2,000	5,000
	26(1)	25,000	50,000
Workers' Compensation Act	18(2)	50	10,000
	52(9)	50	10,000
	69(2)	50	10,000
	97(6)	500	25,000
	99(3)	500	25,000
	101(2)	500	25,000
	102(2)	50	5,000
	118(3)	200	25,000
	118(3)	20	100
	121(2)	200	25,000

PART XIV

MINISTRY OF MUNICIPAL AFFAIRS

49.—(1) Subsection 48 (4) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 98 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 103 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

50.—(1) Subsection 47 (5) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 88 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the third line.

(3) Section 93 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

51. Subsection 11 (5) of the *Line Fences Act*, being chapter 242 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$1,000” in the fourth and fifth lines.

52.—(1) Subsection 36 (6) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(6) The clerk is guilty of an offence if the certificate is not sent within the prescribed time or if the clerk certifies to a larger number of electors than the last revised polling lists show.

(2) Subsection 211 (21) of the said Act is repealed and the following substituted therefor:

(21) Despite section 321, a by-law passed under this section may provide that a person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not more than the greater of,

Fines

(a) \$50,000; or

(b) the gross sales of the shop during the period the shop was open in contravention of the by-law.

(3) Clause (g) of paragraph 1 of subsection 230 (1) of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$5" in the fifth, sixth and seventh lines.

(4) Clause (g) of paragraph 17 of section 232 of the said Act is amended by striking out "and on conviction is liable to a fine equal to the licence fee that he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200" in the second, third, fourth and fifth lines.

(5) Clause (h) of paragraph 17 of the said section 232 is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$10" in the fifth, sixth and seventh lines.

(6) Subsection 297 (3) of the said Act is amended by striking out "and on conviction is liable to a fine of \$5" in the second and third lines.

(7) Subsection 297 (4) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50" in the fourth and fifth lines.

(8) Section 321 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 24, section 13, is amended by striking out "and for providing for the imposition of fines of not more than \$2,000 on every person who is convicted of an offence under any such by-law" in the fifth, sixth and seventh lines.

53.—(1) Section 19 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

19.—(1) Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any

Offence

wilful breach of any of the provisions of this Part or of any order of the Ministry made thereunder is guilty of an offence.

Idem

(2) If the person convicted of an offence under subsection (1) is a member of a council or a local board, the person is, upon conviction and in addition to any other penalty provided by law, disqualified from holding any municipal office for a period of two years.

(2) Subsection 58 (2) of the said Act is amended by striking out “and on conviction is liable to a fine of not less than \$25 and not more than \$500 for each offence” in the tenth and eleventh lines.

54.—(1) Subsection 93 (5) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 110 (11) of the said Act is amended by striking out “and on conviction is liable to a fine of \$50 for the first offence and \$300 for each subsequent offence” in the second, third and fourth lines.

(3) Subsection 227 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(4) Section 231 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

55. Subsection 24 (4) of the *Niagara Escarpment Planning and Development Act*, being chapter 316 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(4) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) on a first conviction to a fine of not more than \$25,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.

(4a) Notwithstanding subsection (4), if a corporation is convicted under subsection (1), the maximum penalty that may be imposed is, Corporation

- (a) on a first conviction a fine of not more than \$50,000; and
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.

56.—(1) Subsection 31 (22) of the *Planning Act, 1983*, being chapter 1, is amended by striking out “is liable to a fine of not more than \$500 for each day that the contravention has continued” in the third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000 for a first offence and to a fine of not more than \$10,000 for any subsequent offence”.

(2) Section 31 of the said Act is amended by adding thereto the following subsection:

(22a) Notwithstanding subsection (22), if a corporation is convicted of an offence under subsection (22), the maximum penalty that may be imposed upon the corporation is \$10,000 for a first offence and \$50,000 for any subsequent offence. Idem,
corporation

(3) Subsection 33 (13) of the said Act is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the sixth and seventh lines.

(4) Subsection 67 (2) of the said Act is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the sixth and seventh lines.

57. Subsection 19 (2) of the *Public Parks Act*, being chapter 417 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$1 and not more than \$20; or may be imprisoned for a term of not more than thirty days; and is liable to an action at the suit of the board to make good any damage done by him” in the second, third, fourth and fifth lines.

58.—(1) Section 12 of the *Public Utilities Act*, being chapter 423 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$300 or may be imprisoned without the option of a fine for a term of not more than one month” in the eleventh, twelfth, thirteenth and fourteenth lines.

(2) Section 13 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$300 or may be imprisoned, without the option of a fine, for a term of not more than one month” in the first, second and third last lines.

(3) Section 52 of the said Act is amended by striking out “of not more than \$300” in the eighth line.

(4) Section 53 of the said Act is amended by striking out “of not more than \$300” in the sixth and seventh lines.

59.—(1) Subsection 48 (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 110 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 115 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

60.—(1) Subsection 47 (4) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 92 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 97 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

61.—(1) Subsection 47 (4) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not

more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 103 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 108 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

62.—(1) Subsection 46 (4) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 114 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 119 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

63.—(1) Subsection 87 (5) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 142 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the third and fourth lines.

(3) Section 147 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

64.—(1) Subsection 72 (5) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 133 (39) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 138 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

65.—(1) Subsection 47 (4) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 98 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 103 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

66.—(1) Subsection 63 (5) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 84 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 89 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

67.—(1) Subsection 82 (4) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 132 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 137 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

68.—(1) Subsection 83 (5) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 134 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the third line.

(3) Section 139 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the seventh and eighth lines.

69. Subsection 7 (1) of the *Road Access Act*, being chapter 457 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$2,000” in the second and third lines.

70.—(1) Section 7 of the *Snow Roads and Fences Act*, being chapter 477 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$1 and not more than \$20” in the fifth and sixth lines.

(2) Section 8 of the said Act is amended by striking out “and on conviction is liable to a fine of not less than \$1 and not more than \$20” in the fourth and fifth lines.

(3) Subsection 12 (4) of the said Act is amended by striking out “and on conviction is liable to a fine of not less than \$1 and not more than \$50” in the fifth and sixth lines.

71. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Municipal Affairs

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Municipal Act	321b(1)	\$ 5,000	\$ 10,000
	321b(1)	10,000	25,000
	321b(2)	25,000	50,000
	321b(2)	50,000	100,000
	328(1)	10,000	25,000
	328(2)	25,000	50,000
Municipal Elections Act	96	2,000	5,000
	97	2,000	5,000
	98	2,000	5,000
	99	2,000	5,000
	100	2,000	5,000
	101	2,000	5,000
	102	2,000	5,000
	103(1)	2,000	5,000
	104	2,000	5,000
	135(1)	10,000	25,000
	135(2)	1,000	5,000
	177(1)	1,000	5,000
	177(2)	1,000	5,000
	178	1,000	5,000
	179	1,000	5,000
180	10,000	25,000	
181	1,000	5,000	
Planning Act, 1983	33(13)	20,000	50,000
	66(1)	20,000	25,000
	67(2)	2,000	5,000

PART XV

MINISTRY OF NATURAL RESOURCES

72. Section 6 of the *Endangered Species Act*, being chapter 138 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

6. Any person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$50,000, or to imprisonment for a term of not more than two years, or to both.

73. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Natural Resources

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Game and Fish Act	19	\$5,000	\$25,000
	91	5,000	25,000
Provincial Parks Act	22(1)	500	5,000

PART XVI

MINISTRY OF NORTHERN DEVELOPMENT AND MINES

74.—(1) Section 169 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than one year, or to both” in the second, third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$30,000 for every day upon which the offence occurs or continues”.

(2) Subsection 172 (1) of the said Act is amended by striking out “is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues” in the first, second and third last lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

(3) Subsection 172 (2) of the said Act is amended by striking out “is liable to a fine of \$500 or to imprisonment for a term of not more than six months, or to both” in the fourth, fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

(4) Subsection 173 (2) of the said Act is amended by striking out “\$1,000” in the second last line and inserting in lieu thereof “\$30,000”.

(5) Section 174 of the said Act is amended by striking out “a fine of not more than \$250 and, upon conviction thereof, is liable to imprisonment for a term of not more than six months unless the fine and costs are sooner paid” in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof “a fine of not more than \$10,000”.

PART XVII

MINISTRY OF REVENUE

75. Subsection 12 (2a) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 28, section 3, is amended by striking out “an amount of not less than \$50 and not more than \$500” in the seventh and eighth lines and inserting in lieu thereof “an amount of not more than \$2,000”.

76. Subsection 24 (1) of the *Employee Share Ownership Plan Act, 1988*, being chapter 3, is amended by striking out “is liable to a fine of not more than \$2,000 or if such person is a

corporation to a fine of not more than \$20,000" in the first, second and third last lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

77.—(1) Subsection 4 (8) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "is liable to a fine of not less than the amount of the tax that he failed to pay and of an additional amount that is not less than \$100 and not more than \$5,000" in the third, fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than double the amount of the tax that the person failed to pay".

(2) Subsection 8 (12) of the said Act is amended by striking out "is liable to a fine of not more than \$5,000" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$5,000".

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

Offence

(1) Every person who makes a false statement in any return or information made or furnished to the Minister under this Act is guilty of an offence and is liable to a fine of not less than \$500 and not more than \$10,000 plus an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

(4) Subsection 25 (2) of the said Act is amended by striking out "is liable to a fine of not more than \$20,000" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$1,000 and not more than \$10,000".

78.—(1) Subsection 20 (1) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Penalty for failure to collect tax

(1) Every person required to collect the tax imposed by this Act who fails to collect the tax is liable on conviction to a fine of 30 cents per litre of gasoline on which tax should have been collected as determined under subsection (4).

(2) Subsection 21 (1) of the said Act is amended by striking out "is liable to a fine of not less than \$25 for each day during which the default continues" in the third and fourth lines and inserting in lieu thereof "is liable to a penalty of not less than \$50 and not more than 5 per cent of the tax that should have been remitted or declared".

(3) Section 22 of the said Act is amended by striking out "is liable on conviction to a fine of not less than \$200 and not more than" in the fourth and fifth last lines and inserting in lieu thereof "is liable on conviction to a fine of not less than \$500 and not more than \$10,000 plus".

(4) Section 23 of the said Act is repealed and the following substituted therefor:

23. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$2,000. General penalty

79.—(1) Section 5 of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 20, section 4, is amended by striking out "is liable on conviction to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000" in the sixth, seventh, eighth and ninth lines and inserting in lieu thereof "is liable on conviction to a fine of not less than \$500 and not more than double the amount of the tax that, had the facts been truthfully stated, would have been payable".

(2) Subsection 6 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 21, section 4, is repealed and the following substituted therefor:

(1) Every person who knowingly contravenes any provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person or falsely states whether the land being conveyed contains at least one and not more than two single family residences is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not more than \$5,000. Offence

80. Section 20 of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 17, is amended by striking out "is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded" in the second, third, fourth, fifth and sixth last lines and inserting in lieu thereof "is liable on conviction to a fine of

not less than the greater of \$500 or 50 per cent of the amount of the tax that should have been shown to be payable or that was sought to be evaded and not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded”.

81. Subsection 16 (1) of the *Ontario Guaranteed Annual Income Act*, being chapter 336 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(1) Every person who does any of the following is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000:

1. Knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a payment of an increment under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
2. Knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a an increment under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
3. Knowingly, converts to the person's own use a payment of an increment under this Act to which the person is not entitled.

Idem

(1a) Every person who contravenes section 11 is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000.

82. Subsection 17 (2) of the *Ontario Home Ownership Savings Plan Act, 1988*, being chapter 35, is amended by striking out “is liable to a fine of not more than \$2,000, or if such person is a corporation to a fine of not more than \$20,000” in the first, second and third last lines and inserting in lieu thereof “is liable to a fine of not more than \$25,000”.

83. Subsection 15 (1) of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) Every person who does any of the following is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000:

1. Knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a grant under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
2. Knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a grant under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
3. Knowingly, converts to the person's own use a payment of a grant under this Act to which the person is not entitled.

(1a) Every person who contravenes section 11 or 16 is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000. Idem

84. Subsection 30 (1) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000" in the eighth, ninth and tenth lines and inserting in lieu thereof "is liable to a fine of not less than 25 per cent and not more than 200 per cent of the amount of the grant or tax credit sought or received or to imprisonment for a term of not more than two years, or to both a fine and imprisonment".

85.—(1) Subsection 9 (4) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of \$200" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$50 and not more than 5 per cent of the amount of the tax that would have been reported had the return been properly completed and filed".

(2) Subsection 18 (3) of the said Act is amended by striking out "is liable on conviction to a fine of not less than 25 per cent of the tax that should have been declared to be collectable or payable or that was sought to be evaded and to not more than double the amount of such tax" in the second, third, fourth

and fifth last lines and inserting in lieu thereof "is liable on conviction to a fine of not less than \$500 and not more than \$10,000 plus not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded".

(3) Subsection 21 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 4, is repealed and the following substituted therefor:

Penalty for
selling
tobacco with
no wholesale
dealer's
permit

(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when assessed therefor, pay a penalty of not less than \$200 and not more than \$2,000 plus a penalty computed as follows:

1. 12 cents for every cigarette so sold.
2. 6.6 cents for every gram or part thereof of any tobacco, other than cigarettes or cigars, so sold.
3. 135 per cent of the price at which each cigar was so sold.

(4) Subsections 23 (1) and (2) of the said Act are repealed and the following substituted therefor:

General
penalty

(1) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000 or to a term of imprisonment of not less than three months and not more than six months, or to both a fine and imprisonment.

Offence

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on conviction is liable to a fine equal to the amount of tax that would be exigible on the tobacco so purchased if such tobacco had been purchased by a consumer and is in addition liable to imprisonment for a term not exceeding six months.

86. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Revenue

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Assessment Act	12(1)	\$ 100	\$1,000
	12(1)	10	100
	12(2)	200	2,000
	12(3)	200	2,000
	57(1)	200	2,000
Corporations Tax Act	98	500	5,000
Fuel Tax Act, 1981	4(9)	100	200
	5(2)	100	200
	5(2)	500	1,000
	5(3)	100	200
	5(3)	500	1,000
	8(11)	1,000	200
	8(13)	50	200
	10(4)	50	200
	22(8)	200	2,000
	27	100	200
28	50	200	
28	1,000	5,000	
Gasoline Tax Act	8(4)	200	500
	20(3)	200	500
	21(2)	25	50
Land Transfer Tax Act	8(5)	25	50
Mining Tax Act	14(2)	200	2,000
	19(1)	50	200
	19(2)	25	200
Ontario Guaranteed Annual Income Act	15(5)	25	50
Ontario Home Ownership Savings Plan Act, 1988	17(1)	2,000	5,000
Provincial Land Tax Act	35	100	500
	35	10	50
	36	500	2,000
	37	200	2,000
Race Tracks Tax Act, 1988	12(7)	2,500	5,000
	13(8)	200	2,000
Retail Sales Tax Act	11	2,000	10,000
	30(3)	100	500
	41(1)	2,000	5,000

PART XVIII

MINISTRY OF SKILLS DEVELOPMENT

87. Subsection 26 (1) of the *Apprenticeship and Tradesmen's Qualification Act*, being chapter 24 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the last line and inserting in lieu thereof "\$2,000".

PART XIX

MINISTRY OF THE SOLICITOR GENERAL

88.—(1) Section 15 of the *Fire Marshals Act*, being chapter 166 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not more than \$20” in the third and fourth last lines and inserting in lieu thereof “is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 for any subsequent offence”.

(2) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 8, section 2, is amended by striking out “is liable to a fine of not less than \$100 and not more than \$1,000” in the third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

89. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Solicitor General

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Fire Marshals Act	18(18)	\$ 2,000	\$10,000
	18(19)	2,000	10,000
	18a(5)	2,000	25,000
	18a(6)	10,000	50,000
Private Investigators and Security Guards Act	32(1)	2,000	5,000
	32(2)	25,000	50,000
Public Works Protection Act	2(4)	100	500
	5(1)	100	500

PART XX

MINISTRY OF TOURISM AND RECREATION

90. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Tourism and Recreation

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Ministry of Tourism and Recreation Act, 1982	10(3)	\$ 2,000	\$ 5,000
	10(4)	25,000	50,000
Niagara Parks Act	20	500	10,000
Provincial Parks Act	22(1)	500	1,000

St. Clair Parkway Commission Act	19(1)	300	500
St. Lawrence Parks Commission Act	18(1)	100	500
Tourism Act	15(1)	1,000	5,000
	15(2)	500	2,000
	15(3)	10	50

PART XXI

MINISTRY OF TRANSPORTATION

21. Subsection 42 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(6) Every person who contravenes any of the provisions of, Offence

(a) subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$100;

(b) subsection (2) or (3) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$1,000;

(c) subsection (4) is guilty of an offence and on conviction is liable to a fine of not less than \$20 and not more than \$100;

(d) subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

22.—(1) Subsection 11 (3) of the *Motorized Snow Vehicles Act*, being chapter 301 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not more than \$500" in the last line and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$1,000".

(2) Subsection 11 (4) of the said Act is amended by striking out "is liable to a fine of not more than \$500" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$1,000".

23.—(1) Subsection 28 (5) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised

Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

- (5) Every person who without lawful authority,
- (a) uses the King's Highway so closed to traffic while it is protected in accordance with subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$50;
 - (b) defaces any barricade, light, detour sign or notice placed thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not more than \$200; or
 - (c) removes any barricade, light, detour sign or notice placed thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Idem

(6) Every person who is convicted of an offence under clause (5) (a) or (b) is also liable to the Crown for any damage or injury occasioned by such wrongful use, defacement or removal.

(2) Subsection 30 (3) of the said Act is amended by striking out "is liable to a fine of not less than \$10 per tree and not more than \$100 per tree and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning" in the second, third, fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$50 and not more than \$200".

(3) Subsection 103 (5) of the said Act is amended by striking out "is liable to a fine of not more than \$50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "is liable to a fine of not more than \$500".

94. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Transportation

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Commuter Services Act	5(1)	\$ 100	\$ 500
Ferries Act	8	20	500

Highway Traffic Act

8(2)	50	100
8(2)	200	500
9(1)	50	100
9(1)	200	500
12(1)	50	100
12(1)	500	1,000
13(3)	5	20
13(3)	10	50
18(10)	100	200
18(10)	500	1,000
30(3b)	40	60
30(3b)	200	500
30(3b)	100	200
30(3b)	1,000	2,000
30(3c)	40	60
30(3c)	200	500
30(3d)	100	200
30(3d)	1,000	2,000
30(3e)	2,000	5,000
33	100	200
33	500	1,000
35(1)(a)	250	500
35(1)(a)	2,000	5,000
35(1)(b)	500	1,000
35(1)(b)	2,000	5,000
41(3)	500	1,000
41(5)	50	100
41(5)	200	500
47(4)	100	200
47(4)	500	1,000
52(4)	500	1,000
53(4)	100	200
53(4)	500	1,000
54(6)	100	200
54(6)	500	1,000
61(5)	50	100
61(5)	500	1,000
65(3)	500	1,000
83(1)	50	100
83(1)	500	1,000
83(2)	50	100
83(2)	500	1,000
86(4)	100	200
86(4)	500	1,000
87(6)	100	200
87(6)	500	1,000
89(3)	100	200
89(3)	500	1,000
92(11)	100	200
92(11)	500	1,000
94(4)	50	100
94(4)	100	200
105(6)	100	200
105(6)	500	1,000
105(7)	50	100
105(7)	100	200
111	100	200
111	500	1,000
147(12)	5	20
147(12)	50	100
148(2)	100	200
148(2)	500	1,000
151(17)(a)	100	200
151(17)(a)	500	1,000
151(17)(b)	250	500
151(17)(b)	1,000	2,000
160	100	200
160	500	1,000
163(4)	5,000	10,000
174(2)	100	200
174(2)	500	1,000
188(1)	40	60
188(1)	200	500
189a(2)	100	500
189a(2)	2,000	5,000

Motorized Snow Vehicles Act	19(2)	500	1,000
	24	300	1,000
Off-Road Vehicles Act, 1983	6(1)	50	100
	6(1)	200	500
	9	50	100
	9	500	1,000
	10(2)	5	20
	10(2)	10	50
	15(6)	10	20
	15(6)	100	200
	15(7)	100	200
	15(7)	500	1,000
	15(8)	100	200
Public Transportation and Highway Improvement Act	26(4)	5	50
	26(4)	50	200
	31(2)	50	200
	31(2)	1,000	5,000
	32(2)	5	50
	98(5)	10	50
	98(5)	100	500
	98(5)	50	200
Public Vehicles Act	32(2)	200	1,000
	32(2)	500	2,000
Toll Bridges Act	3(2)	5	50
	3(2)	10	100
	3(2)	50	500
Toronto Area Transit Operating Authority Act	9(2)	100	500

PART XXII

COMMENCEMENT AND SHORT TITLE

- Commence-
ment** **95.—(1)** This Act, except subsection 8 (2), comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Idem** (2) Subsection 8 (2) comes into force on the day this Act receives Royal Assent or on the day section 2 of the *Courts of Justice Amendment Act, 1989*, being chapter 55, comes into force, whichever day is later.
- Idem** (3) A proclamation bringing this Act or any provision of this Act into force may provide that an amendment to a provision named in a Schedule set out in this Act does not come into force until such day as is named in the proclamation or that any such provision does not come into force.
- Short title** **96.** The short title of this Act is the *Provincial Penalties Adjustment Act, 1989*.

... ..

Bill 92

*(Chapter 72
Statutes of Ontario, 1989)*

An Act to amend Fines and Terms of Imprisonment contained in certain Acts

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	December 7th, 1989
<i>2nd Reading</i>	December 13th, 1989
<i>3rd Reading</i>	December 14th, 1989
<i>Royal Assent</i>	December 14th, 1989



Bill 92

1989

**An Act to amend Fines and Terms of Imprisonment
contained in certain Acts**

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

PART I

MINISTRY OF AGRICULTURE AND FOOD

1. Section 18 of the *Artificial Insemination of Live Stock Act*, being chapter 29 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

18. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000 for a first offence, and to a fine of not less than \$200 and not more than \$5,000 for a subsequent offence. Offences

2. Section 24 of the *Bees Act, 1987*, being chapter 31, is repealed and the following substituted therefor:

24. Every person who contravenes any provision of this Act or the regulations or any order of the Director, Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and to a fine of not more than \$5,000 for any subsequent offence. Offence

3. Section 16 of the *Plant Diseases Act*, being chapter 380 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

16.—(1) Except as provided in subsection (2), every person who contravenes any provision of this Act or any by-law passed under subsection 12 (1) or the regulations or any order of an inspector or the Provincial Entomologist is guilty of an offence and on conviction is liable, for a first offence, to a fine Offences

of not more than \$2,000 and, for any subsequent offence, to a fine of not more than \$5,000 or to imprisonment for a term of not more than thirty days.

Idem

(2) Every person who contravenes any provision of subsection 13 (3) is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than \$2,000 and, for any subsequent offence, to a fine of not more than \$5,000.

4. Section 14 of the *Seed Potatoes Act*, being chapter 467 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$25 and not more than \$200" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

5. Subsection 23 (1) of the *Weed Control Act, 1988*, being chapter 51, is repealed and the following substituted therefor:

Offence

(1) A person who contravenes this Act or the regulations, or an order made under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$500 and not more than \$2,000 and for each subsequent offence to a fine of not less than \$1,000 and not more than \$5,000.

Le paragraphe 23 (1) de la Loi de 1988 sur la destruction des mauvaises herbes, qui constitue le chapitre 51, est abrogé et remplacé par ce qui suit :

Infraction

(1) Quiconque contrevient à la présente loi ou aux règlements, ou à un ordre donné aux termes de la présente loi, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au moins 500 \$ et d'au plus 2 000 \$ à l'égard d'une première infraction, et d'une amende d'au moins 1 000 \$ et d'au plus 5 000 \$ à l'égard de chaque infraction subséquente.

6. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Agriculture and Food

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Abandoned Orchards Act	9(1)	\$ 100	\$ 2,000
Agricultural Tile Drainage Installation Act	13	25	2,000
	13	100	5,000

Animals for Research Act	21(1)	500	2,000
	21(1)	1,000	5,000
	21(2)	25	2,000
	21(2)	100	5,000
Beef Cattle Marketing Act	17	1,000	2,000
Bull Owners' Liability Act	1	25	2,000
Commodity Boards and Marketing Agencies Act	4(1)	500	2,000
Dead Animals Disposal Act	17	500	2,000
Drainage Act	96	1,000	2,000
Edible Oil Products Act	15	500	5,000
Farm Income Stabilization Act	4(9)	1,000	2,000
Fur Farms Act	10	100	2,000
	10	500	5,000
Grain Corn Marketing Act, 1984	7	500	2,000
	7	2,000	5,000
Live Stock Branding Act	7	200	2,000
Live Stock Community Sales Act	19	500	2,000
	19	1,000	5,000
Live Stock Medicines Act	12	500	2,000
	12	1,000	5,000
Meat Inspection Act (Ontario)	16	500	2,000
	16	2,000	5,000
Oleomargarine Act	17	500	5,000
Ontario Food Terminal Act	16(1)	50	2,000
	16(1)	200	5,000
Pounds Act	22	10	2,000
Riding Horse Establishments Act	16(1)	500	2,000
	16(1)	1,000	5,000
	16(2)	25	2,000
	16(2)	100	5,000
Sheep and Wool Marketing Act, 1981	12	100	2,000
	12	500	5,000

PART II

MINISTRY OF THE ATTORNEY GENERAL

7. Section 9 of the *Charitable Gifts Act*, being chapter 63 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

9. Every person who contravenes any provision of this Act 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.

8.—(1) Subsection 36 (2) of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as

re-enacted by the Statutes of Ontario, 1986, chapter 8, section 4, is repealed and the following substituted therefor:

Offence

(2) A person who contravenes a restraining order is guilty of an offence and on conviction is liable to either or both a fine of \$5,000 and imprisonment for a term of not more than three months for a first offence and not more than two years for a subsequent offence.

(2) Subsection 39 (1) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Contempt of
orders of
Ontario
Court
(Provincial
Division)

(1) In addition to its powers in respect of contempt, the Ontario Court (Provincial Division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$5,000 nor shall the imprisonment exceed ninety days.

9.—(1) Section 11 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$25 and not more than \$500” in the fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000”.

(2) Section 12 of the said Act is amended by striking out “is liable to a fine of not less than \$25 and not more than \$500” in the seventh and eighth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000”.

10. Subsection 9 (2) of the *Disorderly Houses Act*, being chapter 120 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$1,000 and not more than \$5,000” in the second and third lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

11.—(1) Section 3 of the *Hotel Registration of Guests Act*, being chapter 208 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$50” in the sixth and seventh lines and inserting in lieu thereof “is liable to a fine of not more than \$100”.

(2) Section 4 of the said Act is amended by striking out “is liable to a fine of not less than \$20 and not more than \$200” in the sixth and seventh lines and inserting in lieu thereof “is liable to a fine of not more than \$100”.

12. Section 122 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

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

13.—(1) Subsection 2 (1) of the *Minors' Protection Act*, being chapter 293 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$2 and not more than \$50" in the second and third lines and inserting in lieu thereof "is liable to a fine of not less than \$50 and not more than \$500".

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

(1a) Where a corporation is convicted of an offence under subsection (1), the minimum fine shall be \$200 and the maximum fine \$25,000. Idem.
corporation

14.—(1) Subsection 6 (1) of the *Notaries Act*, being chapter 319 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$25 and not more than \$500" in the fifth and sixth lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

(2) Subsection 6 (2) of the said Act is amended by striking out "is liable to a fine of not less than \$25 and not more than \$500" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not more than \$1,000".

(3) Subsection 6 (3) of the said Act is amended by striking out "is liable to a fine of not less than \$25 and not more than \$1,000" in the sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

15.—(1) Section 22 of the *Public Accountancy Act*, being chapter 405 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$100 and not more than \$250" in the sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

(2) Subsection 23 (1) of the said Act is amended by striking out "is liable to a fine of not less than \$10 and not more than \$25, and to a further fine of not less than \$3 and not more than \$5 for every day on which the offence continues after conviction".

tion" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

(3) Subsection 23 (2) of the said Act is amended by striking out "is liable to a fine of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further fine of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction" in the ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

(4) Subsection 24 (3) of the said Act is repealed and the following substituted therefor:

Offence

(3) Any person who contravenes any provision of this section, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 for any subsequent offence.

(5) Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Prohibition
against a
body
corporate
carrying on
business as
public
accountant

(1) It is not lawful for a body corporate to practise as a public accountant and any body corporate that contravenes the provisions of this subsection, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 for any subsequent offence.

16. Section 3 of the *Public Halls Act*, being chapter 408 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$500" in the second and third lines and inserting in lieu thereof "is liable to a fine of not more than \$2,000".

17. Section 2 of the *Ticket Speculation Act*, being chapter 499 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$5 and not more than \$50" in the eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not more than \$5,000".

18. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Attorney General

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Architects Act, 1984	46(1)	\$15,000	\$25,000
	46(1)	30,000	50,000
	46(2)	5,000	10,000
	46(2)	15,000	25,000
	46(3)	5,000	10,000
	46(4)	5,000	10,000
	46(4)	15,000	25,000
	46(5)	30,000	50,000
	46(6)	30,000	50,000
	47(1)	5,000	10,000
Blind Person's Rights Act	6(1)	1,000	5,000
	6(2)	100	500
Compensation for Victims of Crime Act	13(2)	2,000	5,000
	13(3)	25,000	50,000
Courts of Justice Act, 1984	146(4)	10,000	25,000
Dog Owners' Liability Act	4(4)	2,000	5,000
Estates Administration Act	19a(8)	2,000	5,000
	19a(9)	5,000	10,000
Family Law Act, 1986	24(5)(a)	1,000	5,000
	46(2)(a)	1,000	5,000
	49(1)	1,000	5,000
Hotel Registration of Guests Act	5(2)	100	500
Innkeepers Act	7(3)	50	500
Juries Act	42(1)	5,000	10,000
	42(2)	2,000	5,000
	42(3)	1,000	5,000
	45(3)	5,000	10,000
Landlord and Tenant Act	122(1)	2,000	5,000
Metropolitan Toronto Police Force Complaints Act, 1984	30	2,000	5,000
Mortgages Act	4(2)	50	200
Pawnbrokers Act	29(1)	500	2,000
Professional Engineers Act, 1984	41(1)	15,000	25,000
	41(1)	30,000	50,000
	41(2)	5,000	10,000
	41(2)	15,000	25,000
	41(3)	5,000	10,000
	41(3)	15,000	25,000
	41(4)	5,000	10,000
	41(5)	30,000	50,000
	41(6)	30,000	50,000
	42(1)	5,000	10,000
	42(2)	5,000	10,000
	Provincial Offences Act	12(1)	300
43(1)		1,000	2,000
60(3)		2,000	5,000
62		2,000	5,000
70(5)		25	50
86		1,000	2,000
Public Institutions Inspection Act	5(2)	5,000	10,000
Trespass to Property Act	2(1)	1,000	2,000

PART III

MINISTRY OF COLLEGES AND UNIVERSITIES

19.—(1) Subsection 89 (1) of the *Colleges Collective Bargaining Act*, being chapter 74 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$500” in the third line and inserting in lieu thereof “\$1,000”.

(2) Subsection 89 (2) of the said Act is amended by striking out “\$10,000” in the third line and inserting in lieu thereof “\$25,000”.

PART IV

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

20.—(1) Subsection 21 (2) of the *Day Nurseries Act*, being chapter 111 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Idem

(2) Every person who contravenes the provisions of section 16 and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

(2) The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Community and Social Services

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Child and Family Services Act, 1984	160(4)	\$ 5,000	\$25,000
Day Nurseries Act	21(1)	1,000	2,000
Family Benefits Act	19(3)	500	5,000
General Welfare Assistance Act	16(3)	100	5,000
Ministry of Community and Social Services Act	6c(4)	2,000	5,000

PART V

MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

21. Subsection 13 (2) of the *Athletics Control Act*, being chapter 34 of the Revised Statutes of Ontario, 1980, is amended by striking out "to a fine of not less than \$20 and not more than \$1,000" in the third and fourth lines and inserting in lieu thereof "to a fine of not more than \$10,000".

22. Section 41 of the *Boilers and Pressure Vessels Act*, being chapter 46 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

41. Every person who contravenes any of the provisions of this Act or the regulations, or any direction or order given to the person by an inspector, is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000. Offences

23. Subsection 30 (1) of the *Elevating Devices Act*, being chapter 135 of the Revised Statutes of Ontario, 1980, is amended by striking out "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" in the tenth, eleventh and twelfth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000".

24. Section 27 of the *Energy Act*, being chapter 139 of the Revised Statutes of Ontario, 1980, is amended by striking out "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" in the twelfth, thirteenth and fourteenth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$100,000".

25. Section 17 of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed is \$100,000. Idem,
corporation

26. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Consumer and Commercial Relations

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Amusement Devices Act, 1986	17(1)	\$10,000	\$ 25,000
	17(1)	25,000	100,000
	17(2)	10,000	25,000
Bailiffs Act	18(1)	1,000	5,000
Business Practices Act	17(1)	2,000	25,000
	17(2)	2,000	25,000
	17(3)	25,000	100,000
Collection Agencies Act	28(1)	2,000	25,000
	28(2)	25,000	100,000
Condominium Act	55(a)	25,000	100,000
	55(b)	25,000	25,000
Consumer Protection Act	39(1)	2,000	25,000
	39(2)	25,000	100,000
Consumer Reporting Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Discriminatory Business Practices Act	16(1)	5,000	25,000
	16(2)	50,000	100,000
Gasoline Handling Act	17	10,000	25,000
Liquor Licence Act	55(1)	10,000	25,000
	55(5)	25,000	100,000
Motor Vehicle Dealers Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Ontario New Home Warranties Plan Act	22(1)	2,000	25,000
	22(2)	25,000	100,000
Paperback and Periodical Distributors Act	15(1)	2,000	25,000
	15(2)	25,000	100,000
Real Estate and Business Brokers Act	50(1)	2,000	25,000
	50(2)	25,000	100,000
Theatres Act	61(1)	2,000	25,000
	61(2)	25,000	100,000
Travel Industry Act	25(1)	2,000	25,000
	25(2)	25,000	100,000

PART VI

MINISTRY OF CULTURE AND COMMUNICATIONS

27. Subsection 11 (2) of the *Centennial Centre of Science and Technology Act*, being chapter 60 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the second and third lines.

28.—(1) Subsection 69 (1) of the *Ontario Heritage Act*, being chapter 337 of the Revised Statutes of Ontario, 1980, is

amended by striking out "\$10,000" in the third last line and inserting in lieu thereof "\$50,000".

(2) Subsection 69 (2) of the said Act is amended by striking out "\$50,000" in the third line and inserting in lieu thereof "\$250,000".

29. Subsection 16 (2) of the *Science North Act, 1986*, being chapter 5, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the second and third lines.

30.—(1) Subsection 15 (2) of the *Telephone Act*, being chapter 496 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the third and fourth lines.

(2) Section 107 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(3) Subsection 109 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(4) Subsection 110 (1) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the sixth and seventh lines.

(5) Subsection 110 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each offence" in the third and fourth lines.

(6) Section 111 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the fifth, sixth and seventh lines.

(7) Section 112 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the sixth, seventh and eighth lines.

(8) Section 113 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both" in the sixth, seventh and eighth lines.

(9) Section 114 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 or to

imprisonment for a term of not more than thirty days, or to both" in the eighth, ninth and tenth lines.

(10) Subsection 115 (2) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50 for each day during which the default continues" in the third and fourth lines.

PART VII

MINISTRY OF EDUCATION

31. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Education

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Education Act	15(4)	\$ 25	\$ 50
	15(5)	100	200
	15(6)	200	500
	15(9)	200	500
	29(1)	100	200
	29(3)	100	200
	187	100	200
	188(1)	100	200
	188(2)	100	200
	189(1)	100	200
	189(2)	100	200
	190	100	200
	193(4)	500	1,000
	228(7)	10	20
	228(7)	50	100
School Boards and Teachers Collective Negotiations Act	77(1) 77(2)	500 10,000	1,000 25,000

PART VIII

MINISTRY OF THE ENVIRONMENT

32. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Environment

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Environmental Assessment Act	39	\$ 5,000	\$10,000
	39	10,000	25,000

Environmental Protection Act	72	1,000	2,000
	78(1)	500	1,000
	78(1)	1,000	2,000
	78(2)	1,000	2,000
	78(2)	2,000	5,000
	78a(1)	1,000	2,000
	78a(1)	2,000	5,000
	78a(2)	3,000	5,000
	78a(2)	6,000	10,000
	146(3)	5,000	10,000
	146(3)	10,000	25,000
	146(4)	25,000	50,000
	146(4)	50,000	100,000
	146a(1)	50,000	100,000
	146a(1)	100,000	200,000
	147(1)	5,000	10,000
	147(1)	15,000	25,000
	147(2)	50,000	100,000
	147(2)	100,000	200,000
	147(3)	10,000	25,000
	147(3)	25,000	50,000
	147(4)	250,000	500,000
	147(4)	500,000	1,000,000
Ontario Water Resources Act	67(1)	5,000	10,000
	67(1)	10,000	25,000
	67(2)	25,000	50,000
	67(2)	50,000	100,000
	68(2)	50,000	100,000
	68(2)	100,000	200,000
Pesticides Act	34a(1)	5,000	10,000
	34a(1)	10,000	25,000
	34a(2)	25,000	50,000
	34a(2)	50,000	100,000
	34c(2)	50,000	100,000
	34c(2)	100,000	200,000

PART IX

MINISTRY OF FINANCIAL INSTITUTIONS

33. Subsection 55 (1) of the *Commodity Futures Act*, being chapter 78 of the Revised Statutes of Ontario, 1980, is amended by striking out "in the case of a company or a person other than an individual, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000" in the second, third, fourth and fifth last lines and inserting in lieu thereof "to a fine of not more than \$1,000,000".

34. Section 14 of the *Compulsory Automobile Insurance Act*, being chapter 83 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

14.—(1) Except where otherwise provided, every person and every director or officer of an insurer who commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 in the case of an individual and \$200,000 in the case of a corporation.

General
penalty

Minimum fine: insurers (2) If an insurer is convicted of an offence under subsection (1), the fine shall not be less than \$5,000.

Suspension or cancellation of licence of insurer (3) In addition to any penalty imposed under this Act, where the person who contravenes this Act or the regulations is an insurer, the Lieutenant Governor in Council may, by order and upon the report of the Superintendent, suspend or cancel the insurer's licence issued under the *Insurance Act*.

R.S.O. 1980, c. 218

Contra-vention by Association (4) Where the Association commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$200,000.

35. Section 19 of the *Prepaid Hospital and Medical Services Act*, being chapter 388 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence **19.** Every person not registered under this Act who contracts to furnish hospital or medical service on a prepayment basis or makes payment therefor is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 in the case of an individual and not more than \$200,000 in the case of a corporation.

36. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Financial Institutions

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Commodity Futures Act	55(3)	\$ 2,000	\$1,000,000
Co-operative Corporations Act	173(1)	2,000	10,000
	174(1)	2,000	10,000
	174(1)	20,000	50,000
	174(2)	2,000	10,000
	176(1)	1,000	5,000
	176(1)	10,000	100,000
Credit Unions and Caisses Populaires Act	176(2)	1,000	5,000
	141(1)	2,000	10,000
	141(2)	2,000	10,000
	143(1)	50	200
	143(2)	50	200
	144(1)	2,000	5,000
	144(1)	10,000	100,000
Deposits Regulation Act	144(2)	2,000	5,000
	8(1)	5,000	100,000
	8(2)	25,000	200,000
	8(3)	5,000	100,000

Mortgage Brokers Act	31(1)	2,000	100,000
	31(2)	25,000	200,000
Registered Insurance	34(1)	5,000	100,000
Brokers Act	34(2)	25,000	200,000

PART X

MINISTRY OF HEALTH

37. Section 9 of the *Cancer Remedies Act*, being chapter 58 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

9. Every person who contravenes a provision of this Act or who fails or neglects to obey any order, direction or requirement of the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$200 and not more than \$1,000 and for any subsequent offence to a fine of not less than \$1,000 and not more than \$5,000. Offence

38. Section 9 of the *Dental Technicians Act*, being chapter 114 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of \$100 for a first offence, \$200 for a second offence, and \$300 for a third or subsequent offence" in the seventh, eighth and ninth lines and inserting in lieu thereof "is liable to a fine of not more than \$10,000".

39. Subsection 9 (1) of the *Radiological Technicians Act*, being chapter 430 of the Revised Statutes of Ontario, 1980, is amended,

- (a) by striking out "\$100" in the fourth last line and inserting in lieu thereof "\$2,500";
- (b) by striking out "\$200" in the fourth last line and inserting in lieu thereof "\$5,000";
- (c) by striking out "\$200" in the third last line and inserting in lieu thereof "\$4,000"; and
- (d) by striking out "\$500" in the second last line and inserting in lieu thereof "\$10,000".

40. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Health

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Ambulance Act	23(1)	\$ 1,000	\$ 2,000
	23(2)	10,000	25,000
	23(3)	500	1,000
Chiroprody Act	6	100	25,000
Denture Therapists Act	27(1)	2,000	25,000
	27(1)	2,000	25,000
	27(2)	1,000	5,000
	27(2)	2,000	10,000
	27(3)	2,000	10,000
	32(1)	5,000	10,000
	32(2)	5,000	10,000
Drugless Practitioners Act	8	100	25,000
Healing Arts Radiation Act	23(1)	5,000	10,000
	23(2)	25,000	50,000
Health Care Accessibility Act, 1986	8(1)	250	2,000
	8(1)	1,000	2,000
Health Disciplines Act	18(1)	5,000	10,000
	18(2)	5,000	10,000
	18(2)	5,000	10,000
	37(5)(e)	5,000	10,000
	43(1)	5,000	25,000
	43(2)	1,000	5,000
	43(2)	2,000	10,000
	43(3)	2,000	10,000
	60(5)(e)	5,000	10,000
	67(1)	2,000	25,000
	67(1)	2,000	25,000
	67(2)	1,000	5,000
	67(2)	2,000	10,000
	67(3)	2,000	10,000
	83(5)(e)	5,000	10,000
	88(1)	2,000	25,000
	88(1)	2,000	25,000
	88(2)	1,000	10,000
	88(2)	2,000	25,000
	105(5)(e)	5,000	10,000
	112(1)	2,000	25,000
	112(1)	2,000	25,000
	112(2)	1,000	5,000
112(2)	2,000	10,000	
112(3)	2,000	10,000	
130(5)(e)	5,000	10,000	
162(1)	2,000	25,000	
162(1)	2,000	25,000	
162(2)	1,000	5,000	
162(2)	2,000	10,000	
162(3)	2,000	25,000	
Health Insurance Act	50	2,000	5,000
Hypnosis Act	5	100	500
	5	1,000	5,000
	5	200	2,500
	5	2,000	25,000
Mental Health Act	64	10,000	25,000
Mental Hospitals Act	8	10	20
	8	100	1,000

Ontario Drug Benefit Act, 1986	15(1)	5,000	10,000
	15(1)	10,000	25,000
	15(2)	50,000	100,000
Ophthalmic Dispensers Act	16	50	2,500
	16	500	25,000
Prescription Drug Cost Regulation Act, 1986	13(1)	10,000	25,000
	13(2)	50,000	100,000
Private Hospitals Act	3	100	200
	3	500	1,000
	4(2)	500	1,000
	7(6)	25	50
	7(6)	500	1,000
	19(4)	25	50
	21(3)	200	1,000
	21(4)	50	1,000
	23(3)	200	1,000
	24(2)	25	50
	25	25	50
	26	25	50
	26	500	1,000
Psychologists Registration Act	14(1)	100	5,000
	14(1)	500	25,000
Public Hospitals Act	27	25	50
	27	500	1,000

PART XI

MINISTRY OF HOUSING

41.—(1) Subsection 122 (1) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is amended by striking out “\$2,000” in the last line and inserting in lieu thereof “\$5,000”.

(2) Subsection 122 (2) of the said Act is amended by striking out “\$25,000” in the third line and inserting in lieu thereof “\$50,000”.

PART XII

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

42.—(1) Subsection 11 (3) of the *Ministry of Industry and Trade Act, 1982*, being chapter 31, is amended by striking out “\$2,000” in the last line and inserting in lieu thereof “\$10,000”.

(2) Subsection 11 (4) of the said Act is amended by striking out “\$25,000” in the last line and inserting in lieu thereof “\$100,000”.

PART XIII

MINISTRY OF LABOUR

43. Section 13 of the *Employment Agencies Act*, being chapter 136 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$10 and not more than \$500" in the second and third lines and inserting in lieu thereof "is liable to a fine of not more than \$5,000 or, if the person is a body corporate, to a fine of not more than \$50,000".

44. Section 4 of the *Government Contracts Hours and Wages Act*, being chapter 190 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$500" in the fifth and sixth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

45.—(1) Subsections 19 (1) and (3) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Offence

(1) Every employer who contravenes a schedule that is applicable to the employer or who permits or condones work in contravention thereof is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than six months, and, where the conviction is for failing to pay the minimum rate of wages prescribed by the schedule, shall be ordered to pay to the Director, as an additional penalty, the full amount of the wages found to be unpaid to any employee under the schedule, and the Director, in the Director's discretion, may direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto.

Offence

(3) Every employee who contravenes a provision of a schedule is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(2) Section 20 of the said Act is repealed and the following substituted therefor:

Offence

20. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where no penalty has been specifically provided, is

liable to a fine of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than six months.

46. Subsection 9 (5) of the *Ministry of Labour Act*, being chapter 284 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not less than \$50 and not more than \$300" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

47. Subsection 77 (8) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 28, is amended by adding at the end thereof "and on conviction is liable to a fine of not more than \$5,000".

48. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Labour

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Crown Employees Collective Bargaining Act	44(1)	\$ 500	\$ 2,000
	44(2)	5,000	25,000
Employment Standards Act	47(1)	25	100
	57(3)	100	2,000
	59(1)	10,000	50,000
Labour Relations Act	96(1)	1,000	2,000
	96(1)	10,000	25,000
Ministry of Labour Act	9(4)	20	25,000
	12	500	25,000
One Day's Rest in Seven Act	4	100	25,000
Pay Equity Act, 1987	26(1)	2,000	5,000
	26(1)	25,000	50,000
Workers' Compensation Act	18(2)	50	10,000
	52(9)	50	10,000
	69(2)	50	10,000
	97(6)	500	25,000
	99(3)	500	25,000
	101(2)	500	25,000
	102(2)	50	5,000
	118(3)	200	25,000
	118(3)	20	100
	121(2)	200	25,000

PART XIV

MINISTRY OF MUNICIPAL AFFAIRS

49.—(1) Subsection 48 (4) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 98 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 103 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

50.—(1) Subsection 47 (5) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 88 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the third line.

(3) Section 93 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

51. Subsection 11 (5) of the *Line Fences Act*, being chapter 242 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$1,000” in the fourth and fifth lines.

52.—(1) Subsection 36 (6) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(6) The clerk is guilty of an offence if the certificate is not sent within the prescribed time or if the clerk certifies to a larger number of electors than the last revised polling lists show.

(2) Subsection 211 (21) of the said Act is repealed and the following substituted therefor:

(21) Despite section 321, a by-law passed under this section may provide that a person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not more than the greater of,

(a) \$50,000; or

(b) the gross sales of the shop during the period the shop was open in contravention of the by-law.

(3) Clause (g) of paragraph 1 of subsection 230 (1) of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$5" in the fifth, sixth and seventh lines.

(4) Clause (g) of paragraph 17 of section 232 of the said Act is amended by striking out "and on conviction is liable to a fine equal to the licence fee that he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200" in the second, third, fourth and fifth lines.

(5) Clause (h) of paragraph 17 of the said section 232 is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$10" in the fifth, sixth and seventh lines.

(6) Subsection 297 (3) of the said Act is amended by striking out "and on conviction is liable to a fine of \$5" in the second and third lines.

(7) Subsection 297 (4) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$50" in the fourth and fifth lines.

(8) Section 321 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 24, section 13, is amended by striking out "and for providing for the imposition of fines of not more than \$2,000 on every person who is convicted of an offence under any such by-law" in the fifth, sixth and seventh lines.

53.—(1) Section 19 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

19.—(1) Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any

Fines

Offence

wilful breach of any of the provisions of this Part or of any order of the Ministry made thereunder is guilty of an offence.

Idem

(2) If the person convicted of an offence under subsection (1) is a member of a council or a local board, the person is, upon conviction and in addition to any other penalty provided by law, disqualified from holding any municipal office for a period of two years.

(2) Subsection 58 (2) of the said Act is amended by striking out “and on conviction is liable to a fine of not less than \$25 and not more than \$500 for each offence” in the tenth and eleventh lines.

54.—(1) Subsection 93 (5) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 110 (11) of the said Act is amended by striking out “and on conviction is liable to a fine of \$50 for the first offence and \$300 for each subsequent offence” in the second, third and fourth lines.

(3) Subsection 227 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(4) Section 231 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

55. Subsection 24 (4) of the *Niagara Escarpment Planning and Development Act*, being chapter 316 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(4) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) on a first conviction to a fine of not more than \$25,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.

(4a) Notwithstanding subsection (4), if a corporation is convicted under subsection (1); the maximum penalty that may be imposed is, Corporation

- (a) on a first conviction a fine of not more than \$50,000; and
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.

56.—(1) Subsection 31 (22) of the *Planning Act, 1983*, being chapter 1, is amended by striking out “is liable to a fine of not more than \$500 for each day that the contravention has continued” in the third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$2,000 for a first offence and to a fine of not more than \$10,000 for any subsequent offence”.

(2) Section 31 of the said Act is amended by adding thereto the following subsection:

(22a) Notwithstanding subsection (22), if a corporation is convicted of an offence under subsection (22), the maximum penalty that may be imposed upon the corporation is \$10,000 for a first offence and \$50,000 for any subsequent offence. Idem,
corporation

(3) Subsection 33 (13) of the said Act is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the sixth and seventh lines.

(4) Subsection 67 (2) of the said Act is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the sixth and seventh lines.

57. Subsection 19 (2) of the *Public Parks Act*, being chapter 417 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$1 and not more than \$20; or may be imprisoned for a term of not more than thirty days; and is liable to an action at the suit of the board to make good any damage done by him” in the second, third, fourth and fifth lines.

58.—(1) Section 12 of the *Public Utilities Act*, being chapter 423 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not more than \$300 or may be imprisoned without the option of a fine for a term of not more than one month” in the eleventh, twelfth, thirteenth and fourteenth lines.

(2) Section 13 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$300 or may be imprisoned, without the option of a fine, for a term of not more than one month” in the first, second and third last lines.

(3) Section 52 of the said Act is amended by striking out “of not more than \$300” in the eighth line.

(4) Section 53 of the said Act is amended by striking out “of not more than \$300” in the sixth and seventh lines.

59.—(1) Subsection 48 (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 110 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 115 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

60.—(1) Subsection 47 (4) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 92 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 97 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

61.—(1) Subsection 47 (4) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not

more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 103 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 108 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

62.—(1) Subsection 46 (4) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 114 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 119 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

63.—(1) Subsection 87 (5) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 142 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the third and fourth lines.

(3) Section 147 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

64.—(1) Subsection 72 (5) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 133 (39) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 138 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

65.—(1) Subsection 47 (4) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 98 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 103 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

66.—(1) Subsection 63 (5) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 84 (38) of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$250” in the second and third lines.

(3) Section 89 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

67.—(1) Subsection 82 (4) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence” in the second, third, fourth and fifth lines.

(2) Subsection 132 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the second and third lines.

(3) Section 137 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the sixth and seventh lines.

68.—(1) Subsection 83 (5) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence" in the second, third, fourth and fifth lines.

(2) Subsection 134 (38) of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$250" in the third line.

(3) Section 139 of the said Act is amended by striking out "and on conviction is liable to a fine of not more than \$100" in the seventh and eighth lines.

69. Subsection 7 (1) of the *Road Access Act*, being chapter 457 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not more than \$2,000" in the second and third lines.

70.—(1) Section 7 of the *Snow Roads and Fences Act*, being chapter 477 of the Revised Statutes of Ontario, 1980, is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$20" in the fifth and sixth lines.

(2) Section 8 of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$20" in the fourth and fifth lines.

(3) Subsection 12 (4) of the said Act is amended by striking out "and on conviction is liable to a fine of not less than \$1 and not more than \$50" in the fifth and sixth lines.

71. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Municipal Affairs

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Municipal Act	321b(1)	\$ 5,000	\$ 10,000
	321b(1)	10,000	25,000
	321b(2)	25,000	50,000
	321b(2)	50,000	100,000
	328(1)	10,000	25,000
	328(2)	25,000	50,000
Municipal Elections Act	96	2,000	5,000
	97	2,000	5,000
	98	2,000	5,000
	99	2,000	5,000
	100	2,000	5,000
	101	2,000	5,000
	102	2,000	5,000
	103(1)	2,000	5,000
	104	2,000	5,000
	135(1)	10,000	25,000
	135(2)	1,000	5,000
	177(1)	1,000	5,000
	177(2)	1,000	5,000
	178	1,000	5,000
	179	1,000	5,000
180	10,000	25,000	
181	1,000	5,000	
Planning Act, 1983	33(13)	20,000	50,000
	66(1)	20,000	25,000
	67(2)	2,000	5,000

PART XV

MINISTRY OF NATURAL RESOURCES

72. Section 6 of the *Endangered Species Act*, being chapter 138 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

6. Any person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$50,000, or to imprisonment for a term of not more than two years, or to both.

73. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Natural Resources

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Game and Fish Act	19	\$5,000	\$25,000
	91	5,000	25,000
Provincial Parks Act	22(1)	500	5,000

PART XVI

MINISTRY OF NORTHERN DEVELOPMENT AND MINES

74.—(1) Section 169 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than one year, or to both” in the second, third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$30,000 for every day upon which the offence occurs or continues”.

(2) Subsection 172 (1) of the said Act is amended by striking out “is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues” in the first, second and third last lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

(3) Subsection 172 (2) of the said Act is amended by striking out “is liable to a fine of \$500 or to imprisonment for a term of not more than six months, or to both” in the fourth, fifth and sixth lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

(4) Subsection 173 (2) of the said Act is amended by striking out “\$1,000” in the second last line and inserting in lieu thereof “\$30,000”.

(5) Section 174 of the said Act is amended by striking out “a fine of not more than \$250 and, upon conviction thereof, is liable to imprisonment for a term of not more than six months unless the fine and costs are sooner paid” in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof “a fine of not more than \$10,000”.

PART XVII

MINISTRY OF REVENUE

75. Subsection 12 (2a) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 28, section 3, is amended by striking out “an amount of not less than \$50 and not more than \$500” in the seventh and eighth lines and inserting in lieu thereof “an amount of not more than \$2,000”.

76. Subsection 24 (1) of the *Employee Share Ownership Plan Act, 1988*, being chapter 3, is amended by striking out “is liable to a fine of not more than \$2,000 or if such person is a

corporation to a fine of not more than \$20,000" in the first, second and third last lines and inserting in lieu thereof "is liable to a fine of not more than \$25,000".

77.—(1) Subsection 4 (8) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "is liable to a fine of not less than the amount of the tax that he failed to pay and of an additional amount that is not less than \$100 and not more than \$5,000" in the third, fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than double the amount of the tax that the person failed to pay".

(2) Subsection 8 (12) of the said Act is amended by striking out "is liable to a fine of not more than \$5,000" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$5,000".

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

Offence

(1) Every person who makes a false statement in any return or information made or furnished to the Minister under this Act is guilty of an offence and is liable to a fine of not less than \$500 and not more than \$10,000 plus an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

(4) Subsection 25 (2) of the said Act is amended by striking out "is liable to a fine of not more than \$20,000" in the fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$1,000 and not more than \$10,000".

78.—(1) Subsection 20 (1) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Penalty for failure to collect tax

(1) Every person required to collect the tax imposed by this Act who fails to collect the tax is liable on conviction to a fine of 30 cents per litre of gasoline on which tax should have been collected as determined under subsection (4).

(2) Subsection 21 (1) of the said Act is amended by striking out "is liable to a fine of not less than \$25 for each day during which the default continues" in the third and fourth lines and inserting in lieu thereof "is liable to a penalty of not less than \$50 and not more than 5 per cent of the tax that should have been remitted or declared".

(3) Section 22 of the said Act is amended by striking out “is liable on conviction to a fine of not less than \$200 and not more than” in the fourth and fifth last lines and inserting in lieu thereof “is liable on conviction to a fine of not less than \$500 and not more than \$10,000 plus”.

(4) Section 23 of the said Act is repealed and the following substituted therefor:

23. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$2,000. General
penalty

79.—(1) Section 5 of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 20, section 4, is amended by striking out “is liable on conviction to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000” in the sixth, seventh, eighth and ninth lines and inserting in lieu thereof “is liable on conviction to a fine of not less than \$500 and not more than double the amount of the tax that, had the facts been truthfully stated, would have been payable”.

(2) Subsection 6 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 21, section 4, is repealed and the following substituted therefor:

(1) Every person who knowingly contravenes any provision of this Act or who knowingly makes an affidavit required by this Act that falsely discloses the value of the consideration for any conveyance of land or falsely states that a person who is a non-resident person is not a non-resident person or falsely states whether the land being conveyed contains at least one and not more than two single family residences is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that was not paid to the collector as provided for in this Act plus an amount of not more than \$5,000. Offence

80. Section 20 of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 17, is amended by striking out “is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded” in the second, third, fourth, fifth and sixth last lines and inserting in lieu thereof “is liable on conviction to a fine of

not less than the greater of \$500 or 50 per cent of the amount of the tax that should have been shown to be payable or that was sought to be evaded and not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded”.

81. Subsection 16 (1) of the *Ontario Guaranteed Annual Income Act*, being chapter 336 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

(1) Every person who does any of the following is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000:

1. Knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a payment of an increment under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
2. Knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a an increment under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
3. Knowingly, converts to the person's own use a payment of an increment under this Act to which the person is not entitled.

Idem

(1a) Every person who contravenes section 11 is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000.

82. Subsection 17 (2) of the *Ontario Home Ownership Savings Plan Act*, 1988, being chapter 35, is amended by striking out “is liable to a fine of not more than \$2,000, or if such person is a corporation to a fine of not more than \$20,000” in the first, second and third last lines and inserting in lieu thereof “is liable to a fine of not more than \$25,000”.

83. Subsection 15 (1) of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) Every person who does any of the following is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000:

1. Knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a grant under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
2. Knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a grant under this Act to which the person is not entitled or to which a person on whose behalf the person is acting is not entitled.
3. Knowingly, converts to the person's own use a payment of a grant under this Act to which the person is not entitled.

(1a) Every person who contravenes section 11 or 16 is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$2,000.

84. Subsection 30 (1) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000" in the eighth, ninth and tenth lines and inserting in lieu thereof "is liable to a fine of not less than 25 per cent and not more than 200 per cent of the amount of the grant or tax credit sought or received or to imprisonment for a term of not more than two years, or to both a fine and imprisonment".

85.—(1) Subsection 9 (4) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of \$200" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$50 and not more than 5 per cent of the amount of the tax that would have been reported had the return been properly completed and filed".

(2) Subsection 18 (3) of the said Act is amended by striking out "is liable on conviction to a fine of not less than 25 per cent of the tax that should have been declared to be collectable or payable or that was sought to be evaded and to not more than double the amount of such tax" in the second, third, fourth

and fifth last lines and inserting in lieu thereof "is liable on conviction to a fine of not less than \$500 and not more than \$10,000 plus not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded".

(3) Subsection 21 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 4, is repealed and the following substituted therefor:

Penalty for
selling
tobacco with
no wholesale
dealer's
permit

(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when assessed therefor, pay a penalty of not less than \$200 and not more than \$2,000 plus a penalty computed as follows:

1. 12 cents for every cigarette so sold.
2. 6.6 cents for every gram or part thereof of any tobacco, other than cigarettes or cigars, so sold.
3. 135 per cent of the price at which each cigar was so sold.

(4) Subsections 23 (1) and (2) of the said Act are repealed and the following substituted therefor:

General
penalty

(1) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000 or to a term of imprisonment of not less than three months and not more than six months, or to both a fine and imprisonment.

Offence

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on conviction is liable to a fine equal to the amount of tax that would be exigible on the tobacco so purchased if such tobacco had been purchased by a consumer and is in addition liable to imprisonment for a term not exceeding six months.

86. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Revenue

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Assessment Act	12(1)	\$ 100	\$1,000
	12(1)	10	100
	12(2)	200	2,000
	12(3)	200	2,000
	57(1)	200	2,000
Corporations Tax Act	98	500	5,000
Fuel Tax Act, 1981	4(9)	100	200
	5(2)	100	200
	5(2)	500	1,000
	5(3)	100	200
	5(3)	500	1,000
	8(11)	1,000	200
	8(13)	50	200
	10(4)	50	200
	22(8)	200	2,000
	27	100	200
28	50	200	
28	1,000	5,000	
Gasoline Tax Act	8(4)	200	500
	20(3)	200	500
	21(2)	25	50
Land Transfer Tax Act	8(5)	25	50
Mining Tax Act	14(2)	200	2,000
	19(1)	50	200
	19(2)	25	200
Ontario Guaranteed Annual Income Act	15(5)	25	50
Ontario Home Ownership Savings Plan Act, 1988	17(1)	2,000	5,000
Provincial Land Tax Act	35	100	500
	35	10	50
	36	500	2,000
	37	200	2,000
Race Tracks Tax Act, 1988	12(7)	2,500	5,000
	13(8)	200	2,000
Retail Sales Tax Act	11	2,000	10,000
	30(3)	100	500
	41(1)	2,000	5,000

PART XVIII

MINISTRY OF SKILLS DEVELOPMENT

87. Subsection 26 (1) of the *Apprenticeship and Tradesmen's Qualification Act*, being chapter 24 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the last line and inserting in lieu thereof "\$2,000".

PART XIX

MINISTRY OF THE SOLICITOR GENERAL

88.—(1) Section 15 of the *Fire Marshals Act*, being chapter 166 of the Revised Statutes of Ontario, 1980, is amended by striking out “is liable to a fine of not more than \$20” in the third and fourth last lines and inserting in lieu thereof “is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 for any subsequent offence”.

(2) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 8, section 2, is amended by striking out “is liable to a fine of not less than \$100 and not more than \$1,000” in the third and fourth lines and inserting in lieu thereof “is liable to a fine of not more than \$10,000”.

89. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of the Solicitor General

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Fire Marshals Act	18(18)	\$ 2,000	\$10,000
	18(19)	2,000	10,000
	18a(5)	2,000	25,000
	18a(6)	10,000	50,000
Private Investigators and Security Guards Act	32(1)	2,000	5,000
	32(2)	25,000	50,000
Public Works Protection Act	2(4)	100	500
	5(1)	100	500

PART XX

MINISTRY OF TOURISM AND RECREATION

90. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Tourism and Recreation

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Ministry of Tourism and Recreation Act, 1982	10(3)	\$ 2,000	\$ 5,000
	10(4)	25,000	50,000
Niagara Parks Act	20	500	10,000
Provincial Parks Act	22(1)	500	1,000

St. Clair Parkway Commission Act	19(1)	300	500
St. Lawrence Parks Commission Act	18(1)	100	500
Tourism Act	15(1)	1,000	5,000
	15(2)	500	2,000
	15(3)	10	50

PART XXI

MINISTRY OF TRANSPORTATION

91. Subsection 42 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (6) Every person who contravenes any of the provisions of, Offence
- (a) subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$100;
 - (b) subsection (2) or (3) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$1,000;
 - (c) subsection (4) is guilty of an offence and on conviction is liable to a fine of not less than \$20 and not more than \$100;
 - (d) subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

92.—(1) Subsection 11 (3) of the *Motorized Snow Vehicles Act*, being chapter 301 of the Revised Statutes of Ontario, 1980, is amended by striking out "is liable to a fine of not more than \$500" in the last line and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$1,000".

(2) Subsection 11 (4) of the said Act is amended by striking out "is liable to a fine of not more than \$500" in the third and fourth lines and inserting in lieu thereof "is liable to a fine of not less than \$200 and not more than \$1,000".

93.—(1) Subsection 28 (5) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised

Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Offence

- (5) Every person who without lawful authority,
- (a) uses the King's Highway so closed to traffic while it is protected in accordance with subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$50;
 - (b) defaces any barricade, light, detour sign or notice placed thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not more than \$200; or
 - (c) removes any barricade, light, detour sign or notice placed thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Idem

(6) Every person who is convicted of an offence under clause (5) (a) or (b) is also liable to the Crown for any damage or injury occasioned by such wrongful use, defacement or removal.

(2) Subsection 30 (3) of the said Act is amended by striking out "is liable to a fine of not less than \$10 per tree and not more than \$100 per tree and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning" in the second, third, fourth and fifth lines and inserting in lieu thereof "is liable to a fine of not less than \$50 and not more than \$200".

(3) Subsection 103 (5) of the said Act is amended by striking out "is liable to a fine of not more than \$50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "is liable to a fine of not more than \$500".

94. The provisions listed in the Acts named in the following Schedule are amended by striking out the amounts as set out in Column 1 of the Schedule and inserting in lieu thereof the amounts set out in Column 2:

SCHEDULE

Ministry of Transportation

<u>Title of Act</u>	<u>Provision</u>	<u>Column 1</u>	<u>Column 2</u>
Commuter Services Act	5(1)	\$ 100	\$ 500
Ferries Act	8	20	500

Highway Traffic Act

8(2)	50	100
8(2)	200	500
9(1)	50	100
9(1)	200	500
12(1)	50	100
12(1)	500	1,000
13(3)	5	20
13(3)	10	50
18(10)	100	200
18(10)	500	1,000
30(3b)	40	60
30(3b)	200	500
30(3b)	100	200
30(3b)	1,000	2,000
30(3c)	40	60
30(3c)	200	500
30(3d)	100	200
30(3d)	1,000	2,000
30(3e)	2,000	5,000
33	100	200
33	500	1,000
35(1)(a)	250	500
35(1)(a)	2,000	5,000
35(1)(b)	500	1,000
35(1)(b)	2,000	5,000
41(3)	500	1,000
41(5)	50	100
41(5)	200	500
47(4)	100	200
47(4)	500	1,000
52(4)	500	1,000
53(4)	100	200
53(4)	500	1,000
54(6)	100	200
54(6)	500	1,000
61(5)	50	100
61(5)	500	1,000
65(3)	500	1,000
83(1)	50	100
83(1)	500	1,000
83(2)	50	100
83(2)	500	1,000
86(4)	100	200
86(4)	500	1,000
87(6)	100	200
87(6)	500	1,000
89(3)	100	200
89(3)	500	1,000
92(11)	100	200
92(11)	500	1,000
94(4)	50	100
94(4)	100	200
105(6)	100	200
105(6)	500	1,000
105(7)	50	100
105(7)	100	200
111	100	200
111	500	1,000
147(12)	5	20
147(12)	50	100
148(2)	100	200
148(2)	500	1,000
151(17)(a)	100	200
151(17)(a)	500	1,000
151(17)(b)	250	500
151(17)(b)	1,000	2,000
160	100	200
160	500	1,000
163(4)	5,000	10,000
174(2)	100	200
174(2)	500	1,000
188(1)	40	60
188(1)	200	500
189a(2)	100	500
189a(2)	2,000	5,000

Motorized Snow Vehicles Act	19(2) 24	500 300	1,000 1,000
Off-Road Vehicles Act, 1983	6(1) 6(1) 9 9 10(2) 10(2) 15(6) 15(6) 15(7) 15(7) 15(8) 15(8)	50 200 50 500 5 10 10 100 100 500 100 500	100 500 100 1,000 20 50 20 200 200 1,000 200 1,000
Public Transportation and Highway Improvement Act	26(4) 26(4) 31(2) 31(2) 32(2) 98(5) 98(5) 98(5) 98(5)	5 50 50 1,000 5 10 100 50 500	50 200 200 5,000 50 50 500 200 2,000
Public Vehicles Act	32(2)	200	1,000
Toll Bridges Act	3(2) 3(2) 3(2)	5 10 50	50 100 500
Toronto Area Transit Operating Authority Act	9(2)	100	500

PART XXII

COMMENCEMENT AND SHORT TITLE

- Commencement** **95.—(1)** This Act, except subsection 8 (2), comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Idem** **(2)** Subsection 8 (2) comes into force on the day this Act receives Royal Assent or on the day section 2 of the *Courts of Justice Amendment Act, 1989*, being chapter 55, comes into force, whichever day is later.
- Idem** **(3)** A proclamation bringing this Act or any provision of this Act into force may provide that an amendment to a provision named in a Schedule set out in this Act does not come into force until such day as is named in the proclamation or that any such provision does not come into force.
- Short title** **96.** The short title of this Act is the *Provincial Penalties Adjustment Act, 1989*.





Bill 93

An Act to revise the Justices of the Peace Act

The Hon. I. Scott
Attorney General

1st Reading January 6th, 1988
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session
an Order of the Legislative Assembly
of March 2nd, 1989.*

Projet de loi 93

Loi portant révision de la Loi sur les juges de paix

L'honorable I. Scott
procureur général

1^{re} lecture 6 janvier 1988
2^e lecture
3^e lecture
sanction royale

*Reporté de la 1^{re} session
par ordre de l'Assemblée législative
daté du 2 mars 1989.*

EXPLANATORY NOTES

This revision of the *Justices of the Peace Act* deals with recommendations of Professor Alan Mewett's 1981 report to the Attorney General entitled "The Office and Function of Justices of the Peace in Ontario" as well as with concerns expressed about the independence of justices of the peace.

The Bill distinguishes between presiding and non-presiding justices of the peace. The Lieutenant Governor in Council is given the power to appoint justices of the peace and determine whether a justice is presiding or non-presiding on the recommendation of the Attorney General. Justices of the peace who now preside over Provincial Offences Courts are deemed to be presiding justices and the Lieutenant Governor in Council is given the power to designate other justices already appointed as presiding or non-presiding on the recommendation of the Review Council.

Provision is made for the Lieutenant Governor in Council to appoint a provincial judge as Co-ordinator of Justices of the Peace. The Co-ordinator is given general supervision and direction over sittings of justices of the peace and assigns their duties, subject to the authority of the chief judges. Certain duties are not to be assigned to presiding and non-presiding justices. The Co-ordinator is empowered to issue directions on matters of law and procedure that are binding on all justices of the peace.

Justices of the peace are no longer paid on the basis of fees for services. Part-time justices are to work according to a duty roster and to report the details of duties they perform to the Co-ordinator. Salaries of part-time justices are based on the Co-ordinator's determination of their workload and calculated in accordance with the regulations.

A justice can be removed from office only if,

1. a complaint is made to the Review Council,
2. an inquiry is then held by a provincial judge, and
3. following a recommendation by the judge, the Lieutenant Governor in Council orders the removal.

The Review Council is restructured to include the chief judges of the criminal and family divisions of the Provincial Court, the Co-ordinator, a justice of the peace appointed by the Lieutenant Governor in Council and not more than two other persons appointed by the Lieutenant Governor in Council. The Review Council is authorized to consider proposed appointments and to investigate complaints.

Justices of the peace are given the same immunity from liability as judges. Retirement age provisions are made to apply to all justices of the peace.

A provision in the *Mining Act* making specified officials *ex officio* justices of the peace is repealed. The *Election Act, 1984* is amended to add justices of the peace to the list of persons who shall not be appointed or act as returning officers, election clerks, deputy returning officers or poll clerks. A provision in the *Legislative Assembly Act* is amended to make justices of the peace ineligible to be members of the Assembly.

NOTES EXPLICATIVES

La présente révision de la *Loi sur les juges de paix* traite des recommandations du rapport intitulé «The Office and Function of Justices of the Peace in Ontario», présenté par le professeur Alan Mewett en 1981, ainsi que des questions qui ont été soulevées au sujet de l'indépendance des juges de paix.

Le projet de loi fait la distinction entre les juges de paix-présidents et les juges de paix non-présidents. Il est conféré au lieutenant-gouverneur en conseil le pouvoir de nommer des juges de paix et de décider si un juge de paix appartiendra à la catégorie des juges de paix-présidents ou non-présidents, sur la recommandation du procureur général. Les juges de paix qui président actuellement la Cour des infractions provinciales sont réputés des juges de paix-présidents. Il est conféré au lieutenant-gouverneur en conseil le pouvoir de désigner d'autres juges de paix déjà nommés comme appartenant à la catégorie des juges de paix-présidents ou non-présidents, sur la recommandation du Conseil d'évaluation.

Le projet de loi prévoit que le lieutenant-gouverneur en conseil nommera un juge d'une cour provinciale en tant que coordonnateur des juges de paix. Ce dernier est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de l'autorité qu'exercent les juges en chef. Certaines fonctions ne sont pas affectées aux juges de paix-présidents et non-présidents. Il est également conféré au coordonnateur le pouvoir de donner des directives, portant sur des questions de droit et de procédure, qui lient les juges de paix.

La rémunération des juges de paix ne se fait plus sous forme d'honoraires. Les juges de paix à temps partiel travaillent selon un tableau de service et font rapport au coordonnateur des fonctions qu'ils remplissent. Les salaires des juges de paix à temps partiel, qui correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur, sont calculés conformément aux règlements.

Le juge de paix ne peut être destitué que si :

1. le Conseil d'évaluation est saisi d'une plainte,
2. un juge d'une cour provinciale tient ensuite une enquête,
3. à la suite de la recommandation du juge, le lieutenant-gouverneur en conseil, par décret, destitue le juge de paix.

La structure du Conseil d'évaluation est modifiée afin d'inclure les juges en chef des divisions criminelle et de la famille de la Cour provinciale, le coordonnateur, un juge de paix nommé par le lieutenant-gouverneur en conseil et deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil. Le Conseil d'évaluation étudie les candidatures et fait enquête sur les plaintes.

Les juges de paix ont la même immunité que les juges en ce qui concerne la responsabilité personnelle. Les dispositions portant sur la retraite s'appliquent maintenant à tous les juges de paix.

Est abrogée la disposition de la *Loi sur les mines* qui confère à certains fonctionnaires le statut de juges de paix d'office. La *Loi électorale de 1984* est modifiée afin d'ajouter les juges de paix à la catégorie des personnes qui ne sont pas nommées directeurs du scrutin, secrétaires du scrutin, scrutateurs ou secrétaires du bureau de vote, ni n'agissent à ces divers titres. Une disposition de la *Loi sur l'Assemblée législative* est modifiée à l'effet que les juges de paix sont désormais inhabiles à être membres de l'Assemblée.

Bill 93**1989****An Act to revise the Justices of the Peace 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,"coordon-
nateur"

"Co-ordinator" means the Co-ordinator of Justices of the Peace appointed under section 13;

"juge de paix
non-prési-
dent"

"non-presiding justice of the peace" means a person designated as a non-presiding justice of the peace under section 4;

"prescrit"

"prescribed" means prescribed by the regulations;

"juge de
paix-prési-
dent"

"presiding justice of the peace" means a person designated as a presiding justice of the peace under section 4;

"règlements"

"regulations" means the regulations made under this Act;

"Conseil
d'évaluation"

"Review Council" means the Justices of the Peace Review Council continued by section 9.

Appointment
of justices

2.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint full-time and part-time justices of the peace.

Projet de loi 93

1989

Loi portant révision de la Loi sur les juges de paix

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

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

«Conseil d'évaluation» Le Conseil d'évaluation des juges de paix maintenu en fonction par l'article 9. «Review Council»

«coordonnateur» Le coordonnateur des juges de paix nommé en vertu de l'article 13. «Co-ordinator»

«juge de paix non-président» Personne désignée comme juge de paix non-président en vertu de l'article 4. «non-presiding justice of the peace»

«juge de paix-président» Personne désignée comme juge de paix-président en vertu de l'article 4. «presiding justice of the peace»

«prescrit» Prescrit par les règlements. «prescribed»

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

2 (1) Le lieutenant-gouverneur en conseil peut, sur la recommandation du procureur général, nommer des juges de paix à temps plein et à temps partiel. Nomination des juges de paix

Transition
R.S.O. 1980,
c. 227

(2) Every person who receives a salary as a justice of the peace in accordance with subsection 7 (2) of the *Justices of the Peace Act* immediately before this Act comes into force shall be deemed to have been appointed as a full-time justice of the peace and every other person who is a justice of the peace immediately before this Act comes into force shall be deemed to have been appointed as a part-time justice of the peace.

Reappoint-
ment as
part-time

(3) The Lieutenant Governor in Council shall not appoint a full-time justice of the peace to be a part-time justice of the peace unless the Review Council recommends the reappointment.

Other work

(4) A full-time justice of the peace shall not engage in any other remunerative work.

Oath of
office

3. Every justice of the peace, before beginning the duties of office, shall make the following oath or affirmation in French or in English:

I,, solemnly swear (affirm) that I will faithfully and to the best of my skill and knowledge, execute the duties of a justice of the peace, and I will do so without fear or favour, affection or ill will. So help me God. (Omit last sentence in an affirmation.)

Presiding or
non-presiding

4.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall designate every justice of the peace appointed after the coming into force of this Act as a presiding justice of the peace or a non-presiding justice of the peace.

Deemed
designation

(2) Every justice of the peace authorized to preside at the trial of an offence described in clause 15 (c) (provincial offences) immediately before this Act comes into force and has not attained the age of seventy at that time shall be deemed to have been designated as a presiding justice of the peace.

Designation
of other
justices

(3) The Lieutenant Governor in Council, on the recommendation of the Review Council, may designate any other justice of the peace who is appointed before this Act comes into force and has not attained the age of seventy as a presiding justice of the peace or a non-presiding justice of the peace.

Undesignated
justices

(4) A person appointed as a justice of the peace before this Act comes into force who is not designated under subsection (2) or (3) shall not exercise any authority or receive any remuneration as a justice of the peace.

(2) Les personnes qui reçoivent un traitement à titre de juge de paix conformément au paragraphe 7 (2) de la *Loi sur les juges de paix* immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps plein. Les autres personnes qui sont juges de paix immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps partiel.

Disposition
transitoire
L.R.O. 1980,
chap. 227

(3) Le lieutenant-gouverneur en conseil ne nomme pas un juge de paix à temps plein pour qu'il devienne juge de paix à temps partiel, à moins que le Conseil d'évaluation ne recommande cette nouvelle nomination.

Nouvelle
nomination à
temps partiel

(4) Le juge de paix à temps plein n'entreprend aucun autre travail rémunéré.

Autres
fonctions

3 Avant d'entrer en fonction, le juge de paix fait la prestation de serment ou l'affirmation solennelle suivante, en français ou en anglais :

Serment
d'entrée en
fonction

Je soussigné(e)....., déclare sous serment (affirme) que j'accomplirai fidèlement et de mon mieux les fonctions de juge de paix, et que j'agirai sans peur ni favoritisme, parti pris ni mauvaise volonté. Ainsi que Dieu me soit en aide. (S'il s'agit d'une affirmation, ne pas ajouter la dernière phrase.)

4 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, désigne chaque juge de paix nommé après l'entrée en vigueur de la présente loi à titre de juge de paix-président ou juge de paix non-président.

Juge de paix-
président ou
non-président

(2) Sont réputées avoir été désignées à titre de juges de paix-présidents les juges de paix autorisés à présider le procès relatif à une infraction décrite à l'alinéa 15 c) (infractions provinciales) immédiatement avant l'entrée en vigueur de la présente loi et qui n'ont pas, à ce moment, atteint l'âge de soixante-dix ans.

Désignation
réputée

(3) Le lieutenant-gouverneur en conseil, sur la recommandation du Conseil d'évaluation, peut désigner d'autres juges de paix nommés avant l'entrée en vigueur de la présente loi et qui n'ont pas atteint l'âge de soixante-dix ans à titre de juges de paix-présidents ou non-présidents.

Désignation
d'autres juges
de paix

(4) La personne qui a été nommée juge de paix avant l'entrée en vigueur de la présente loi, mais qui n'est pas désignée aux termes du paragraphe (2) ou (3), n'exerce aucune compétence d'un juge de paix et ne reçoit aucune rémunération à ce titre.

Juges de paix
non désignés

Change of
designation

(5) The Lieutenant Governor in Council shall not change the designation of a presiding justice of the peace to that of non-presiding justice of the peace.

Justices of
the peace,
ex officio

5. Every judge of the Supreme Court of Canada, the Federal Court of Canada, the Supreme Court of Ontario and the District Court of Ontario and every provincial judge is by virtue of his or her office a justice of the peace and also has power to do alone whatever two or more justices of the peace are authorized to do together.

Retirement

6. Every justice of the peace shall retire upon attaining the age of seventy years.

Resignation

7.—(1) A justice of the peace may resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Effective
date

(2) The resignation takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day.

Removal
from office

8.—(1) A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council.

Grounds for
removal

(2) The order may be made only if,

- (a) a complaint regarding the justice of the peace has been made to the Review Council; and
- (b) the removal is recommended, following an inquiry held under section 12, on the ground that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of the duties of his or her office, or
 - (iii) having failed to perform the duties of his or her office as assigned.

Order to be
tabled

(3) The order shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

(5) Le lieutenant-gouverneur en conseil ne change pas la désignation du juge de paix-président en celle de juge de paix non-président. Changement de la désignation

5 Sont juges de paix d'office les juges de la Cour suprême du Canada, de la Cour fédérale du Canada, de la Cour suprême de l'Ontario et de la Cour de district de l'Ontario, ainsi que les juges des cours provinciales. En outre, chacun d'eux a le pouvoir d'accomplir seul les actes que deux ou plusieurs juges de paix sont autorisés à accomplir ensemble. Juges de paix d'office

6 Le juge de paix prend sa retraite à l'âge de soixante-dix ans. Retraite

7 (1) Le juge de paix peut démissionner en remettant au procureur général une lettre signée à cet effet. Démission

(2) La démission prend effet le jour où elle est remise au procureur général ou, si la lettre de démission précise un jour postérieur, elle prend effet ce jour. Date de prise d'effet

8 (1) Le juge de paix ne peut être destitué que par décret du lieutenant-gouverneur en conseil. Destitution

(2) Le décret ne peut être pris que si :

Motifs permettant la destitution

a) une plainte à son sujet a été portée au Conseil d'évaluation;

b) sa destitution est recommandée, à la suite d'une enquête tenue aux termes de l'article 12, en raison du fait qu'il est devenu incapable de remplir convenablement ses fonctions ou inhabile pour l'une des raisons suivantes :

(i) il souffre d'une infirmité,

(ii) sa conduite est incompatible avec l'exercice de ses fonctions,

(iii) il n'a pas rempli les fonctions qui lui sont assignées.

(3) Le décret est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante. Dépôt du décret

Review
Council

9.—(1) The Justices of the Peace Review Council is continued and shall be composed of,

- (a) the Chief Judge of the Provincial Court (Criminal Division) who shall preside over the Review Council;
- (b) the Chief Judge of the Provincial Court (Family Division);
- (c) the Co-ordinator;
- (d) a justice of the peace appointed by the Lieutenant Governor in Council; and
- (e) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum

(2) A majority of members of the Review Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Review Council.

Staff

R.S.O. 1980,
c. 418

(3) Such officers and employees of the Review Council as are considered necessary may be appointed under the *Public Service Act*.

Expert
assistance

(4) The Review Council may engage persons, including counsel, to assist it in its investigations.

Functions

10.—(1) The functions of the Review Council are,

- (a) to consider all proposed appointments and designations of justices of the peace and make reports concerning them to the Attorney General;
- (b) to receive and investigate complaints against justices of the peace.

Liability for
damages

(2) No action or other proceeding for damages shall be instituted against the Review Council or its members or officers or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty.

Investigation
of complaints

11.—(1) When the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint, including a review of it with the justice of the peace, as it considers advisable.

9 (1) Le Conseil d'évaluation des juges de paix est maintenu et se compose des membres suivants :

Conseil
d'évaluation

- a) le juge en chef de la Cour provinciale (Division criminelle), qui préside le Conseil;
- b) le juge en chef de la Cour provinciale (Division de la famille);
- c) le coordonnateur;
- d) un juge de paix nommé par le lieutenant-gouverneur en conseil;
- e) deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil.

(2) La majorité des membres du Conseil d'évaluation constitue le quorum et peut exercer tous les pouvoirs et la compétence du Conseil.

Quorum

(3) Les employés du Conseil jugés nécessaires peuvent être engagés aux termes de la *Loi sur la fonction publique*.

Personnel
L.R.O. 1980,
chap. 418

(4) Le Conseil d'évaluation peut engager d'autres personnes, notamment des avocats, pour l'aider dans ses enquêtes.

Experts

10 (1) Les fonctions du Conseil d'évaluation sont les suivantes :

Fonctions

- a) examiner les candidatures aux postes de juges de paix, ainsi que leurs désignations proposées, et en faire rapport au procureur général;
- b) recevoir les plaintes portées contre les juges de paix et faire enquête à leur sujet.

(2) Aucune action ou poursuite en dommages-intérêts ne peut être intentée contre le Conseil d'évaluation, ses membres ou employés ni contre quiconque agit sous son autorité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice de ses fonctions.

Responsabilité
pour domma-
ges-intérêts

11 (1) Lorsque le Conseil d'évaluation reçoit une plainte contre un juge de paix, il prend les mesures qu'il estime opportunes pour faire enquête. Ces mesures peuvent comprendre une discussion de la plainte avec le juge de paix.

Enquête sur
les plaintes

Referral to
Co-ordinator

(2) The Review Council may, if it considers it appropriate to do so, transmit complaints to the Co-ordinator.

Proceedings
not public

(3) The proceedings of the Review Council shall not be public, but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public.

Prohibiting
publication

(4) The Review Council may order that information or documents relating to its investigation not be published or disclosed except as required by law.

Powers

R.S.O. 1980,
c. 411

(5) The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Notice of
disposition

(6) When the Review Council has dealt with a complaint regarding a justice of the peace, it shall inform,

(a) the person who made the complaint; and

(b) the justice of the peace, if the complaint was brought to his or her attention,

of its disposition of the complaint.

Report and
recommen-
dations

(7) The Review Council may report its opinion regarding the complaint to the Attorney General and may recommend,

(a) that an inquiry be held under section 12;

(b) that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation.

Copy to
justice

(8) A copy of the report shall be given to the justice of the peace.

Right to be
heard

(9) The Review Council shall not make a report unless the justice of the peace was notified of the investigation and given an opportunity to be heard and to produce evidence.

Publication
of report

(10) The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so.

(2) Le Conseil d'évaluation peut, s'il le juge opportun, transmettre des plaintes au coordonnateur. Plaintes transmises au coordonnateur

(3) Les enquêtes sont tenues à huis clos, mais le Conseil d'évaluation peut aviser le procureur général qu'il a entrepris une enquête. Le procureur général peut informer le public de ce fait. Huis clos

(4) Le Conseil d'évaluation peut ordonner que des renseignements ou des documents qui portent sur l'enquête ne soient ni publiés ni divulgués, sauf dans la mesure exigée par la loi. Publication interdite

(5) Le Conseil d'évaluation possède les pouvoirs d'une commission aux termes de la partie II de la *Loi sur les enquêtes publiques*. Cette partie s'applique à l'enquête du Conseil comme si elle était tenue en vertu de cette loi. Pouvoirs
L.R.O. 1980,
chap. 411

(6) Lorsque le Conseil d'évaluation a traité d'une plainte relative à un juge de paix, il avise de la décision prise à l'égard de la plainte : Avis de la décision

- a) la personne qui a porté plainte;
- b) le juge de paix, si la plainte a été portée à son attention.

(7) Le Conseil d'évaluation peut faire rapport au procureur général de son opinion à l'égard de la plainte et recommander : Rapport et recommandations

- a) qu'une enquête soit tenue aux termes de l'article 12;
- b) que le juge de paix soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.

(8) Une copie du rapport est remise au juge de paix. Copie au juge de paix

(9) Le Conseil d'évaluation ne fait pas de rapport s'il n'a pas avisé le juge de paix de la tenue de l'enquête et ne lui a pas fourni l'occasion de se faire entendre et de présenter des preuves. Droit de se faire entendre

(10) Le procureur général peut publier le rapport, en tout ou en partie, s'il le juge dans l'intérêt public. Publication du rapport

- Transition
R.S.O. 1980,
c. 227
- (11) An investigation commenced under section 8 of the *Justices of the Peace Act* but not completed before this Act comes into force shall be continued in accordance with this Act by the Review Council as constituted under that section.
- Inquiry
- 12.**—(1) The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question of whether a justice of the peace should be removed from office.
- Powers
R.S.O. 1980,
c. 411
- (2) The *Public Inquiries Act* applies to the inquiry.
- Report
- (3) The report of the inquiry may recommend,
- (a) that the justice of the peace be removed from office;
- (b) that the justice of the peace be compensated for all or part of his or her costs in connection with the inquiry.
- Tabling of
report
- (4) The report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.
- Co-ordinator
appointed
- 13.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a provincial judge as Co-ordinator of Justices of the Peace.
- Co-ordinator
to supervise
justices,
assign duties
- (2) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Provincial Court (Criminal Division) or, in matters relating to the jurisdiction of the Provincial Court (Family Division), the Chief Judge of that court.
- Idem
- (3) The Co-ordinator's authority to assign duties includes authority to direct the times and places that justices of the peace shall perform their duties.
- Part-time
justices to
follow duty
roster
- (4) A part-time justice of the peace shall not act as a justice of the peace except in accordance with a duty roster established by the Co-ordinator.
- Duty rosters
public
- (5) The duty rosters shall be made available to the public.

(11) L'enquête commencée en vertu de l'article 8 de la *Loi sur les juges de paix* et qui n'a pas été terminée avant l'entrée en vigueur de la présente loi est continuée, conformément à la présente loi, par le Conseil d'évaluation tel qu'il est constitué aux termes de cet article.

Disposition
transitoire
L.R.O. 1980,
chap. 227

12 (1) Le lieutenant-gouverneur en conseil peut charger un juge d'une cour provinciale de faire enquête afin de déterminer si un juge de paix devrait être destitué.

Enquête

(2) La *Loi sur les enquêtes publiques* s'applique à l'enquête.

Pouvoirs
L.R.O. 1980,
chap. 411

(3) Le rapport de l'enquête peut recommander :

Rapport

a) que le juge de paix soit destitué de ses fonctions;

b) que le juge soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.

(4) Le rapport est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante.

Dépôt du
rapport

13 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, nomme un juge d'une cour provinciale en tant que coordonnateur des juges de paix.

Nomination
du coordon-
nateur

(2) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions. Ceci, sous réserve de la direction du juge en chef de la Cour provinciale (Division criminelle) ou, en ce qui concerne la compétence de la Cour provinciale (Division de la famille), du juge en chef de ce tribunal.

Surveillance,
etc., par le
coordonnateur

(3) Le pouvoir du coordonnateur en ce qui concerne l'assignation des fonctions des juges de paix comprend le pouvoir de fixer la date, l'heure et le lieu où ces fonctions seront exercées.

Idem

(4) Le juge de paix à temps partiel n'exerce les fonctions d'un juge de paix qu'en conformité avec un tableau de service établi par le coordonnateur.

Tableau de
service

(5) Les tableaux de service sont mis à la disposition des membres du public.

Tableaux de
service acces-
sibles au
public

Reports on
duties
performed

(6) Part-time justices of the peace shall submit to the Co-ordinator, when required by the Co-ordinator, reports containing the prescribed information on the duties they have performed.

Assistance to
Co-ordinator

(7) Provincial judges shall assist the Co-ordinator in the supervision of justices and assignment of their duties and in the exercise of the Co-ordinator's other functions under this section, if the Co-ordinator or a chief judge so requests, and for the purpose they have the Co-ordinator's authority.

Assignment
of duties to
presiding
justice

14.—(1) The following duties shall not be assigned to a presiding justice of the peace:

R.S.C. 1970,
c. C-34

- (a) presiding at the trial of an offence under the *Criminal Code* (Canada);
- (b) presiding at the trial of an offence under any other Act of the Parliament of Canada, unless the offence is prescribed as an offence to the trial of which a presiding justice of the peace may be assigned;
- (c) holding a preliminary inquiry under Part XV of the *Criminal Code* (Canada);
- (d) exercising jurisdiction under the *Criminal Code* (Canada) in respect of an accused if the question of the accused's capability to conduct a defence or fitness to stand trial is raised;
- (e) exercising jurisdiction under section 68 (reading proclamation at riot) or section 471 (remand where offence committed in another jurisdiction) of the *Criminal Code* (Canada).

Exception

(2) Subsection (1) does not apply to adjournments.

Assignment
of duties to
non-presiding
justice

15. The following duties shall not be assigned to a non-presiding justice of the peace:

- (a) the duties described in section 14;
- (b) presiding at the trial of an offence that is prescribed as one to the trial of which a presiding justice of the peace may be assigned;

(6) Les juges de paix à temps partiel soumettent au coordonnateur, à sa demande, des rapports qui comprennent les renseignements prescrits au sujet des fonctions qu'ils ont remplies.

Rapport

(7) Les juges des cours provinciales prêtent leur aide au coordonnateur, en ce qui concerne la surveillance des juges de paix et l'assignation de leurs fonctions, et dans l'exercice des autres compétences du coordonnateur visées au présent article, à la demande du coordonnateur ou d'un juge en chef. À cette fin, ils disposent des mêmes pouvoirs que le coordonnateur.

Aide au coordonnateur

14 (1) Les fonctions suivantes ne sont pas assignées au juge de paix-président :

Assignation des fonctions au juge de paix-président

- a) présider le procès relatif à une infraction visée au *Code criminel* (Canada);
- b) présider le procès relatif à une infraction visée à une autre loi du Parlement du Canada, à moins que l'infraction n'ait été prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;
- c) tenir une enquête préliminaire aux termes de la partie XV du *Code criminel* (Canada);
- d) exercer une compétence visée au *Code criminel* (Canada) à l'égard d'un accusé, si la question de son aptitude de conduire sa défense ou de sa capacité de subir son procès est soulevée;
- e) exercer les compétences visées à l'article 68 du *Code criminel* (Canada) (proclamation lors d'une émeute) et à l'article 471 de cette loi (renvoi lorsque l'infraction a été commise dans une autre juridiction).

S.R.C. 1970, chap. C-34

(2) Le paragraphe (1) ne s'applique pas aux ajournements.

Exception

15 Les fonctions suivantes ne sont pas assignées au juge de paix non-président :

Assignation des fonctions au juge de paix non-président

- a) les fonctions décrites à l'article 14;
- b) présider le procès relatif à une infraction qui est prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;

- (c) presiding at the trial of an offence under an Act of the Legislature or under a regulation or by-law made under the authority of such an Act;
- R.S.O. 1980,
c. 400
- (d) exercising jurisdiction under section 9 or 19 of the *Provincial Offences Act* (default conviction);
- (e) presiding at a hearing to determine whether a person should be released from or detained in custody;
- (f) exercising authority to issue a warrant to levy a tax, toll or dues under,
- R.S.C. 1970,
c. P-38
- (i) section 32 of the *Public Works Act* (Canada),
- R.S.O. 1980,
c. 229
- (ii) section 66 of the *Lakes and Rivers Improvement Act*, or
- R.S.O. 1980,
c. 302
- (iii) subsection 387 (6) of the *Municipal Act*;
- (g) determining whether a thing should be forfeited or held under,
- R.S.C. 1970,
c. M-12
- (i) section 7 of the *Migratory Birds Convention Act* (Canada), or
- R.S.C. 1970,
c. N-13
- (ii) subsection 8 (3) of the *National Parks Act* (Canada);
- (h) determining whether an order should be issued under section 10 of the *Mental Health Act* (examination by physician);
- R.S.O. 1980,
c. 262
- (i) presiding at a hearing to determine a dispute under,
- R.S.C. 1970,
c. S-9
- (i) section 207 of the *Canada Shipping Act*,
- R.S.C. 1970,
c. F-14
- (ii) section 11 of the *Fisheries Act* (Canada),
- R.S.O. 1980,
c. 257
- (iii) section 4 of the *Master and Servant Act*, or
- R.S.O. 1980,
c. 372
- (iv) section 25, 26 or 27 of the *Pawnbrokers Act*;

- c) présider le procès relatif à une infraction visée à une loi de la Législature, ou à un règlement pris en application d'une telle loi;
- d) exercer une compétence en vertu de l'article 9 ou 19 de la *Loi sur les infractions provinciales* (reconnaissance de culpabilité en l'absence du défendeur); L.R.O. 1980, chap. 400
- e) présider une audience pour décider si une personne devrait être détenue sous garde ou libérée;
- f) exercer le pouvoir de décerner des mandats afin de percevoir des impôts, des droits ou des péages en vertu des dispositions suivantes :
- (i) l'article 32 de la *Loi sur les travaux publics* (Canada), S.R.C. 1970, chap. P-38
- (ii) l'article 66 de la *Loi sur l'aménagement des lacs et des rivières*, L.R.O. 1980, chap. 229
- (iii) le paragraphe 387 (6) de la *Loi sur les municipalités*; L.R.O. 1980, chap. 302
- g) décider si des choses doivent être confisquées ou détenues en vertu des dispositions suivantes :
- (i) l'article 7 de la *Loi sur la Convention concernant les oiseaux migrateurs* (Canada), S.R.C. 1970, chap. M-12
- (ii) le paragraphe 8 (3) de la *Loi sur les parcs nationaux* (Canada); S.R.C. 1970, chap. N-13
- h) décider si une ordonnance doit être rendue en vertu de l'article 10 de la *Loi sur la santé mentale* (examen par un médecin); L.R.O. 1980, chap. 262
- i) présider des audiences en vue de régler des différends en vertu des dispositions suivantes :
- (i) l'article 207 de la *Loi sur la marine marchande du Canada*, S.R.C. 1970, chap. S-9
- (ii) l'article 11 de la *Loi sur les pêcheries* (Canada), S.R.C. 1970, chap. F-14
- (iii) l'article 4 de la *Loi sur le louage de services*, L.R.O. 1980, chap. 257
- (iv) les articles 25, 26 et 27 de la *Loi sur le prêt sur gage*; L.R.O. 1980, chap. 372

- (j) a duty that is prescribed as one that shall not be assigned to a non-presiding justice.

Jurisdiction
of justices

16.—(1) Justices of the peace have jurisdiction throughout Ontario.

Idem

(2) Subject to sections 14 and 15, justices of the peace shall exercise the powers and perform the duties conferred or imposed on a justice of the peace by or under an Act of the Legislature or of the Parliament of Canada.

Justices to
assist public

(3) Justices of the peace shall assist members of the public, at their request, in formulating informations in respect of offences.

Justices to
perform
duties

(4) Justices of the peace shall perform the duties assigned to them under this Act.

Salary of
part-time
justices

17. The salary, if any, to which each part-time justice of the peace is entitled shall be based on the Co-ordinator's determination of the justice's workload and calculated in accordance with the regulations.

Directions

18.—(1) The Co-ordinator may issue directions to justices of the peace on questions of law and procedure.

Directions
binding on
justices

(2) Justices of the peace shall follow a direction issued under subsection (1) unless it has been disapproved by a court on an appeal or a review.

Directions to
be published

(3) The Co-ordinator shall cause the directions to be published in *The Ontario Gazette*.

Immunity
from liability

19. A justice of the peace has the same immunity from liability as a judge of the Supreme Court.

Regulations

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

R.S.C. 1970,
c. C-34

- (a) prescribing offences under Acts of Parliament other than the *Criminal Code* (Canada) in respect of which a presiding justice of the peace may be assigned to preside at a trial;
- (b) prescribing the information to be included in reports under subsection 13 (6);

- j) exercer les fonctions qui ont été prescrites comme étant des fonctions qui ne sont pas assignées au juge de paix non-président.

16 (1) Les juges de paix ont compétence dans tout l'Ontario. Compétence des juges de paix

(2) Sous réserve des articles 14 et 15, les juges de paix exercent les pouvoirs et remplissent les fonctions que leur confère une loi de la Législature ou du Parlement du Canada ou qui leur sont conférées en vertu d'une telle loi. Idem

(3) Les juges de paix prêtent leur aide aux membres du public, lorsque ces derniers le demandent, en ce qui concerne la formulation des dénonciations. Aide au public

(4) Les juges de paix remplissent les fonctions qui leur sont assignées en vertu de la présente loi. Les juges de paix remplissent leurs fonctions

17 Les traitements, le cas échéant, auxquels ont droit les juges de paix à temps partiel correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur. Les traitements sont calculés conformément aux règlements. Traitements des juges de paix à temps partiel

18 (1) Le coordonnateur peut donner aux juges de paix des directives portant sur des questions de droit et de procédure. Directives

(2) Les juges de paix suivent la directive donnée aux termes du paragraphe (1), à moins qu'elle n'ait été désapprouvée par le tribunal lors d'un appel ou d'une révision. Effet sur les juges de paix

(3) Le coordonnateur fait publier les directives dans la *Gazette de l'Ontario*. Publication des directives

19 Le juge de paix jouit de la même immunité qu'un juge de la Cour suprême en ce qui concerne la responsabilité personnelle. Immunité

20 (1) Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) prescrire des infractions visées aux lois du Parlement du Canada, à l'exclusion du *Code criminel* (Canada), dont un juge de paix-président peut être affecté au procès qui y est relatif; S.R.C. 1970, chap. C-34

- b) prescrire les renseignements qui doivent figurer dans les rapports visés au paragraphe 13 (6);

- (c) prescribing the salaries of full-time justices of the peace and prescribing the manner in which the salaries of part-time justices of the peace shall be calculated, including the factors to be taken into account and the method of calculation to be used;
- (d) providing for the benefits to which full-time and part-time justices of the peace are entitled;
- (e) providing for the payment of additional compensation to full-time and part-time justices of the peace for special assignments;
- (f) prescribing duties that shall not be assigned to a non-presiding justice of the peace.

Classes

(2) A regulation made under clause (1) (c) or (d) may prescribe classes of full-time and part-time justices of the peace for the purpose of salaries and benefits.

Justices of the peace who are public servants

(3) A regulation made under clause (1) (c) or (d) may provide that the duties performed, in the course of their public service employment, by justices of the peace who are also employed in the public service of Ontario shall not be considered in calculating their salary and benefits under this Act.

Contributions

(4) A regulation made under clause (1) (d) may require justices of the peace to contribute from their salaries part of the cost of a benefit and may fix the amount of the contributions.

Benefits

(5) A regulation made under clause (1) (d) may provide that justices of the peace whose salaries are less than prescribed amounts are not entitled to prescribed benefits.

Territorial limitations

(6) A regulation made under clause (1) (e) may be limited territorially.

21.—(1) Section 2 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

- c) prescrire les traitements des juges de paix à temps plein et prescrire les modalités selon lesquelles sont calculés les traitements des juges de paix à temps partiel, y compris les facteurs dont il est tenu compte et la méthode de calcul utilisée;
- d) prévoir les avantages sociaux auxquels ont droit les juges de paix à temps plein et à temps partiel;
- e) prévoir le versement d'une rémunération additionnelle aux juges de paix à temps plein et à temps partiel en ce qui concerne les affectations particulières;
- f) prescrire les fonctions qui ne sont pas assignées au juge de paix non-président.

(2) Un règlement pris en application de l'alinéa (1) c) ou d) peut prescrire des catégories de juges de paix à temps plein et à temps partiel aux fins de leurs traitements et avantages sociaux. Catégories

(3) Un règlement pris en application de l'alinéa (1) c) ou d) peut prévoir qu'il n'est pas tenu compte, en ce qui concerne le calcul de leurs traitements et avantages sociaux en vertu de la présente loi, des fonctions qu'accomplissent dans le cadre de leur travail au sein de la fonction publique des juges de paix qui font également partie de la fonction publique. Juges de paix
qui sont
fonctionnaires

(4) Un règlement pris en application de l'alinéa (1) d) peut exiger que soient prélevées sur les traitements des juges de paix des cotisations qui couvrent une partie du coût d'un avantage social. Ce règlement peut également fixer le montant des cotisations. Cotisations

(5) Un règlement pris en application de l'alinéa (1) d) peut prévoir que les juges de paix dont les traitements sont inférieurs à des montants prescrits n'ont pas droit à des avantages sociaux prescrits. Avantages
sociaux

(6) Un règlement pris en application de l'alinéa (1) e) peut être assujéti à des limitations territoriales. Limitations
territoriales

21 (1) L'article 2 de la Loi sur les commissaires aux affidavits, qui constitue le chapitre 75 des Lois refondues de l'Ontario de 1980, est modifié par adjonction du paragraphe suivant :

Provincial
judges,
justices of
the peace

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.

(2) Section 13 of the said Act is amended by striking out “notary public or justice of the peace” in the third line and inserting in lieu thereof “or notary public”.

22. Subsection 61 (3) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

23. Paragraph 1 of subsection 5 (1) of the *Election Act, 1984*, being chapter 54, is amended by adding at the end thereof “or justices of the peace”.

24. The *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, the *Justices of the Peace Amendment Act, 1984*, being chapter 8 and section 22 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, are repealed.

25. Clause 8 (2) (c) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by striking out “justice of the peace” in the first line.

26. Subsection 13 (1) of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed.

27.—(1) Sections 1, 2, 3 and 5 and subsection 6 (1) of the *Public Authorities Protection Act*, being chapter 406 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 7 (1) of the said Act is amended by striking out “against the justice of the peace who made the conviction or” in the second and third lines.

Commence-
ment

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

Short title

29. The short title of this Act is the *Justices of the Peace Act, 1989*.

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.*

Provincial
judges,
justices of
the peace

(2) L'article 13 de cette loi est modifié par substitution, à «notary public or justice of the peace» à la troisième ligne, de «or notary public».

22 Le paragraphe 61 (3) de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé.

23 La disposition 1 du paragraphe 5 (1) de la *Loi électorale de 1984*, qui constitue le chapitre 54, est modifiée par adjonction de «or justices of the peace».

24 La *Loi sur les juges de paix*, qui constitue le chapitre 227 des Lois refondues de l'Ontario de 1980, la *Loi de 1984 modifiant la Loi sur les juges de paix*, qui constitue le chapitre 8, et l'article 22 de la *Loi de 1986 modifiant des lois concernant les droits à l'égalité*, qui constitue le chapitre 64, sont abrogés.

25 L'alinéa 8 (2) c) de la *Loi sur l'Assemblée législative*, qui constitue le chapitre 235 des Lois refondues de l'Ontario de 1980, est modifié par suppression des mots «justice of the peace» à la première ligne.

26 Le paragraphe 13 (1) de la *Loi sur les mines*, qui constitue le chapitre 268 des Lois refondues de l'Ontario de 1980, est abrogé.

27 (1) Les articles 1, 2, 3 et 5 et le paragraphe 6 (1) de la *Loi sur l'immunité des personnes publiques*, qui constitue le chapitre 406 des Lois refondues de l'Ontario de 1980, sont abrogés.

(2) Le paragraphe 7 (1) de cette loi est modifié par suppression des mots «against the justice of the peace who made the conviction or» aux deuxième et troisième lignes.

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

Entrée en
vigueur

29 Le titre abrégé de la présente loi est *Loi de 1989 sur les juges de paix*.

Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

1885-1886





SESSION, 34TH LEGISLATURE, ONTARIO
38 ELIZABETH II, 1989

Bill 93

An Act to revise the Justices of the Peace Act

The Hon. I. Scott
Attorney General

1st Reading January 6th, 1988
2nd Reading June 14th, 1989
3rd Reading
Royal Assent

*Continued from the 1st Session
by Order of the Legislative Assembly
of March 2nd, 1989.*

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

2^e SESSION, 34^e LÉGISLATURE, ONTARIO
38 ELIZABETH II, 1989

Projet de loi 93

Loi portant révision de la Loi sur les juges de paix

L'honorable I. Scott
procureur général

1^{re} lecture 6 janvier 1988
2^e lecture 14 juin 1989
3^e lecture
sanction royale

*Reporté de la 1^{re} session
par ordre de l'Assemblée législative
daté du 2 mars 1989.*

*(Réimprimé tel qu'il est modifié par
le comité plénier de l'Assemblée)*

EXPLANATORY NOTES

This revision of the *Justices of the Peace Act* deals with recommendations of Professor Alan Mewett's 1981 report to the Attorney General entitled "The Office and Function of Justices of the Peace in Ontario" as well as with concerns expressed about the independence of justices of the peace.

The Bill distinguishes between presiding and non-presiding justices of the peace. The Lieutenant Governor in Council is given the power to appoint justices of the peace and determine whether a justice is presiding or non-presiding on the recommendation of the Attorney General. Justices of the peace who now preside over Provincial Offences Courts are deemed to be presiding justices and the Lieutenant Governor in Council is given the power to designate other justices already appointed as presiding or non-presiding on the recommendation of the Review Council.

Provision is made for the Lieutenant Governor in Council to appoint a provincial judge as Co-ordinator of Justices of the Peace. The Co-ordinator is given general supervision and direction over sittings of justices of the peace and assigns their duties, subject to the authority of the chief judges. Certain duties are not to be assigned to presiding and non-presiding justices. The Co-ordinator is empowered to issue directions on matters of law and procedure that are binding on all justices of the peace.

Justices of the peace are no longer paid on the basis of fees for services. Part-time justices are to work according to a duty roster and to report the details of duties they perform to the Co-ordinator. Salaries of part-time justices are based on the Co-ordinator's determination of their workload and calculated in accordance with the regulations.

A justice can be removed from office only if,

1. a complaint is made to the Review Council,
2. an inquiry is then held by a provincial judge, and
3. following a recommendation by the judge, the Lieutenant Governor in Council orders the removal.

The Review Council is restructured to include the chief judges of the criminal and family divisions of the Provincial Court, the Co-ordinator, a justice of the peace appointed by the Lieutenant Governor in Council and not more than two other persons appointed by the Lieutenant Governor in Council. The Review Council is authorized to consider proposed appointments and to investigate complaints.

Justices of the peace are given the same immunity from liability as judges. Retirement age provisions are made to apply to all justices of the peace.

A provision in the *Mining Act* making specified officials *ex officio* justices of the peace is repealed. The *Election Act, 1984* is amended to add justices of the peace to the list of persons who shall not be appointed or act as returning officers, election clerks, deputy returning officers or poll clerks. A provision in the *Legislative Assembly Act* is amended to make justices of the peace ineligible to be members of the Assembly.

The provisions of the Act relating to presiding and non-presiding justices of the peace and salaries of part-time justices of the peace will be implemented on a regional basis.

NOTES EXPLICATIVES

La présente révision de la *Loi sur les juges de paix* traite des recommandations du rapport intitulé «The Office and Function of Justices of the Peace in Ontario», présenté par le professeur Alan Mewett en 1981, ainsi que des questions qui ont été soulevées au sujet de l'indépendance des juges de paix.

Le projet de loi fait la distinction entre les juges de paix-présidents et les juges de paix non-présidents. Il est conféré au lieutenant-gouverneur en conseil le pouvoir de nommer des juges de paix et de décider si un juge de paix appartiendra à la catégorie des juges de paix-présidents ou non-présidents, sur la recommandation du procureur général. Les juges de paix qui président actuellement la Cour des infractions provinciales sont réputés des juges de paix-présidents. Il est conféré au lieutenant-gouverneur en conseil le pouvoir de désigner d'autres juges de paix déjà nommés comme appartenant à la catégorie des juges de paix-présidents ou non-présidents, sur la recommandation du Conseil d'évaluation.

Le projet de loi prévoit que le lieutenant-gouverneur en conseil nommera un juge provincial en tant que coordonnateur des juges de paix. Ce dernier est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de l'autorité qu'exercent les juges en chef. Certaines fonctions ne sont pas affectées aux juges de paix-présidents et non-présidents. Il est également conféré au coordonnateur le pouvoir de donner des directives, portant sur des questions de droit et de procédure, qui lient les juges de paix.

La rémunération des juges de paix ne se fait plus sous forme d'honoraires. Les juges de paix à temps partiel travaillent selon un tableau de service et font rapport au coordonnateur des fonctions qu'ils remplissent. Les traitements des juges de paix à temps partiel, qui correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur, sont calculés conformément aux règlements.

Le juge de paix ne peut être destitué que si :

1. le Conseil d'évaluation est saisi d'une plainte,
2. un juge provincial tient ensuite une enquête,
3. à la suite de la recommandation du juge, le lieutenant-gouverneur en conseil, par décret, destitue le juge de paix.

La structure du Conseil d'évaluation est modifiée afin d'inclure les juges en chef des divisions criminelle et de la famille de la Cour provinciale, le coordonnateur, un juge de paix nommé par le lieutenant-gouverneur en conseil et deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil. Le Conseil d'évaluation étudie les candidatures et fait enquête sur les plaintes.

Les juges de paix ont la même immunité que les juges en ce qui concerne la responsabilité personnelle. Les dispositions portant sur la retraite s'appliquent maintenant à tous les juges de paix.

Est abrogée la disposition de la *Loi sur les mines* qui confère à certains fonctionnaires le statut de juges de paix d'office. La *Loi électorale de 1984* est modifiée afin d'ajouter les juges de paix à la catégorie des personnes qui ne sont pas nommées directeurs du scrutin, secrétaires du scrutin, scrutateurs ou secrétaires du bureau de vote, ni n'agissent à ces divers titres. Une disposition de la *Loi sur l'Assemblée législative* est modifiée à l'effet que les juges de paix sont désormais inhabiles à être membres de l'Assemblée.

Les dispositions de la loi concernant les juges de paix-présidents et non-présidents et les traitements des juges de paix à temps partiel seront mises en application région par région. ▲

Bill 93**1989****An Act to revise the Justices of the Peace Act****CONTENTS**

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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,

“Co-ordinator” means the Co-ordinator of Justices of the Peace appointed under section 13; (“coordonnateur”)

“non-presiding justice of the peace” means a person designated as a non-presiding justice of the peace under section 4; (“juge de paix non-président”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“presiding justice of the peace” means a person designated as a presiding justice of the peace under section 4; (“juge de paix-président”)

“regulations” means the regulations made under this Act; (“règlements”)

Projet de loi 93

1989

Loi portant révision de la Loi sur les juges de paix

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

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

«Conseil d'évaluation» Le Conseil d'évaluation des juges de paix maintenu en fonction par l'article 9. («Review Council»)

«coordonnateur» Le coordonnateur des juges de paix nommé en vertu de l'article 13. («Co-ordinator»)

«juge de paix non-président» Personne désignée comme juge de paix non-président en vertu de l'article 4. («non-presiding justice of the peace»)

«juge de paix-président» Personne désignée comme juge de paix-président en vertu de l'article 4. («presiding justice of the peace»)

«prescrit» Prescrit par les règlements. («prescribed»)

“Review Council” means the Justices of the Peace Review Council continued by section 9. (“Conseil d’évaluation”)

Appointment
of justices

2.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint full-time and part-time justices of the peace.

Transition
R.S.O. 1980,
c. 227

(2) Every person who receives a salary as a justice of the peace in accordance with subsection 7 (2) of the *Justices of the Peace Act* immediately before this Act comes into force shall be deemed to have been appointed as a full-time justice of the peace and every other person who is a justice of the peace immediately before this Act comes into force shall be deemed to have been appointed as a part-time justice of the peace.

Reappoint-
ment as
part-time

(3) The Lieutenant Governor in Council shall not appoint a full-time justice of the peace to be a part-time justice of the peace unless the Review Council recommends the reappointment.

Other work

(4) A justice of the peace shall not engage in any other remunerative work without the approval of the Review Council.

Oath of
office

3. Every justice of the peace, before beginning the duties of office, shall make the following oath or affirmation in French or in English:

I,, solemnly swear (affirm) that I will faithfully and to the best of my skill and knowledge, execute the duties of a justice of the peace, and I will do so without fear or favour, affection or ill will. So help me God. (Omit last sentence in an affirmation.)

Presiding or
non-presiding

4.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall designate every justice of the peace appointed after the coming into force of this Act as a presiding justice of the peace or a non-presiding justice of the peace.

Deemed
designation

(2) Every justice of the peace who is authorized to preside at the trial of an offence described in clause 16 (c) (provincial offences) immediately before this Act comes into force and has not attained the age of seventy at that time shall be deemed to have been designated as a presiding justice of the peace.

Designation
of other
justices

(3) The Lieutenant Governor in Council, on the recommendation of the Review Council, may designate any other justice of the peace who is appointed before this Act comes into force and has not attained the age of seventy as a presid-

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

2 (1) Le lieutenant-gouverneur en conseil peut, sur la recommandation du procureur général, nommer des juges de paix à temps plein et à temps partiel.

Nomination des juges de paix

(2) Les personnes qui reçoivent un traitement à titre de juge de paix conformément au paragraphe 7 (2) de la *Loi sur les juges de paix* immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps plein. Les autres personnes qui sont juges de paix immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps partiel.

Disposition transitoire
L.R.O. 1980, chap. 227

(3) Le lieutenant-gouverneur en conseil ne nomme pas un juge de paix à temps plein pour qu'il devienne juge de paix à temps partiel, à moins que le Conseil d'évaluation ne recommande cette nouvelle nomination.

Nouvelle nomination à temps partiel

(4) Le juge de paix n'entreprend aucun autre travail rémunéré sans l'approbation du Conseil d'évaluation.

Autres fonctions

3 Avant d'entrer en fonction, le juge de paix fait la prestation de serment ou l'affirmation solennelle suivante, en français ou en anglais :

Serment d'entrée en fonction

Je soussigné(e),....., déclare sous serment (affirme) que j'accomplirai fidèlement et de mon mieux les fonctions de juge de paix, et que j'agirai sans peur ni favoritisme, parti pris ni mauvaise volonté. Ainsi que Dieu me soit en aide. (S'il s'agit d'une affirmation, ne pas ajouter la dernière phrase.)

4 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, désigne chaque juge de paix nommé après l'entrée en vigueur de la présente loi à titre de juge de paix-président ou juge de paix non-président.

Juge de paix-président ou non-président

(2) Sont réputés avoir été désignés à titre de juges de paix-présidents les juges de paix qui sont autorisés à présider le procès relatif à une infraction décrite à l'alinéa 16 c) (infractions provinciales) immédiatement avant l'entrée en vigueur de la présente loi et qui n'ont pas, à ce moment, atteint l'âge de soixante-dix ans.

Désignation réputée

(3) Le lieutenant-gouverneur en conseil, sur la recommandation du Conseil d'évaluation, peut désigner d'autres juges de paix nommés avant l'entrée en vigueur de la présente loi et qui n'ont pas atteint l'âge de soixante-dix ans à titre de juges de paix-présidents ou non-présidents.

Désignation d'autres juges de paix

ing justice of the peace or a non-presiding justice of the peace.

Undesignated
justices

(4) A person appointed as a justice of the peace before this Act comes into force who is not designated under subsection (2) or (3) shall not exercise any authority or receive any remuneration as a justice of the peace.

Change of
designation

(5) The Lieutenant Governor in Council shall not change the designation of a presiding justice of the peace to that of non-presiding justice of the peace.

Justices of
the peace,
ex officio

5. Every judge of the Supreme Court of Canada, the Federal Court of Canada, the Supreme Court of Ontario and the District Court of Ontario and every provincial judge is by virtue of his or her office a justice of the peace and also has power to do alone whatever two or more justices of the peace are authorized to do together.

Retirement

6. Every justice of the peace shall retire upon attaining the age of seventy years.

Resignation

7.—(1) A justice of the peace may resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Effective
date

(2) The resignation takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day.

Removal
from office

8.—(1) A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council.

Grounds for
removal

(2) The order may be made only if,

(a) a complaint regarding the justice of the peace has been made to the Review Council; and

(b) the removal is recommended, following an inquiry held under section 12, on the ground that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of,

(i) infirmity,

(ii) conduct that is incompatible with the execution of the duties of his or her office, or

(4) La personne qui a été nommée juge de paix avant l'entrée en vigueur de la présente loi, mais qui n'est pas désignée aux termes du paragraphe (2) ou (3), n'exerce aucune compétence d'un juge de paix et ne reçoit aucune rémunération à ce titre.

Juges de paix non désignés

(5) Le lieutenant-gouverneur en conseil ne change pas la désignation du juge de paix-président en celle de juge de paix non-président.

Changement de la désignation

5 Sont juges de paix d'office les juges de la Cour suprême du Canada, de la Cour fédérale du Canada, de la Cour suprême de l'Ontario et de la Cour de district de l'Ontario, ainsi que les juges provinciaux. En outre, chacun d'eux a le pouvoir d'accomplir seul les actes que deux ou plusieurs juges de paix sont autorisés à accomplir ensemble.

Juges de paix d'office

6 Le juge de paix prend sa retraite à l'âge de soixante-dix ans.

Retraite

7 (1) Le juge de paix peut démissionner en remettant au procureur général une lettre signée à cet effet.

Démission

(2) La démission prend effet le jour où elle est remise au procureur général ou, si la lettre de démission précise un jour postérieur, elle prend effet ce jour.

Date de prise d'effet

8 (1) Le juge de paix ne peut être destitué que par décret du lieutenant-gouverneur en conseil.

Destitution

(2) Le décret ne peut être pris que si :

Motifs permettant la destitution

a) une plainte à son sujet a été portée au Conseil d'évaluation;

b) sa destitution est recommandée, à la suite d'une enquête tenue aux termes de l'article 12, en raison du fait qu'il est devenu incapable de remplir convenablement ses fonctions ou inhabile pour l'une des raisons suivantes :

(i) il souffre d'une infirmité,

(ii) sa conduite est incompatible avec l'exercice de ses fonctions,

(iii) having failed to perform the duties of his or her office as assigned.

Order to be tabled

(3) The order shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

Review Council

9.—(1) The Justices of the Peace Review Council is continued and shall be composed of,

- (a) the Chief Judge of the Provincial Court (Criminal Division) who shall preside over the Review Council;
- (b) the Chief Judge of the Provincial Court (Family Division);
- (c) the Co-ordinator;
- (d) a justice of the peace appointed by the Lieutenant Governor in Council; and
- (e) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum

(2) A majority of members of the Review Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Review Council.

Staff

R.S.O. 1980,
c. 418

(3) Such officers and employees of the Review Council as are considered necessary may be appointed under the *Public Service Act*.

Expert assistance

(4) The Review Council may engage persons, including counsel, to assist it in its investigations.

Functions

10.—(1) The functions of the Review Council are,

- (a) to consider all proposed appointments and designations of justices of the peace and make reports concerning them to the Attorney General;
- (b) to receive and investigate complaints against justices of the peace.

Liability for damages

(2) No action or other proceeding for damages shall be instituted against the Review Council or its members or officers or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty.

(iii) il n'a pas rempli les fonctions qui lui sont assignées.

(3) Le décret est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante.

Dépôt du décret

9 (1) Le Conseil d'évaluation des juges de paix est maintenu et se compose des membres suivants :

Conseil d'évaluation

- a) le juge en chef de la Cour provinciale (Division criminelle), qui préside le Conseil;
- b) le juge en chef de la Cour provinciale (Division de la famille);
- c) le coordonnateur;
- d) un juge de paix nommé par le lieutenant-gouverneur en conseil;
- e) deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil.

(2) La majorité des membres du Conseil d'évaluation constitue le quorum et peut exercer tous les pouvoirs et la compétence du Conseil.

Quorum

(3) Les employés du Conseil jugés nécessaires peuvent être engagés aux termes de la *Loi sur la fonction publique*.

Personnel
L.R.O. 1980,
chap. 418

(4) Le Conseil d'évaluation peut engager d'autres personnes, notamment des avocats, pour l'aider dans ses enquêtes.

Experts

10 (1) Les fonctions du Conseil d'évaluation sont les suivantes :

Fonctions

- a) examiner les candidatures aux postes de juges de paix, ainsi que leurs désignations proposées, et en faire rapport au procureur général;
- b) recevoir les plaintes portées contre les juges de paix et faire enquête à leur sujet.

(2) Aucune action ou poursuite en dommages-intérêts ne peut être intentée contre le Conseil d'évaluation, ses membres ou employés ni contre quiconque agit sous son autorité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice de ses fonctions.

Responsabilité pour dommages-intérêts

Investigation
of complaints

11.—(1) When the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint, including a review of it with the justice of the peace, as it considers advisable.

Referral to
Co-ordinator

(2) The Review Council may, if it considers it appropriate to do so, transmit complaints to the Co-ordinator.

Proceedings
not public

(3) The proceedings of the Review Council shall not be public, but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public.

Prohibiting
publication

(4) The Review Council may order that information or documents relating to its investigation not be published or disclosed except as required by law.

Powers
R.S.O. 1980,
c. 411

(5) The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Notice of
disposition

(6) When the Review Council has dealt with a complaint regarding a justice of the peace, it shall inform,

- (a) the person who made the complaint; and
- (b) the justice of the peace, if the complaint was brought to his or her attention,

of its disposition of the complaint.

Report and
recommen-
dations

(7) The Review Council may report its opinion regarding the complaint to the Attorney General and may recommend,

- (a) that an inquiry be held under section 12;
- (b) that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation.

Copy to
justice

(8) A copy of the report shall be given to the justice of the peace.

Right to be
heard

(9) The Review Council shall not make a report unless the justice of the peace was notified of the investigation and given an opportunity to be heard and to produce evidence.

Publication
of report

(10) The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so.

- 11** (1) Lorsque le Conseil d'évaluation reçoit une plainte contre un juge de paix, il prend les mesures qu'il estime opportunes pour faire enquête. Ces mesures peuvent comprendre une discussion de la plainte avec le juge de paix. Enquête sur les plaintes
- (2) Le Conseil d'évaluation peut, s'il le juge opportun, transmettre des plaintes au coordonnateur. Plaintes transmises au coordonnateur
- (3) Les enquêtes sont tenues à huis clos, mais le Conseil d'évaluation peut aviser le procureur général qu'il a entrepris une enquête. Le procureur général peut informer le public de ce fait. Huis clos
- (4) Le Conseil d'évaluation peut ordonner que des renseignements ou des documents qui portent sur l'enquête ne soient ni publiés ni divulgués, sauf dans la mesure exigée par la loi. Publication interdite
- (5) Le Conseil d'évaluation possède les pouvoirs d'une commission aux termes de la partie II de la *Loi sur les enquêtes publiques*. Cette partie s'applique à l'enquête du Conseil comme si elle était tenue en vertu de cette loi. Pouvoirs
L.R.O. 1980,
chap. 411
- (6) Lorsque le Conseil d'évaluation a traité d'une plainte relative à un juge de paix, il avise de la décision prise à l'égard de la plainte : Avis de la décision
- a) la personne qui a porté plainte;
 - b) le juge de paix, si la plainte a été portée à son attention.
- (7) Le Conseil d'évaluation peut faire rapport au procureur général de son opinion à l'égard de la plainte et recommander : Rapport et recommandations
- a) qu'une enquête soit tenue aux termes de l'article 12;
 - b) que le juge de paix soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.
- (8) Une copie du rapport est remise au juge de paix. Copie au juge de paix
- (9) Le Conseil d'évaluation ne fait pas de rapport s'il n'a pas avisé le juge de paix de la tenue de l'enquête et ne lui a pas fourni l'occasion de se faire entendre et de présenter des preuves. Droit de se faire entendre
- (10) Le procureur général peut publier le rapport, en tout ou en partie, s'il le juge dans l'intérêt public. Publication du rapport

- Transition
R.S.O. 1980,
c. 227
- (11) An investigation commenced under section 8 of the *Justices of the Peace Act* but not completed before this Act comes into force shall be continued in accordance with this Act by the Review Council as constituted under that section.
- Inquiry
- 12.**—(1) The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question of whether a justice of the peace should be removed from office.
- Powers
R.S.O. 1980,
c. 411
- (2) The *Public Inquiries Act* applies to the inquiry.
- Report
- (3) The report of the inquiry may recommend,
- (a) that the justice of the peace be removed from office;
- (b) that the justice of the peace be compensated for all or part of his or her costs in connection with the inquiry.
- Tabling of
report
- (4) The report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.
- Co-ordinator
appointed
- 13.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a provincial judge as Co-ordinator of Justices of the Peace.
- Term of
office
- (2) The Co-ordinator shall hold office for five years.
- Idem
- (3) If a successor is not appointed within five years, the Co-ordinator shall continue in office until the successor is appointed, but in no case shall the Co-ordinator hold office for more than seven years.
- Former
Co-ordinator
- (4) A Co-ordinator whose term of office expires under subsection (2) or (3) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of,
- (a) the current annual salary of a provincial judge; or
- (b) the annual salary he or she received immediately before ceasing to be Co-ordinator.
- Co-ordinator
not to be
reappointed
- (5) A Co-ordinator whose term of office expires under subsection (2) or (3) shall not be reappointed as Co-ordinator.

(11) L'enquête commencée en vertu de l'article 8 de la *Loi sur les juges de paix* et qui n'a pas été terminée avant l'entrée en vigueur de la présente loi est continuée, conformément à la présente loi, par le Conseil d'évaluation tel qu'il est constitué aux termes de cet article.

Disposition
transitoire
L.R.O. 1980,
chap. 227

12 (1) Le lieutenant-gouverneur en conseil peut charger un juge provincial de faire enquête afin de déterminer si un juge de paix devrait être destitué.

Enquête

(2) La *Loi sur les enquêtes publiques* s'applique à l'enquête.

Pouvoirs
L.R.O. 1980,
chap. 411

(3) Le rapport de l'enquête peut recommander :

Rapport

a) que le juge de paix soit destitué de ses fonctions;

b) que le juge soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.

(4) Le rapport est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante.

Dépôt du
rapport

13 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, nomme un juge provincial en tant que coordonnateur des juges de paix.

Nomination
du coordon-
nateur

(2) Le coordonnateur exerce ses fonctions pendant une période de cinq ans.

Mandat

(3) En l'absence de nomination d'un successeur dans les cinq ans, le coordonnateur continue à exercer ses fonctions jusqu'à la nomination du successeur. Le coordonnateur n'exerce toutefois pas ses fonctions pendant une période qui dépasse sept ans.

Idem

(4) Le coordonnateur dont le mandat expire aux termes du paragraphe (2) ou (3) continue à exercer les fonctions d'un juge provincial. Il a droit à un traitement annuel égal au plus élevé des montants suivants :

Ancien
coordonnateur

a) le traitement annuel que reçoit à ce moment-là un juge provincial;

b) le traitement annuel qu'il recevait immédiatement avant de cesser d'être coordonnateur.

(5) Le coordonnateur dont le mandat expire aux termes du paragraphe (2) ou (3) n'est pas nommé de nouveau à ce poste.

Nouvelle
nomination

Co-ordinator
to supervise
justices,
assign duties

14.—(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Provincial Court (Criminal Division) or, in matters relating to the jurisdiction of the Provincial Court (Family Division), the Chief Judge of that court.

Idem

(2) The Co-ordinator's authority to assign duties includes authority to direct the times and places that justices of the peace shall perform their duties.

Part-time
justices to
follow duty
roster

(3) A part-time justice of the peace shall not act as a justice of the peace except in accordance with a duty roster established by the Co-ordinator.

Duty rosters
public

(4) The duty rosters shall be made available to the public.

Reports on
duties
performed

(5) Part-time justices of the peace shall submit to the Co-ordinator, when required by the Co-ordinator, reports containing the prescribed information on the duties they have performed.

Assistance to
Co-ordinator

(6) Provincial judges shall assist the Co-ordinator in the supervision of justices and assignment of their duties and in the exercise of the Co-ordinator's other functions under this section, if the Co-ordinator or a chief judge so requests, and for the purpose they have the Co-ordinator's authority.

Assignment
of duties to
presiding
justice

15.—(1) The following duties shall not be assigned to a presiding justice of the peace:

- (a) presiding at the trial of an offence under the *Criminal Code* (Canada);
- (b) presiding at the trial of an offence under any other Act of the Parliament of Canada, unless the offence is prescribed as an offence to the trial of which a presiding justice of the peace may be assigned;
- (c) holding a preliminary inquiry under Part XVIII of the *Criminal Code* (Canada);
- (d) exercising jurisdiction under section 67 (reading proclamation at riot), paragraph 537 (1) (b) or subsection 537 (2) or (3) (where accused may be men-

R.S.C. 1985,
c. C-46

14 (1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions. Ceci, sous réserve de la direction du juge en chef de la Cour provinciale (Division criminelle) ou, en ce qui concerne la compétence de la Cour provinciale (Division de la famille), du juge en chef de ce tribunal.

Surveillance,
etc., par le
coordonnateur

(2) Le pouvoir du coordonnateur en ce qui concerne l'assignation des fonctions des juges de paix comprend le pouvoir de fixer la date, l'heure et le lieu où ces fonctions seront exercées.

Idem

(3) Le juge de paix à temps partiel n'exerce les fonctions d'un juge de paix qu'en conformité avec un tableau de service établi par le coordonnateur.

Tableau de
service

(4) Les tableaux de service sont mis à la disposition des membres du public.

Tableaux de
service acces-
sibles au
public

(5) Les juges de paix à temps partiel soumettent au coordonnateur, à sa demande, des rapports qui comprennent les renseignements prescrits au sujet des fonctions qu'ils ont remplies.

Rapport

(6) Les juges provinciaux prêtent leur aide au coordonnateur, en ce qui concerne la surveillance des juges de paix et l'assignation de leurs fonctions, et dans l'exercice des autres compétences du coordonnateur visées au présent article, à la demande du coordonnateur ou d'un juge en chef. À cette fin, ils disposent des mêmes pouvoirs que le coordonnateur.


Aide au coor-
donnateur

15 (1) Les fonctions suivantes ne sont pas assignées au juge de paix-président :

Assignation
des fonctions
au juge de
paix-président

- a) présider le procès relatif à une infraction visée au *Code criminel* (Canada);
- b) présider le procès relatif à une infraction visée à une autre loi du Parlement du Canada, à moins que l'infraction n'ait été prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;
- c) tenir une enquête préliminaire aux termes de la partie XVIII du *Code criminel* (Canada);
- d) exercer les compétences visées à l'article 67 du *Code criminel* (Canada) (proclamation lors d'une émeute), à l'alinéa 537 (1) b) et aux paragraphes

L.R.C. 1985,
chap. C-46


tally ill) or section 543 (remand where offence committed in another jurisdiction) of the *Criminal Code* (Canada). 

Exception 

(2) Subsection (1) does not apply to adjournments.

Assignment of duties to non-presiding justice

16. The following duties shall not be assigned to a non-presiding justice of the peace:

- (a) the duties described in section 15;
- (b) presiding at the trial of an offence that is prescribed as one to the trial of which a presiding justice of the peace may be assigned;
- (c) presiding at the trial of an offence under an Act of the Legislature or under a regulation or by-law made under the authority of such an Act;
- (d) exercising jurisdiction under section 7 (plea of guilty with representations) or 9 or 19 (default conviction) of the *Provincial Offences Act*; 
- (e) presiding at a hearing to determine whether a person should be released from or detained in custody;
- (f) exercising authority to issue a warrant to levy a tax, toll or dues under,
 - (i) section 33 of the *Public Works Act* (Canada),
 - (ii) section 66 of the *Lakes and Rivers Improvement Act*, or
 - (iii) subsection 387 (6) of the *Municipal Act*;
- (g) determining whether a thing should be forfeited or held under,
 - (i) section 8 of the *Migratory Birds Convention Act* (Canada), or

R.S.O. 1980,
c. 400

R.S.C. 1985,
c. P-38

R.S.O. 1980,
c. 229

R.S.O. 1980,
c. 302

R.S.C. 1985,
c. M-7

537 (2) et (3) (procédures lorsque le prévenu peut être atteint d'une maladie mentale) et à l'article 543 de cette loi (renvoi lorsque l'infraction a été commise dans une autre juridiction).

(2) Le paragraphe (1) ne s'applique pas aux ajournements.

Exception

16 Les fonctions suivantes ne sont pas assignées au juge de paix non-président :

Assignation des fonctions au juge de paix non-président

- a) les fonctions décrites à l'article 15;
- b) présider le procès relatif à une infraction qui est prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;
- c) présider le procès relatif à une infraction visée à une loi de la Législature, ou à un règlement pris en application d'une telle loi;
- d) exercer une compétence en vertu de l'article 7 de la *Loi sur les infractions provinciales* (plaidoyer de culpabilité et observations) ou en vertu de l'article 9 ou 19 de cette loi (reconnaissance de culpabilité en l'absence du défendeur);
- e) présider une audience pour décider si une personne devrait être détenue sous garde ou libérée;
- f) exercer le pouvoir de décerner des mandats afin de percevoir des impôts, des droits ou des péages en vertu des dispositions suivantes :

L.R.O. 1980, chap. 400

(i) l'article 33 de la *Loi sur les travaux publics* (Canada),

L.R.C. 1985, chap. P-38

(ii) l'article 66 de la *Loi sur l'aménagement des lacs et des rivières*,

L.R.O. 1980, chap. 229

(iii) le paragraphe 387 (6) de la *Loi sur les municipalités*;

L.R.O. 1980, chap. 302

g) décider si des choses doivent être confisquées ou détenues en vertu des dispositions suivantes :

(i) l'article 8 de la *Loi sur la Convention concernant les oiseaux migrateurs* (Canada),

L.R.C. 1985, chap. M-7

R.S.C. 1985,
c. N-14

(ii) subsection 8 (3) of the *National Parks Act* (Canada);

R.S.O. 1980,
c. 262

(h) determining whether an order should be issued under section 10 of the *Mental Health Act* (examination by physician);

(i) presiding at a hearing to determine a dispute under,

R.S.C. 1985,
c. S-9

(i) section 205 of the *Canada Shipping Act*,

R.S.C. 1985,
c. F-14

(ii) section 11 of the *Fisheries Act* (Canada),

R.S.O. 1980,
c. 257

(iii) section 4 of the *Master and Servant Act*, or

R.S.O. 1980,
c. 372

(iv) section 25, 26 or 27 of the *Pawnbrokers Act*;

(j) a duty that is prescribed as one that shall not be assigned to a non-presiding justice.

Jurisdiction
of justices

17.—(1) Justices of the peace have jurisdiction throughout Ontario.

Idem

(2) Subject to sections 15 and 16, justices of the peace shall exercise the powers and perform the duties conferred or imposed on a justice of the peace by or under an Act of the Legislature or of the Parliament of Canada.

Justices to
assist public

(3) Justices of the peace shall assist members of the public, at their request, in formulating informations in respect of offences.

Salary of
part-time
justices

18. The salary, if any, to which each part-time justice of the peace is entitled shall be based on the Co-ordinator's determination of the justice's workload and calculated in accordance with the regulations.

Directions

19.—(1) The Co-ordinator may issue directions to justices of the peace on questions of law and procedure.

Directions
binding on
justices

(2) Justices of the peace shall follow a direction issued under subsection (1) unless it has been disapproved by a court on an appeal or a review.

- (ii) le paragraphe 8 (3) de la *Loi sur les parcs nationaux* (Canada); L.R.C. 1985, chap. N-14
- h) décider si une ordonnance doit être rendue en vertu de l'article 10 de la *Loi sur la santé mentale* (examen par un médecin); L.R.O. 1980, chap. 262
- i) présider des audiences en vue de régler des différends en vertu des dispositions suivantes :
- (i) l'article 205 de la *Loi sur la marine marchande du Canada*, L.R.C. 1985, chap. S-9
- (ii) l'article 11 de la *Loi sur les pêcheries* (Canada), L.R.C. 1985, chap. F-14
- (iii) l'article 4 de la *Loi sur le louage de services*, L.R.O. 1980, chap. 257
- (iv) les articles 25, 26 et 27 de la *Loi sur le prêt sur gage*; L.R.O. 1980, chap. 372
- j) exercer les fonctions qui ont été prescrites comme étant des fonctions qui ne sont pas assignées au juge de paix non-président.

17 (1) Les juges de paix ont compétence dans tout l'Ontario. Compétence des juges de paix

(2) Sous réserve des articles 15 et 16, les juges de paix exercent les pouvoirs et remplissent les fonctions que leur confère une loi de la Législature ou du Parlement du Canada ou qui leur sont conférées en vertu d'une telle loi. Idem

(3) Les juges de paix prêtent leur aide aux membres du public, lorsque ces derniers le demandent, en ce qui concerne la formulation des dénonciations. Aide au public

18 Les traitements, le cas échéant, auxquels ont droit les juges de paix à temps partiel correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur. Les traitements sont calculés conformément aux règlements. Traitements des juges de paix à temps partiel

19 (1) Le coordonnateur peut donner aux juges de paix des directives portant sur des questions de droit et de procédure. Directives

(2) Les juges de paix suivent la directive donnée aux termes du paragraphe (1), à moins qu'elle n'ait été désapprouvée par le tribunal lors d'un appel ou d'une révision. Effet sur les juges de paix

Directions to
be published

(3) The Co-ordinator shall cause the directions to be published in *The Ontario Gazette*.

Immunity
from liability

20. A justice of the peace has the same immunity from liability as a judge of the Supreme Court.

Regulations

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

R.S.C. 1985,
c. C-46

- (a) prescribing offences under Acts of Parliament other than the *Criminal Code* (Canada) in respect of which a presiding justice of the peace may be assigned to preside at a trial;
- (b) prescribing the information to be included in reports under subsection 14 (5);
- (c) prescribing the salaries of full-time justices of the peace and prescribing the manner in which the salaries of part-time justices of the peace shall be calculated, including the factors to be taken into account and the method of calculation to be used;
- (d) providing for the benefits to which full-time and part-time justices of the peace are entitled;
- (e) providing for the payment of additional compensation to full-time and part-time justices of the peace for special assignments;
- (f) prescribing duties that shall not be assigned to a non-presiding justice of the peace.

Classes

(2) A regulation made under clause (1) (c) or (d) may prescribe classes of full-time and part-time justices of the peace for the purpose of salaries and benefits.

Justices of
the peace
who are
public
servants

(3) A regulation made under clause (1) (c) or (d) may provide that the duties performed, in the course of their public service employment, by justices of the peace who are also employed in the public service of Ontario shall not be considered in calculating their salary and benefits under this Act.

Contributions

(4) A regulation made under clause (1) (d) may require justices of the peace to contribute from their salaries part of the cost of a benefit and may fix the amount of the contributions.

(3) Le coordonnateur fait publier les directives dans la *Gazette de l'Ontario*. Publication
des directives

20 Le juge de paix jouit de la même immunité qu'un juge de la Cour suprême en ce qui concerne la responsabilité personnelle. Immunité

21 (1) Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) prescrire des infractions visées aux lois du Parlement du Canada, à l'exclusion du *Code criminel* (Canada), dont un juge de paix-président peut être affecté au procès qui y est relatif; L.R.C. 1985,
chap. C-46
- b) prescrire les renseignements qui doivent figurer dans les rapports visés au paragraphe 14 (5);
- c) prescrire les traitements des juges de paix à temps plein et prescrire les modalités selon lesquelles sont calculés les traitements des juges de paix à temps partiel, y compris les facteurs dont il est tenu compte et la méthode de calcul utilisée;
- d) prévoir les avantages sociaux auxquels ont droit les juges de paix à temps plein et à temps partiel;
- e) prévoir le versement d'une rémunération additionnelle aux juges de paix à temps plein et à temps partiel en ce qui concerne les affectations particulières;
- f) prescrire les fonctions qui ne sont pas assignées au juge de paix non-président.

(2) Un règlement pris en application de l'alinéa (1) c) ou d) peut prescrire des catégories de juges de paix à temps plein et à temps partiel aux fins de leurs traitements et avantages sociaux. Catégories

(3) Un règlement pris en application de l'alinéa (1) c) ou d) peut prévoir qu'il n'est pas tenu compte, en ce qui concerne le calcul de leurs traitements et avantages sociaux en vertu de la présente loi, des fonctions qu'accomplissent dans le cadre de leur travail au sein de la fonction publique des juges de paix qui font également partie de la fonction publique. Juges de paix
qui sont
fonctionnaires

(4) Un règlement pris en application de l'alinéa (1) d) peut exiger que soient prélevées sur les traitements des juges de paix des cotisations qui couvrent une partie du coût d'un Cotisations

Benefits

(5) A regulation made under clause (1) (d) may provide that justices of the peace whose salaries are less than prescribed amounts are not entitled to prescribed benefits.

Territorial limitations

(6) A regulation made under clause (1) (e) may be limited territorially.

Application of certain provisions

22.—(1) Sections 4, 15, 16 and 18 and subsection 17 (2) do not apply in an area in Ontario until the Lieutenant Governor in Council by regulation provides that they apply in that area.

Idem

(2) The following apply in any area in which sections 4, 15, 16 and 18 and subsection 17 (2) do not apply:

1. Justices of the peace shall exercise the powers and perform the duties conferred or imposed on a justice of the peace by or under an Act of the Legislature or of the Parliament of Canada when so directed by the Co-ordinator or a judge designated by the Co-ordinator.
2. Part-time justices of the peace shall be paid such fees, allowances and expenses as are prescribed under the *Administration of Justice Act*.
3. Despite section 6, a part-time justice of the peace appointed before the day section 6 comes into force may exercise the powers and perform the duties of a justice of the peace after attaining the age of seventy years when assigned to do so by the Co-ordinator or a judge designated by the Co-ordinator.

R.S.O. 1980,
c. 6

Regulations

(3) The Lieutenant Governor in Council may make regulations declaring that sections 4, 15, 16 and 18 and subsection 17 (2) apply in one or more areas of the Province. ▲

23.—(1) Section 2 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Provincial judges, justices of the peace

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.

avantage social. Ce règlement peut également fixer le montant des cotisations.

(5) Un règlement pris en application de l'alinéa (1) d) peut prévoir que les juges de paix dont les traitements sont inférieurs à des montants prescrits n'ont pas droit à des avantages sociaux prescrits.

Avantages sociaux

(6) Un règlement pris en application de l'alinéa (1) e) peut être assujéti à des limitations territoriales.

Limitations territoriales

22 (1) Les articles 4, 15, 16 et 18 et le paragraphe 17 (2) ne s'appliquent pas dans une région de l'Ontario avant que le lieutenant-gouverneur en conseil ne prévoie, par règlement, leur application dans cette région.

Champ d'application de certaines dispositions

(2) Les règles qui suivent s'appliquent à toute région à laquelle les articles 4, 15, 16 et 18 et le paragraphe 17 (2) ne s'appliquent pas :

Idem

1. Lorsque le coordonnateur ou le juge qu'il désigne le leur ordonne, les juges de paix exercent les pouvoirs et remplissent les fonctions que leur confère une loi de la Législature ou du Parlement du Canada ou qui leur sont conférés en vertu d'une telle loi.

2. Les juges de paix à temps partiel reçoivent les honoraires, indemnités et débours qui sont prescrits en vertu de la *Loi sur l'administration de la justice*.

L.R.O. 1980, chap. 6

3. Malgré l'article 6, lorsque le coordonnateur ou le juge qu'il désigne lui assigne de ce faire, le juge de paix à temps partiel qui a été nommé avant le jour de l'entrée en vigueur de l'article 6 peut exercer les pouvoirs et remplir les fonctions d'un juge de paix après avoir atteint l'âge de soixante-dix ans.

(3) Le lieutenant-gouverneur en conseil peut prendre des règlements qui prévoient l'application des articles 4, 15, 16 et 18 et du paragraphe 17 (2) dans une ou plusieurs régions de la province.

Règlements

23 (1) L'article 2 de la *Loi sur les commissaires aux affidavits*, qui constitue le chapitre 75 des Lois refondues de l'Ontario de 1980, est modifié par adjonction du paragraphe suivant :

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.*

Provincial judges, justices of the peace

(2) Section 13 of the said Act is amended by striking out “notary public or justice of the peace” in the third line and inserting in lieu thereof “or notary public”.

24. Subsection 61 (3) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

25. Paragraph 1 of subsection 5 (1) of the *Election Act, 1984*, being chapter 54, is amended by adding at the end thereof “or justices of the peace”.

26. The *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, the *Justices of the Peace Amendment Act, 1984*, being chapter 8 and section 22 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, are repealed.

27. Clause 8 (2) (c) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by striking out “justice of the peace” in the first line.

28. Subsection 13 (1) of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed.

29.—(1) Sections 1, 2, 3 and 5 and subsection 6 (1) of the *Public Authorities Protection Act*, being chapter 406 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 7 (1) of the said Act is amended by striking out “against the justice of the peace who made the conviction or” in the second and third lines.

Commence-
ment

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

Short title

31. The short title of this Act is the *Justices of the Peace Act, 1989*.

(2) L'article 13 de cette loi est modifié par substitution, à «notary public or justice of the peace» à la troisième ligne, de «or notary public».

24 Le paragraphe 61 (3) de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé.

25 La disposition 1 du paragraphe 5 (1) de la *Loi électorale de 1984*, qui constitue le chapitre 54, est modifiée par adjonction de «or justices of the peace».

26 La *Loi sur les juges de paix*, qui constitue le chapitre 227 des Lois refondues de l'Ontario de 1980, la *Loi de 1984 modifiant la Loi sur les juges de paix*, qui constitue le chapitre 8 et l'article 22 de la *Loi de 1986 modifiant des lois concernant les droits à l'égalité*, qui constitue le chapitre 64, sont abrogés.

27 L'alinéa 8 (2) c) de la *Loi sur l'Assemblée législative*, qui constitue le chapitre 235 des Lois refondues de l'Ontario de 1980, est modifié par suppression des mots «justice of the peace» à la première ligne.

28 Le paragraphe 13 (1) de la *Loi sur les mines*, qui constitue le chapitre 268 des Lois refondues de l'Ontario de 1980, est abrogé.

29 (1) Les articles 1, 2, 3 et 5 et le paragraphe 6 (1) de la *Loi sur l'immunité des personnes publiques*, qui constitue le chapitre 406 des Lois refondues de l'Ontario de 1980, sont abrogés.

(2) Le paragraphe 7 (1) de cette loi est modifié par suppression des mots «against the justice of the peace who made the conviction or» aux deuxième et troisième lignes.

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

31 Le titre abrégé de la présente loi est *Loi de 1989 sur les juges de paix*. Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

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Bill 93

(Chapter 46
Statutes of Ontario, 1989)

An Act to revise the Justices of the Peace Act

The Hon. I. Scott
Attorney General

1 st Reading	January 6th, 1988
2 ^d Reading	June 14th, 1989
3 ^d Reading	July 26th, 1989
Royal Assent	July 26th, 1989

*Continued from the 1st Session
 of the Legislative Assembly
 of March 2nd, 1989.*

Projet de loi 93

Projet de loi 93

(Chapitre 46
Lois de l'Ontario de 1989)

Loi portant révision de la Loi sur les juges de paix

L'honorable I. Scott
procureur général

1 ^{re} lecture	6 janvier 1988
2 ^e lecture	14 juin 1989
3 ^e lecture	26 juillet 1989
sanction royale	26 juillet 1989

*Reporté de la 1^{re} session
 par ordre de l'Assemblée législative
 daté du 2 mars 1989.*

Bill 93**1989****An Act to revise the Justices of the Peace 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,

“Co-ordinator” means the Co-ordinator of Justices of the Peace appointed under section 13; (“coordonnateur”)

“non-presiding justice of the peace” means a person designated as a non-presiding justice of the peace under section 4; (“juge de paix non-président”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“presiding justice of the peace” means a person designated as a presiding justice of the peace under section 4; (“juge de paix-président”)

“regulations” means the regulations made under this Act; (“règlements”)

Projet de loi 93

1989

Loi portant révision de la Loi sur les juges de paix

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

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

«Conseil d'évaluation» Le Conseil d'évaluation des juges de paix maintenu en fonction par l'article 9. («Review Council»)

«coordonnateur» Le coordonnateur des juges de paix nommé en vertu de l'article 13. («Co-ordinator»)

«juge de paix non-président» Personne désignée comme juge de paix non-président en vertu de l'article 4. («non-presiding justice of the peace»)

«juge de paix-président» Personne désignée comme juge de paix-président en vertu de l'article 4. («presiding justice of the peace»)

«prescrit» Prescrit par les règlements. («prescribed»)

“Review Council” means the Justices of the Peace Review Council continued by section 9. (“Conseil d’évaluation”)

Appointment
of justices

2.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint full-time and part-time justices of the peace.

Transition
R.S.O. 1980,
c. 227

(2) Every person who receives a salary as a justice of the peace in accordance with subsection 7 (2) of the *Justices of the Peace Act* immediately before this Act comes into force shall be deemed to have been appointed as a full-time justice of the peace and every other person who is a justice of the peace immediately before this Act comes into force shall be deemed to have been appointed as a part-time justice of the peace.

Reappoint-
ment as
part-time

(3) The Lieutenant Governor in Council shall not appoint a full-time justice of the peace to be a part-time justice of the peace unless the Review Council recommends the reappointment.

Other work

(4) A justice of the peace shall not engage in any other remunerative work without the approval of the Review Council.

Oath of
office

3. Every justice of the peace, before beginning the duties of office, shall make the following oath or affirmation in French or in English:

I,, solemnly swear (affirm) that I will faithfully and to the best of my skill and knowledge, execute the duties of a justice of the peace, and I will do so without fear or favour, affection or ill will. So help me God. (Omit last sentence in an affirmation.)

Presiding or
non-presiding

4.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall designate every justice of the peace appointed after the coming into force of this Act as a presiding justice of the peace or a non-presiding justice of the peace.

Deemed
designation

(2) Every justice of the peace who is authorized to preside at the trial of an offence described in clause 16 (c) (provincial offences) immediately before this Act comes into force and has not attained the age of seventy at that time shall be deemed to have been designated as a presiding justice of the peace.

Designation
of other
justices

(3) The Lieutenant Governor in Council, on the recommendation of the Review Council, may designate any other justice of the peace who is appointed before this Act comes into force and has not attained the age of seventy as a presid-

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

2 (1) Le lieutenant-gouverneur en conseil peut, sur la recommandation du procureur général, nommer des juges de paix à temps plein et à temps partiel.

Nomination des juges de paix

(2) Les personnes qui reçoivent un traitement à titre de juge de paix conformément au paragraphe 7 (2) de la *Loi sur les juges de paix* immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps plein. Les autres personnes qui sont juges de paix immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps partiel.

Disposition transitoire
L.R.O. 1980,
chap. 227

(3) Le lieutenant-gouverneur en conseil ne nomme pas un juge de paix à temps plein pour qu'il devienne juge de paix à temps partiel, à moins que le Conseil d'évaluation ne recommande cette nouvelle nomination.

Nouvelle nomination à temps partiel

(4) Le juge de paix n'entreprend aucun autre travail rémunéré sans l'approbation du Conseil d'évaluation.

Autres fonctions

3 Avant d'entrer en fonction, le juge de paix fait la prestation de serment ou l'affirmation solennelle suivante, en français ou en anglais :

Serment d'entrée en fonction

Je soussigné(e)....., déclare sous serment (affirme) que j'accomplirai fidèlement et de mon mieux les fonctions de juge de paix, et que j'agirai sans peur ni favoritisme, parti pris ni mauvaise volonté. Ainsi que Dieu me soit en aide. (S'il s'agit d'une affirmation, ne pas ajouter la dernière phrase.)

4 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, désigne chaque juge de paix nommé après l'entrée en vigueur de la présente loi à titre de juge de paix-président ou juge de paix non-président.

Juge de paix-président ou non-président

(2) Sont réputés avoir été désignés à titre de juges de paix-présidents les juges de paix qui sont autorisés à présider le procès relatif à une infraction décrite à l'alinéa 16 c) (infractions provinciales) immédiatement avant l'entrée en vigueur de la présente loi et qui n'ont pas, à ce moment, atteint l'âge de soixante-dix ans.

Désignation réputée

(3) Le lieutenant-gouverneur en conseil, sur la recommandation du Conseil d'évaluation, peut désigner d'autres juges de paix nommés avant l'entrée en vigueur de la présente loi et qui n'ont pas atteint l'âge de soixante-dix ans à titre de juges de paix-présidents ou non-présidents.

Désignation d'autres juges de paix

ing justice of the peace or a non-presiding justice of the peace.

Undesignated
justices

(4) A person appointed as a justice of the peace before this Act comes into force who is not designated under subsection (2) or (3) shall not exercise any authority or receive any remuneration as a justice of the peace.

Change of
designation

(5) The Lieutenant Governor in Council shall not change the designation of a presiding justice of the peace to that of non-presiding justice of the peace.

Justices of
the peace,
ex officio

5. Every judge of the Supreme Court of Canada, the Federal Court of Canada, the Supreme Court of Ontario and the District Court of Ontario and every provincial judge is by virtue of his or her office a justice of the peace and also has power to do alone whatever two or more justices of the peace are authorized to do together.

Retirement

6. Every justice of the peace shall retire upon attaining the age of seventy years.

Resignation

7.—(1) A justice of the peace may resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Effective
date

(2) The resignation takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day.

Removal
from office

8.—(1) A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council.

Grounds for
removal

(2) The order may be made only if,

(a) a complaint regarding the justice of the peace has been made to the Review Council; and

(b) the removal is recommended, following an inquiry held under section 12, on the ground that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of,

(i) infirmity,

(ii) conduct that is incompatible with the execution of the duties of his or her office, or

(4) La personne qui a été nommée juge de paix avant l'entrée en vigueur de la présente loi, mais qui n'est pas désignée aux termes du paragraphe (2) ou (3), n'exerce aucune compétence d'un juge de paix et ne reçoit aucune rémunération à ce titre.

Juges de paix non désignés

(5) Le lieutenant-gouverneur en conseil ne change pas la désignation du juge de paix-président en celle de juge de paix non-président.

Changement de la désignation

5 Sont juges de paix d'office les juges de la Cour suprême du Canada, de la Cour fédérale du Canada, de la Cour suprême de l'Ontario et de la Cour de district de l'Ontario, ainsi que les juges provinciaux. En outre, chacun d'eux a le pouvoir d'accomplir seul les actes que deux ou plusieurs juges de paix sont autorisés à accomplir ensemble.

Juges de paix d'office

6 Le juge de paix prend sa retraite à l'âge de soixante-dix ans.

Retraite

7 (1) Le juge de paix peut démissionner en remettant au procureur général une lettre signée à cet effet.

Démission

(2) La démission prend effet le jour où elle est remise au procureur général ou, si la lettre de démission précise un jour postérieur, elle prend effet ce jour.

Date de prise d'effet

8 (1) Le juge de paix ne peut être destitué que par décret du lieutenant-gouverneur en conseil.

Destitution

(2) Le décret ne peut être pris que si :

Motifs permettant la destitution

a) une plainte à son sujet a été portée au Conseil d'évaluation;

b) sa destitution est recommandée, à la suite d'une enquête tenue aux termes de l'article 12, en raison du fait qu'il est devenu incapable de remplir convenablement ses fonctions ou inhabile pour l'une des raisons suivantes :

(i) il souffre d'une infirmité,

(ii) sa conduite est incompatible avec l'exercice de ses fonctions,

- (iii) having failed to perform the duties of his or her office as assigned.

Order to be tabled

(3) The order shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

Review Council

9.—(1) The Justices of the Peace Review Council is continued and shall be composed of,

- (a) the Chief Judge of the Provincial Court (Criminal Division) who shall preside over the Review Council;
- (b) the Chief Judge of the Provincial Court (Family Division);
- (c) the Co-ordinator;
- (d) a justice of the peace appointed by the Lieutenant Governor in Council; and
- (e) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum

(2) A majority of members of the Review Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Review Council.

Staff

R.S.O. 1980,
c. 418

(3) Such officers and employees of the Review Council as are considered necessary may be appointed under the *Public Service Act*.

Expert assistance

(4) The Review Council may engage persons, including counsel, to assist it in its investigations.

Functions

10.—(1) The functions of the Review Council are,

- (a) to consider all proposed appointments and designations of justices of the peace and make reports concerning them to the Attorney General;
- (b) to receive and investigate complaints against justices of the peace.

Liability for damages

(2) No action or other proceeding for damages shall be instituted against the Review Council or its members or officers or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty.

(iii) il n'a pas rempli les fonctions qui lui sont assignées.

(3) Le décret est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante. Dépôt du décret

9 (1) Le Conseil d'évaluation des juges de paix est maintenu et se compose des membres suivants : Conseil d'évaluation

- a) le juge en chef de la Cour provinciale (Division criminelle), qui préside le Conseil;
- b) le juge en chef de la Cour provinciale (Division de la famille);
- c) le coordonnateur;
- d) un juge de paix nommé par le lieutenant-gouverneur en conseil;
- e) deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil.

(2) La majorité des membres du Conseil d'évaluation constitue le quorum et peut exercer tous les pouvoirs et la compétence du Conseil. Quorum

(3) Les employés du Conseil jugés nécessaires peuvent être engagés aux termes de la *Loi sur la fonction publique*. Personnel
L.R.O. 1980,
chap. 418

(4) Le Conseil d'évaluation peut engager d'autres personnes, notamment des avocats, pour l'aider dans ses enquêtes. Experts

10 (1) Les fonctions du Conseil d'évaluation sont les suivantes : Fonctions

- a) examiner les candidatures aux postes de juges de paix, ainsi que leurs désignations proposées, et en faire rapport au procureur général;
- b) recevoir les plaintes portées contre les juges de paix et faire enquête à leur sujet.

(2) Aucune action ou poursuite en dommages-intérêts ne peut être intentée contre le Conseil d'évaluation, ses membres ou employés ni contre quiconque agit sous son autorité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice de ses fonctions. Responsabilité
pour dommages-intérêts

Investigation
of complaints

11.—(1) When the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint, including a review of it with the justice of the peace, as it considers advisable.

Referral to
Co-ordinator

(2) The Review Council may, if it considers it appropriate to do so, transmit complaints to the Co-ordinator.

Proceedings
not public

(3) The proceedings of the Review Council shall not be public, but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public.

Prohibiting
publication

(4) The Review Council may order that information or documents relating to its investigation not be published or disclosed except as required by law.

Powers
R.S.O. 1980,
c. 411

(5) The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Notice of
disposition

(6) When the Review Council has dealt with a complaint regarding a justice of the peace, it shall inform,

(a) the person who made the complaint; and

(b) the justice of the peace, if the complaint was brought to his or her attention,

of its disposition of the complaint.

Report and
recommendations

(7) The Review Council may report its opinion regarding the complaint to the Attorney General and may recommend,

(a) that an inquiry be held under section 12;

(b) that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation.

Copy to
justice

(8) A copy of the report shall be given to the justice of the peace.

Right to be
heard

(9) The Review Council shall not make a report unless the justice of the peace was notified of the investigation and given an opportunity to be heard and to produce evidence.

Publication
of report

(10) The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so.

- 11** (1) Lorsque le Conseil d'évaluation reçoit une plainte contre un juge de paix, il prend les mesures qu'il estime opportunes pour faire enquête. Ces mesures peuvent comprendre une discussion de la plainte avec le juge de paix. Enquête sur les plaintes
- (2) Le Conseil d'évaluation peut, s'il le juge opportun, transmettre des plaintes au coordonnateur. Plaintes transmises au coordonnateur
- (3) Les enquêtes sont tenues à huis clos, mais le Conseil d'évaluation peut aviser le procureur général qu'il a entrepris une enquête. Le procureur général peut informer le public de ce fait. Huis clos
- (4) Le Conseil d'évaluation peut ordonner que des renseignements ou des documents qui portent sur l'enquête ne soient ni publiés ni divulgués, sauf dans la mesure exigée par la loi. Publication interdite
- (5) Le Conseil d'évaluation possède les pouvoirs d'une commission aux termes de la partie II de la *Loi sur les enquêtes publiques*. Cette partie s'applique à l'enquête du Conseil comme si elle était tenue en vertu de cette loi. Pouvoirs
L.R.O. 1980,
chap. 411
- (6) Lorsque le Conseil d'évaluation a traité d'une plainte relative à un juge de paix, il avise de la décision prise à l'égard de la plainte : Avis de la décision
- a) la personne qui a porté plainte;
 - b) le juge de paix, si la plainte a été portée à son attention.
- (7) Le Conseil d'évaluation peut faire rapport au procureur général de son opinion à l'égard de la plainte et recommander : Rapport et recommandations
- a) qu'une enquête soit tenue aux termes de l'article 12;
 - b) que le juge de paix soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.
- (8) Une copie du rapport est remise au juge de paix. Copie au juge de paix
- (9) Le Conseil d'évaluation ne fait pas de rapport s'il n'a pas avisé le juge de paix de la tenue de l'enquête et ne lui a pas fourni l'occasion de se faire entendre et de présenter des preuves. Droit de se faire entendre
- (10) Le procureur général peut publier le rapport, en tout ou en partie, s'il le juge dans l'intérêt public. Publication du rapport

Transition
R.S.O. 1980,
c. 227

(11) An investigation commenced under section 8 of the *Justices of the Peace Act* but not completed before this Act comes into force shall be continued in accordance with this Act by the Review Council as constituted under that section.

Inquiry

12.—(1) The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question of whether a justice of the peace should be removed from office.

Powers
R.S.O. 1980,
c. 411
Report

(2) The *Public Inquiries Act* applies to the inquiry.

(3) The report of the inquiry may recommend,

(a) that the justice of the peace be removed from office;

(b) that the justice of the peace be compensated for all or part of his or her costs in connection with the inquiry.

Tabling of
report

(4) The report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

Co-ordinator
appointed

13.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a provincial judge as Co-ordinator of Justices of the Peace.

Term of
office

(2) The Co-ordinator shall hold office for five years.

Idem

(3) If a successor is not appointed within five years, the Co-ordinator shall continue in office until the successor is appointed, but in no case shall the Co-ordinator hold office for more than seven years.

Former
Co-ordinator

(4) A Co-ordinator whose term of office expires under subsection (2) or (3) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of,

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Co-ordinator.

Co-ordinator
not to be
reappointed

(5) A Co-ordinator whose term of office expires under subsection (2) or (3) shall not be reappointed as Co-ordinator.

(11) L'enquête commencée en vertu de l'article 8 de la *Loi sur les juges de paix* et qui n'a pas été terminée avant l'entrée en vigueur de la présente loi est continuée, conformément à la présente loi, par le Conseil d'évaluation tel qu'il est constitué aux termes de cet article.

Disposition
transitoire
L.R.O. 1980,
chap. 227

12 (1) Le lieutenant-gouverneur en conseil peut charger un juge provincial de faire enquête afin de déterminer si un juge de paix devrait être destitué.

Enquête

(2) La *Loi sur les enquêtes publiques* s'applique à l'enquête.

Pouvoirs
L.R.O. 1980,
chap. 411

(3) Le rapport de l'enquête peut recommander :

Rapport

a) que le juge de paix soit destitué de ses fonctions;

b) que le juge soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.

(4) Le rapport est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante.

Dépôt du
rapport

13 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, nomme un juge provincial en tant que coordonnateur des juges de paix.

Nomination
du coordon-
nateur

(2) Le coordonnateur exerce ses fonctions pendant une période de cinq ans.

Mandat

(3) En l'absence de nomination d'un successeur dans les cinq ans, le coordonnateur continue à exercer ses fonctions jusqu'à la nomination du successeur. Le coordonnateur n'exerce toutefois pas ses fonctions pendant une période qui dépasse sept ans.

Idem

(4) Le coordonnateur dont le mandat expire aux termes du paragraphe (2) ou (3) continue à exercer les fonctions d'un juge provincial. Il a droit à un traitement annuel égal au plus élevé des montants suivants :

Ancien
coordonnateur

a) le traitement annuel que reçoit à ce moment-là un juge provincial;

b) le traitement annuel qu'il recevait immédiatement avant de cesser d'être coordonnateur.

(5) Le coordonnateur dont le mandat expire aux termes du paragraphe (2) ou (3) n'est pas nommé de nouveau à ce poste.

Nouvelle
nomination

Co-ordinator
to supervise
justices,
assign duties

14.—(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Provincial Court (Criminal Division) or, in matters relating to the jurisdiction of the Provincial Court (Family Division), the Chief Judge of that court.

Idem

(2) The Co-ordinator's authority to assign duties includes authority to direct the times and places that justices of the peace shall perform their duties.

Part-time
justices to
follow duty
roster

(3) A part-time justice of the peace shall not act as a justice of the peace except in accordance with a duty roster established by the Co-ordinator.

Duty rosters
public

(4) The duty rosters shall be made available to the public.

Reports on
duties
performed

(5) Part-time justices of the peace shall submit to the Co-ordinator, when required by the Co-ordinator, reports containing the prescribed information on the duties they have performed.

Assistance to
Co-ordinator

(6) Provincial judges shall assist the Co-ordinator in the supervision of justices and assignment of their duties and in the exercise of the Co-ordinator's other functions under this section, if the Co-ordinator or a chief judge so requests, and for the purpose they have the Co-ordinator's authority.

Assignment
of duties to
presiding
justice

15.—(1) The following duties shall not be assigned to a presiding justice of the peace:

R.S.C. 1985,
c. C-46

- (a) presiding at the trial of an offence under the *Criminal Code* (Canada);
- (b) presiding at the trial of an offence under any other Act of the Parliament of Canada, unless the offence is prescribed as an offence to the trial of which a presiding justice of the peace may be assigned;
- (c) holding a preliminary inquiry under Part XVIII of the *Criminal Code* (Canada);
- (d) exercising jurisdiction under section 67 (reading proclamation at riot), paragraph 537 (1) (b) or subsection 537 (2) or (3) (where accused may be men-

14 (1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions. Ceci, sous réserve de la direction du juge en chef de la Cour provinciale (Division criminelle) ou, en ce qui concerne la compétence de la Cour provinciale (Division de la famille), du juge en chef de ce tribunal.

Surveillance,
etc., par le
coordonnateur

(2) Le pouvoir du coordonnateur en ce qui concerne l'assignation des fonctions des juges de paix comprend le pouvoir de fixer la date, l'heure et le lieu où ces fonctions seront exercées.

Idem

(3) Le juge de paix à temps partiel n'exerce les fonctions d'un juge de paix qu'en conformité avec un tableau de service établi par le coordonnateur.

Tableau de
service

(4) Les tableaux de service sont mis à la disposition des membres du public.

Tableaux de
service acces-
sibles au
public

(5) Les juges de paix à temps partiel soumettent au coordonnateur, à sa demande, des rapports qui comprennent les renseignements prescrits au sujet des fonctions qu'ils ont remplies.

Rapport

(6) Les juges provinciaux prêtent leur aide au coordonnateur, en ce qui concerne la surveillance des juges de paix et l'assignation de leurs fonctions, et dans l'exercice des autres compétences du coordonnateur visées au présent article, à la demande du coordonnateur ou d'un juge en chef. À cette fin, ils disposent des mêmes pouvoirs que le coordonnateur.

Aide au coor-
donnateur

15 (1) Les fonctions suivantes ne sont pas assignées au juge de paix-président :

Assignation
des fonctions
au juge de
paix-président

a) présider le procès relatif à une infraction visée au *Code criminel* (Canada);

L.R.C. 1985,
chap. C-46

b) présider le procès relatif à une infraction visée à une autre loi du Parlement du Canada, à moins que l'infraction n'ait été prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;

c) tenir une enquête préliminaire aux termes de la partie XVIII du *Code criminel* (Canada);

d) exercer les compétences visées à l'article 67 du *Code criminel* (Canada) (proclamation lors d'une émeute), à l'alinéa 537 (1) b) et aux paragraphes

R.S.C. 1985,
c. C-46

tally ill) or section 543 (remand where offence committed in another jurisdiction) of the *Criminal Code* (Canada).

Exception

(2) Subsection (1) does not apply to adjournments.

Assignment
of duties to
non-presiding
justice

16. The following duties shall not be assigned to a non-presiding justice of the peace:

- (a) the duties described in section 15;
- (b) presiding at the trial of an offence that is prescribed as one to the trial of which a presiding justice of the peace may be assigned;
- (c) presiding at the trial of an offence under an Act of the Legislature or under a regulation or by-law made under the authority of such an Act;
- (d) exercising jurisdiction under section 7 (plea of guilty with representations) or 9 or 19 (default conviction) of the *Provincial Offences Act*;
- (e) presiding at a hearing to determine whether a person should be released from or detained in custody;
- (f) exercising authority to issue a warrant to levy a tax, toll or dues under,

R.S.O. 1980,
c. 400

(i) section 33 of the *Public Works Act* (Canada),

R.S.C. 1985,
c. P-38

(ii) section 66 of the *Lakes and Rivers Improvement Act*, or

R.S.O. 1980,
c. 229

(iii) subsection 387 (6) of the *Municipal Act*;

R.S.O. 1980,
c. 302

(g) determining whether a thing should be forfeited or held under,

R.S.C. 1985,
c. M-7

(i) section 8 of the *Migratory Birds Convention Act* (Canada), or

537 (2) et (3) (procédures lorsque le prévenu peut être atteint d'une maladie mentale) et à l'article 543 de cette loi (renvoi lorsque l'infraction a été commise dans une autre juridiction).

(2) Le paragraphe (1) ne s'applique pas aux ajournements. Exception

16 Les fonctions suivantes ne sont pas assignées au juge de paix non-président : Assignation des fonctions au juge de paix non-président

- a) les fonctions décrites à l'article 15;
- b) présider le procès relatif à une infraction qui est prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;
- c) présider le procès relatif à une infraction visée à une loi de la Législature, ou à un règlement pris en application d'une telle loi;
- d) exercer une compétence en vertu de l'article 7 de la *Loi sur les infractions provinciales* (plaidoyer de culpabilité et observations) ou en vertu de l'article 9 ou 19 de cette loi (reconnaissance de culpabilité en l'absence du défendeur);
- e) présider une audience pour décider si une personne devrait être détenue sous garde ou libérée;
- f) exercer le pouvoir de décerner des mandats afin de percevoir des impôts, des droits ou des péages en vertu des dispositions suivantes :

(i) l'article 33 de la *Loi sur les travaux publics* (Canada), L.R.C. 1985, chap. P-38

(ii) l'article 66 de la *Loi sur l'aménagement des lacs et des rivières*, L.R.O. 1980, chap. 229

(iii) le paragraphe 387 (6) de la *Loi sur les municipalités*; L.R.O. 1980, chap. 302

g) décider si des choses doivent être confisquées ou détenues en vertu des dispositions suivantes :

(i) l'article 8 de la *Loi sur la Convention concernant les oiseaux migrateurs* (Canada), L.R.C. 1985, chap. M-7

R.S.C. 1985,
c. N-14

(ii) subsection 8 (3) of the *National Parks Act* (Canada);

R.S.O. 1980,
c. 262

(h) determining whether an order should be issued under section 10 of the *Mental Health Act* (examination by physician);

(i) presiding at a hearing to determine a dispute under,

R.S.C. 1985,
c. S-9

(i) section 205 of the *Canada Shipping Act*,

R.S.C. 1985,
c. F-14

(ii) section 11 of the *Fisheries Act* (Canada),

R.S.O. 1980,
c. 257

(iii) section 4 of the *Master and Servant Act*, or

R.S.O. 1980,
c. 372

(iv) section 25, 26 or 27 of the *Pawnbrokers Act*;

(j) a duty that is prescribed as one that shall not be assigned to a non-presiding justice.

Jurisdiction
of justices

17.—(1) Justices of the peace have jurisdiction throughout Ontario.

Idem

(2) Subject to sections 15 and 16, justices of the peace shall exercise the powers and perform the duties conferred or imposed on a justice of the peace by or under an Act of the Legislature or of the Parliament of Canada.

Justices to
assist public

(3) Justices of the peace shall assist members of the public, at their request, in formulating informations in respect of offences.

Salary of
part-time
justices

18. The salary, if any, to which each part-time justice of the peace is entitled shall be based on the Co-ordinator's determination of the justice's workload and calculated in accordance with the regulations.

Directions

19.—(1) The Co-ordinator may issue directions to justices of the peace on questions of law and procedure.

Directions
binding on
justices

(2) Justices of the peace shall follow a direction issued under subsection (1) unless it has been disapproved by a court on an appeal or a review.

- (ii) le paragraphe 8 (3) de la *Loi sur les parcs nationaux* (Canada); L.R.C. 1985, chap. N-14
- h) décider si une ordonnance doit être rendue en vertu de l'article 10 de la *Loi sur la santé mentale* (examen par un médecin); L.R.O. 1980, chap. 262
- i) présider des audiences en vue de régler des différends en vertu des dispositions suivantes :
- (i) l'article 205 de la *Loi sur la marine marchande du Canada*, L.R.C. 1985, chap. S-9
- (ii) l'article 11 de la *Loi sur les pêcheries* (Canada), L.R.C. 1985, chap. F-14
- (iii) l'article 4 de la *Loi sur le louage de services*, L.R.O. 1980, chap. 257
- (iv) les articles 25, 26 et 27 de la *Loi sur le prêt sur gage*; L.R.O. 1980, chap. 372
- j) exercer les fonctions qui ont été prescrites comme étant des fonctions qui ne sont pas assignées au juge de paix non-président.

17 (1) Les juges de paix ont compétence dans tout l'Ontario. Compétence des juges de paix

(2) Sous réserve des articles 15 et 16, les juges de paix exercent les pouvoirs et remplissent les fonctions que leur confère une loi de la Législature ou du Parlement du Canada ou qui leur sont conférées en vertu d'une telle loi. Idem

(3) Les juges de paix prêtent leur aide aux membres du public, lorsque ces derniers le demandent, en ce qui concerne la formulation des dénonciations. Aide au public

18 Les traitements, le cas échéant, auxquels ont droit les juges de paix à temps partiel correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur. Les traitements sont calculés conformément aux règlements. Traitements des juges de paix à temps partiel

19 (1) Le coordonnateur peut donner aux juges de paix des directives portant sur des questions de droit et de procédure. Directives

(2) Les juges de paix suivent la directive donnée aux termes du paragraphe (1), à moins qu'elle n'ait été désapprouvée par le tribunal lors d'un appel ou d'une révision. Effet sur les juges de paix

Directions to
be published

(3) The Co-ordinator shall cause the directions to be published in *The Ontario Gazette*.

Immunity
from liability

20. A justice of the peace has the same immunity from liability as a judge of the Supreme Court.

Regulations

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

R.S.C. 1985,
c. C-46

- (a) prescribing offences under Acts of Parliament other than the *Criminal Code* (Canada) in respect of which a presiding justice of the peace may be assigned to preside at a trial;
- (b) prescribing the information to be included in reports under subsection 14 (5);
- (c) prescribing the salaries of full-time justices of the peace and prescribing the manner in which the salaries of part-time justices of the peace shall be calculated, including the factors to be taken into account and the method of calculation to be used;
- (d) providing for the benefits to which full-time and part-time justices of the peace are entitled;
- (e) providing for the payment of additional compensation to full-time and part-time justices of the peace for special assignments;
- (f) prescribing duties that shall not be assigned to a non-presiding justice of the peace.

Classes

(2) A regulation made under clause (1) (c) or (d) may prescribe classes of full-time and part-time justices of the peace for the purpose of salaries and benefits.

Justices of
the peace
who are
public
servants

(3) A regulation made under clause (1) (c) or (d) may provide that the duties performed, in the course of their public service employment, by justices of the peace who are also employed in the public service of Ontario shall not be considered in calculating their salary and benefits under this Act.

Contributions

(4) A regulation made under clause (1) (d) may require justices of the peace to contribute from their salaries part of the cost of a benefit and may fix the amount of the contributions.

(3) Le coordonnateur fait publier les directives dans la *Gazette de l'Ontario*. Publication des directives

20 Le juge de paix jouit de la même immunité qu'un juge de la Cour suprême en ce qui concerne la responsabilité personnelle. Immunité

21 (1) Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) prescrire des infractions visées aux lois du Parlement du Canada, à l'exclusion du *Code criminel* (Canada), dont un juge de paix-président peut être affecté au procès qui y est relatif; L.R.C. 1985, chap. C-46
- b) prescrire les renseignements qui doivent figurer dans les rapports visés au paragraphe 14 (5);
- c) prescrire les traitements des juges de paix à temps plein et prescrire les modalités selon lesquelles sont calculés les traitements des juges de paix à temps partiel, y compris les facteurs dont il est tenu compte et la méthode de calcul utilisée;
- d) prévoir les avantages sociaux auxquels ont droit les juges de paix à temps plein et à temps partiel;
- e) prévoir le versement d'une rémunération additionnelle aux juges de paix à temps plein et à temps partiel en ce qui concerne les affectations particulières;
- f) prescrire les fonctions qui ne sont pas assignées au juge de paix non-président.

(2) Un règlement pris en application de l'alinéa (1) c) ou d) peut prescrire des catégories de juges de paix à temps plein et à temps partiel aux fins de leurs traitements et avantages sociaux. Catégories

(3) Un règlement pris en application de l'alinéa (1) c) ou d) peut prévoir qu'il n'est pas tenu compte, en ce qui concerne le calcul de leurs traitements et avantages sociaux en vertu de la présente loi, des fonctions qu'accomplissent dans le cadre de leur travail au sein de la fonction publique des juges de paix qui font également partie de la fonction publique. Juges de paix qui sont fonctionnaires

(4) Un règlement pris en application de l'alinéa (1) d) peut exiger que soient prélevées sur les traitements des juges de paix des cotisations qui couvrent une partie du coût d'un Cotisations

Benefits

(5) A regulation made under clause (1) (d) may provide that justices of the peace whose salaries are less than prescribed amounts are not entitled to prescribed benefits.

Territorial limitations

(6) A regulation made under clause (1) (e) may be limited territorially.

Application of certain provisions

22.—(1) Sections 4, 15, 16 and 18 and subsection 17 (2) do not apply in an area in Ontario until the Lieutenant Governor in Council by regulation provides that they apply in that area.

Idem

(2) The following apply in any area in which sections 4, 15, 16 and 18 and subsection 17 (2) do not apply:

1. Justices of the peace shall exercise the powers and perform the duties conferred or imposed on a justice of the peace by or under an Act of the Legislature or of the Parliament of Canada when so directed by the Co-ordinator or a judge designated by the Co-ordinator.
2. Part-time justices of the peace shall be paid such fees, allowances and expenses as are prescribed under the *Administration of Justice Act*.
3. Despite section 6, a part-time justice of the peace appointed before the day section 6 comes into force may exercise the powers and perform the duties of a justice of the peace after attaining the age of seventy years when assigned to do so by the Co-ordinator or a judge designated by the Co-ordinator.

R.S.O. 1980,
c. 6

Regulations

(3) The Lieutenant Governor in Council may make regulations declaring that sections 4, 15, 16 and 18 and subsection 17 (2) apply in one or more areas of the Province.

23.—(1) Section 2 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Provincial judges, justices of the peace

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.

avantage social. Ce règlement peut également fixer le montant des cotisations.

(5) Un règlement pris en application de l'alinéa (1) d) peut prévoir que les juges de paix dont les traitements sont inférieurs à des montants prescrits n'ont pas droit à des avantages sociaux prescrits. Avantages sociaux

(6) Un règlement pris en application de l'alinéa (1) e) peut être assujéti à des limitations territoriales. Limitations territoriales

22 (1) Les articles 4, 15, 16 et 18 et le paragraphe 17 (2) ne s'appliquent pas dans une région de l'Ontario avant que le lieutenant-gouverneur en conseil ne prévoie, par règlement, leur application dans cette région. Champ d'application de certaines dispositions

(2) Les règles qui suivent s'appliquent à toute région à laquelle les articles 4, 15, 16 et 18 et le paragraphe 17 (2) ne s'appliquent pas : Idem

1. Lorsque le coordonnateur ou le juge qu'il désigne le leur ordonne, les juges de paix exercent les pouvoirs et remplissent les fonctions que leur confère une loi de la Législature ou du Parlement du Canada ou qui leur sont conférés en vertu d'une telle loi.

2. Les juges de paix à temps partiel reçoivent les honoraires, indemnités et débours qui sont prescrits en vertu de la *Loi sur l'administration de la justice*. L.R.O. 1980, chap. 6

3. Malgré l'article 6, lorsque le coordonnateur ou le juge qu'il désigne lui assigne de ce faire, le juge de paix à temps partiel qui a été nommé avant le jour de l'entrée en vigueur de l'article 6 peut exercer les pouvoirs et remplir les fonctions d'un juge de paix après avoir atteint l'âge de soixante-dix ans.

(3) Le lieutenant-gouverneur en conseil peut prendre des règlements qui prévoient l'application des articles 4, 15, 16 et 18 et du paragraphe 17 (2) dans une ou plusieurs régions de la province. Règlements

23 (1) L'article 2 de la *Loi sur les commissaires aux affidavits*, qui constitue le chapitre 75 des Lois refondues de l'Ontario de 1980, est modifié par adjonction du paragraphe suivant :

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario. * Provincial judges, justices of the peace

(2) Section 13 of the said Act is amended by striking out “notary public or justice of the peace” in the third line and inserting in lieu thereof “or notary public”.

24. Subsection 61 (3) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

25. Paragraph 1 of subsection 5 (1) of the *Election Act, 1984*, being chapter 54, is amended by adding at the end thereof “or justices of the peace”.

26. The *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, the *Justices of the Peace Amendment Act, 1984*, being chapter 8 and section 22 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, are repealed.

27. Clause 8 (2) (c) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by striking out “justice of the peace” in the first line.

28. Subsection 13 (1) of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed.

29.—(1) Sections 1, 2, 3 and 5 and subsection 6 (1) of the *Public Authorities Protection Act*, being chapter 406 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 7 (1) of the said Act is amended by striking out “against the justice of the peace who made the conviction or” in the second and third lines.

Commence-
ment

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

Short title

31. The short title of this Act is the *Justices of the Peace Act, 1989*.

(2) L'article 13 de cette loi est modifié par substitution, à «notary public or justice of the peace» à la troisième ligne, de «or notary public».

24 Le paragraphe 61 (3) de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé.

25 La disposition 1 du paragraphe 5 (1) de la *Loi électorale de 1984*, qui constitue le chapitre 54, est modifiée par adjonction de «or justices of the peace».

26 La *Loi sur les juges de paix*, qui constitue le chapitre 227 des *Lois refondues de l'Ontario de 1980*, la *Loi de 1984 modifiant la Loi sur les juges de paix*, qui constitue le chapitre 8 et l'article 22 de la *Loi de 1986 modifiant des lois concernant les droits à l'égalité*, qui constitue le chapitre 64, sont abrogés.

27 L'alinéa 8 (2) c) de la *Loi sur l'Assemblée législative*, qui constitue le chapitre 235 des *Lois refondues de l'Ontario de 1980*, est modifié par suppression des mots «justice of the peace» à la première ligne.

28 Le paragraphe 13 (1) de la *Loi sur les mines*, qui constitue le chapitre 268 des *Lois refondues de l'Ontario de 1980*, est abrogé.

29 (1) Les articles 1, 2, 3 et 5 et le paragraphe 6 (1) de la *Loi sur l'immunité des personnes publiques*, qui constitue le chapitre 406 des *Lois refondues de l'Ontario de 1980*, sont abrogés.

(2) Le paragraphe 7 (1) de cette loi est modifié par suppression des mots «against the justice of the peace who made the conviction or» aux deuxième et troisième lignes.

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

Entrée en
vigueur

31 Le titre abrégé de la présente loi est *Loi de 1989 sur les juges de paix*.

Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

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Bill 94

An Act to amend the Executive Council Act

The Hon. C. Ward

Government House Leader and Minister of Government Services

1st Reading December 7th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to increase salaries by 5.5 per cent.

Bill 94

1989

An Act to amend the Executive Council Act

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

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 20, section 1, are repealed and the following substituted therefor:

- | | |
|--|--------------------------------------|
| (1) The annual salary of every minister with portfolio is \$31,749. | Salaries |
| (2) The Premier and President of the Council shall receive, in addition, \$13,491 per annum. | Additional salary for Premier |
| (3) The annual salary of every minister without portfolio is \$15,942. | Salary of minister without portfolio |
| (4) The annual salary of every Parliamentary Assistant is \$9,808. | Salary of Parliamentary Assistant |
| 2. This Act shall be deemed to have come into force on the 1st day of April, 1989. | Commencement |
| 3. The short title of this Act is the <i>Executive Council Amendment Act, 1989</i> . | Short title |

Bill 94

*(Chapter 86
Statutes of Ontario, 1989)*

An Act to amend the Executive Council Act

The Hon. C. Ward

Government House Leader and Minister of Government Services

<i>1st Reading</i>	December 7th, 1989
<i>2nd Reading</i>	December 18th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989



Bill 94

1989

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Bill 95

An Act to amend the Highway Traffic Act

The Hon. W. Wyre
Minister of Transportation

1st Reading December 7th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 1 (1) of the *Highway Traffic Act* is amended by adding two definitions.

Subsection 2. New subsection 1 (5) of the Act contains a reference to offences under the *National Defence Act* (Canada).

SECTION 2.—Subsection 1. Subsection 7 (11) of the Act provides for the payment of fees to agents issuing permits. The amendment expands the services for which payment can be contracted.

Subsection 2. Subsection 7 (14) of the Act authorizes the making of regulations respecting permits. The amendment authorizes the making of regulations to prescribe conditions for the issuing or validating of permits and related documents.

SECTION 3. Subsection 15a (1) of the Act is amended to provide that the definitions set out in the subsection apply to sections 15b to 15h as well as to section 15a.

SECTION 4. New section 15h of the Act requires commercial motor vehicles to be covered by liability insurance in an amount prescribed by the regulations. For the purposes of section 15h, "commercial motor vehicle" and "operator" have the same meaning as in section 15a of the Act.

SECTION 5.—Subsection 1. New subsection 18 (4a) of the Act requires that the owner of a motor vehicle equipped with air brakes ensure that any driver of the vehicle has a licence that is endorsed to permit the driving of such a vehicle.

Subsection 2. Subsection 18 (10) of the Act specifies the penalty for contravention of certain subsections of section 18. The amendment adds references to several other subsections of section 18.

SECTION 6. New section 25a of the Act authorizes the Minister to enter into agreements with U.S. states providing for the reciprocal sanctioning of drivers and the exchange of driver's licences on changes of residence.

SECTIONS 7 to 11 and SECTIONS 19 and 21. References in the Act to provisions of the *Criminal Code* (Canada) are updated.

SECTION 7. Clauses 26 (1) (b) and (c) of the Act are amended to add references to street cars.

New clause 26 (1) (ca) of the Act contains a reference to designated American statutory provisions.

Subsection 26 (4) of the Act is re-enacted to add a reference to designated American statutory provisions and to add a reference to dispositions made under the *Young Offenders Act* (Canada).

SECTION 8.—Subsection 1. Subsection 27 (1) of the Act is re-enacted to add a reference to designated American statutory provisions.

Subsection 2. Subsection 27 (2) of the Act is re-enacted to add a reference to designated American statutory provisions and to add a reference to dispositions made under the *Young Offenders Act* (Canada). New subsection 27 (3) authorizes the making of regulations to designate American statutory provisions for purposes of sections 26 and 27.

SECTION 9. Subsection 27a (1) is amended to add a reference to street cars.

SECTION 11. References in subsections 30a (2), (8) and (9) of the Act to a "roadside screening device" are changed to an "approved screening device".

SECTION 12. Subsections 42 (4) and (5) of the Act are re-enacted. A report made under subsection 42 (4) will now be made to the nearest police officer, instead of to the Ministry. The information to be provided in a report made under subsection 42 (4) or (5) is now set out in new subsection 42 (5a).

SECTION 13. Subsection 109 (13) of the Act is amended to provide for higher fines for speeding offences and to change the range of speeds at which different fine levels are assessed.

SECTION 14. Subsection 120 (6) of the Act is re-enacted to change a reference to a "pedestrian crosswalk" to a "pedestrian crossover".

SECTION 15.—Subsection 1. Subsection 137 (1) of the Act is amended so that it will now apply whenever a flashing red light is operating on an emergency vehicle. The provision currently applies only where the light is located on the roof of the vehicle.

Subsection 2. Subsection 137 (2) of the Act is re-enacted to clarify that the restriction on following fire department vehicles applies to all lanes in the direction the fire department vehicle is travelling.

SECTION 16. New section 146a of the Act authorizes the use of alternating highbeam lights on emergency vehicles and prohibits the use of such lights on other vehicles.

SECTION 17. The amendments to section 165a of the Act are consequential to the addition of new section 165b to the Act by section 18 of the Bill.

SECTION 18. New section 165b of the Act authorizes the Registrar to issue certificates exempting operators and drivers of commercial motor vehicles from the hours of work requirements prescribed under clause 165a (7) (c) of the Act.

SECTION 19.—Subsection 1. Subsection 184 (1) of the Act is amended to provide that the reference to a "motorized snow vehicle" means a motorized snow vehicle within the meaning of the *Motorized Snow Vehicles Act*.

Subsection 2. Subsection 184 (2) of the Act is re-enacted and divided into two subsections for greater clarity. References to the *Young Offenders Act* (Canada) are added.

SECTION 20. Subsection 190a (1) of the Act is re-enacted to add a reference to municipal by-laws regulating traffic.

SECTION 22. New section 194c of the Act authorizes the making of regulations to exempt certain types of off-road vehicles from certain requirements under the Act.

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Bill 95

1989

An Act to amend the Highway Traffic Act

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

1.—(1) Subsection 1 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 48, section 1, 1983, chapter 63, section 1 and 1989, chapter 54, section 1, is further amended by adding thereto the following paragraphs:

6a. “conviction” includes a disposition made under the *Young Offenders Act* (Canada);

R.S.C. 1985,
c. Y-1

35a. “state of the United States of America” includes the District of Columbia.

(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 1, 1983, chapter 63, section 1 and 1989, chapter 54, section 1, is further amended by adding thereto the following subsection:

(5) Any reference in this Act or the regulations to a conviction or discharge for an offence under the *Criminal Code* (Canada) includes a conviction or discharge for the corresponding offence under the *National Defence Act* (Canada).

Idem
R.S.C. 1985,
cc. C-46,
N-5

2.—(1) Subsection 7 (11) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 1, is amended by inserting after “permits” in the second line “or provides any other service in relation to permits”.

(2) Subsection 7 (14) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 15, section 2 and 1983, chapter 63, section 2, is further amended by adding thereto the following clause:

- (k) prescribing conditions precedent or subsequent for the issuing or validating of any class of permit or number plate or the issuing of any evidence of validation.

3. Subsection 15a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 44, section 2, is amended by striking out "sections 15d and 15e" in the first line and inserting in lieu thereof "sections 15b to 15h".

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

Liability
insurance for
commercial
motor
vehicles
R.S.O. 1980,
cc. 83, 218

15h.—(1) No operator or owner of a commercial motor vehicle shall operate the vehicle or cause or permit the vehicle to be operated on a highway unless, in addition to the minimum liability insurance required under the *Compulsory Automobile Insurance Act*, motor vehicle liability insurance in the amount prescribed by the regulations is carried for the vehicle with an insurer licensed under the *Insurance Act*.

Non-residents

(2) If an operator or owner of a commercial motor vehicle is not a resident of Ontario, the insurance required by subsection (1) may be carried with an insurer who is authorized to transact the insurance in the state or province in which the owner or operator resides.

Driver to
carry
evidence of
insurance

(3) Every driver of a commercial motor vehicle shall carry evidence of a type prescribed by the regulations that the vehicle is insured as required by this section and shall surrender the evidence for reasonable inspection upon the demand of a police officer.

Offence

(4) An operator or owner who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$2,500.

Idem

(5) A driver who contravenes subsection (3) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Regulations

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

- (a) prescribing the amount of motor vehicle liability insurance to be carried for a commercial motor vehicle;

- (b) prescribing documents that may be accepted as evidence that a commercial motor vehicle is insured as required by this section.

5.—(1) Section 18 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 7, 1984, chapter 21, section 3, 1985, chapter 13, section 2 and 1989, chapter 54, sections 4 and 5, are further amended by adding thereto the following subsection:

(4a) No person who is the owner or is in possession or control of a motor vehicle equipped with air brakes shall permit any person to drive the vehicle on a highway unless the licence of that person is endorsed to permit the driving of a vehicle equipped with air brakes. Idem

(2) Subsection 18 (10) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 63, section 7, is amended by striking out “subsection (1) or (1a)” in the first line and inserting in lieu thereof “subsection (1), (1a), (1b), (4) or (4a)”.

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

25a.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into a reciprocal agreement with the government of any state of the United States of America providing for, Agreements
with U.S.
states

- (a) the sanctioning by the licensing jurisdiction of drivers from that jurisdiction who commit offences in the other jurisdiction; and
- (b) on a driver's change of residence, the issuance of a driver's licence by one jurisdiction in exchange for a driver's licence issued by the other jurisdiction.

(2) The provisions of this Act and the regulations with respect to the licensing of drivers are subject to any agreement made under this section. Effect of
agreement

7.—(1) Clause 26 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out “203, 204 or 219” in the first line and inserting in lieu thereof “220, 221 or 236”.

(2) Clause 26 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out “233, 236, 237 or 239” in the first line and insert-

ing in lieu thereof "249, 252, 253 or 255" and by inserting after "vehicle" in the third line "or street car".

(3) Clause 26 (1)(c) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out "238 (5)" in the first line and inserting in lieu thereof "254 (5)" and by inserting after "vehicle" in the fourth line "or street car".

(4) Subsection 26 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out "or" at the end of clause (c) and by adding thereto the following clause:

- (ca) under a provision that is enacted by a state of the United States of America and that is designated by the regulations; or

(5) Subsection 26 (4) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 13, section 3, is repealed and the following substituted therefor:

Order for
discharge

(4) This section applies in the same manner as if a person were convicted of an offence if the person pleads guilty to or is found guilty of an offence referred to in subsection (1) and,

R.S.C. 1985,
c. C-46

- (a) an order directing that the accused be discharged is made under section 736 of the *Criminal Code* (Canada) or under a provision that is enacted by a state of the United States of America and that is designated by the regulations; or

R.S.C. 1985,
c. Y-1

- (b) a disposition is made under section 20 or sections 28 to 32 of the *Young Offenders Act* (Canada), including a confirmation or variation of the disposition.

8.—(1) Subsection 27 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 4, is repealed and the following substituted therefor:

Suspension
for driving
while
disqualified

(1) The driver's licence of a person who is convicted of an offence under subsection 259 (4) of the *Criminal Code* (Canada) or under a provision that is enacted by a state of the United States of America and that is designated by the regulations is thereupon suspended for a period of,

- (a) upon the first conviction, one year; and

(b) upon a subsequent conviction, two years,

in addition to any other period for which the licence is suspended and consecutively thereto.

(2) Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

(2) This section applies in the same manner as if a person were convicted of an offence if the person pleads guilty to or is found guilty of an offence referred to in subsection (1) and,

Order for
discharge

(a) an order directing that the accused be discharged is made under section 736 of the *Criminal Code* (Canada) or under a provision that is enacted by a state of the United States of America and that is designated by the regulations; or

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c. C-46

(b) a disposition is made under section 20 or sections 28 to 32 of the *Young Offenders Act* (Canada), including a confirmation or variation of the disposition.

R.S.C. 1985,
c. Y-1

(3) The Lieutenant Governor in Council may make regulations designating provisions enacted by a state of the United States of America for purposes of this section and section 26.

Regulations

9.—(1) Subsection 27a (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 5, is amended by striking out “242” in the second line and inserting in lieu thereof “259” and by inserting after “vehicle” in the fourth line “or street car”.

(2) Subsection 27a (2) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 5, is amended by striking out “242” in the second line and inserting in lieu thereof “259”.

10. Subsection 27b (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 6, is amended by striking out “242” in the first line and inserting in lieu thereof “259”.

11.—(1) Subsection 30a (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out “238” in the amendment of 1985 and inserting in lieu thereof “254”.

(2) Subsection 30a (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out "238" in the amendment of 1985 and inserting in lieu thereof "254" and by striking out "roadside" in the third line.

(3) Subsection 30a (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out "238" in the amendments of 1985 and inserting in lieu thereof in each instance "254".

(4) Subsection 30a (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out "238" in the amendment of 1985 and inserting in lieu thereof "254".

(5) Subsection 30a (8) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is repealed and the following substituted therefor:

Calibration
of screening
device

(8) For the purposes of subsection (2), the approved screening device shall not be calibrated to register "Warn" if the proportion of alcohol in the blood of the person whose breath is being analyzed is less than 50 milligrams of alcohol in 100 millilitres of blood.

(6) Subsection 30a (9) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is repealed and the following substituted therefor:

Idem

(9) It shall be presumed, in the absence of proof to the contrary, that any approved screening device used for the purposes of subsection (2) has been calibrated as required under subsection (8).

12. Subsections 42 (4) and (5) of the said Act are repealed and the following substituted therefor:

Report as to
cars stored
or parked

(4) If a motor vehicle is placed in the possession of a person who repairs, buys, sells, wrecks or stores motor vehicles or operates a garage business, parking station, parking lot or used car lot and the vehicle remains in the person's possession for more than two weeks without good reason, the person shall forthwith, upon the expiration of the two-week period, make a report to the nearest police officer in accordance with subsection (5a).

(5) If a motor vehicle that shows evidence of having been involved in a serious accident or having been struck by a bullet is brought into a garage, parking station, parking lot, used car lot or repair shop, the person in charge of the garage, parking station, parking lot, used car lot or repair shop shall forthwith make a report to the nearest police officer in accordance with subsection (5a).

Report as to
damaged or
bullet-marked
cars

(5a) A person making a report under subsection (4) or (5) shall give a description of the vehicle and, if known, the vehicle identification number, the permit number, and the name and address of the owner or operator.

Information
to be
reported

13.—(1) Clause 109 (13) (a) of the said Act is amended by striking out “\$1.25” in the second line and inserting in lieu thereof “\$3.00”.

(2) Clause 109 (13) (b) of the said Act is amended by striking out “40” in the first line and inserting in lieu thereof “35” and by striking out “\$1.75” in the third line and inserting in lieu thereof “\$4.50”.

(3) Clause 109 (13) (c) of the said Act is amended by striking out “40” in the first line and inserting in lieu thereof “35”, by striking out “60” in the first line and inserting in lieu thereof “50” and by striking out “\$2.50” in the third line and inserting in lieu thereof “\$7.00”.

(4) Clause 109 (13) (d) of the said Act is amended by striking out “60” in the first line and inserting in lieu thereof “50” and by striking out “\$3.25” in the second line and inserting in lieu thereof “\$9.75”.

14. Subsection 120 (6) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 54, section 18, is repealed and the following substituted therefor:

(6) No person shall ride a bicycle across a roadway within a pedestrian crossover.

Riding in
pedestrian
crossover
prohibited

15.—(1) Subsection 137 (1) of the said Act is amended by striking out “located on the roof of the vehicle” in the fourth line.

(2) Subsection 137 (2) of the said Act is repealed and the following substituted therefor:

(2) No driver of a vehicle shall follow in any lane of a roadway at a distance of less than 150 metres a fire department vehicle responding to an alarm.

Following
fire
department
vehicle

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

Alternating highbeams on emergency vehicles

146a.—(1) Notwithstanding section 146, highbeam headlamps that produce alternating flashes of white light may be used by a public utility emergency vehicle while responding to an emergency and by an emergency vehicle as defined in clause 124 (1) (b).

Alternating highbeams on other vehicles prohibited

(2) No person shall use highbeam headlamps that produce alternating flashes of white light on any vehicle other than a vehicle referred to in subsection (1).

17.—(1) Subsection 165a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 44, section 9, is amended by inserting after “section” in the first line “and in section 165b”.

(2) Clause 165a (7) (e) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 44, section 9, is amended by inserting after “section” in the second line “and section 165b”.

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

Exemption certificate

165b.—(1) An operator may apply in writing to the Registrar for a certificate exempting the operator and any driver employed by or contracted to the operator from any requirement prescribed by the regulations made under clause 165a (7) (c) regarding hours of work.

Issuance

(2) On an application under subsection (1), the Registrar may issue the certificate applied for if the Registrar is satisfied that the operator applying for the certificate has a genuine need for it and the issuance of the certificate is unlikely to jeopardize the safety or health of any person.

Conditions

(3) A certificate issued under this section may contain any conditions that the Registrar considers appropriate and a certificate is subject to the conditions set out therein.

Effect of certificate

(4) Subject to subsection (5), a certificate issued under this section exempts the operator to whom it is issued and any driver employed by or contracted to that operator from those requirements prescribed by the regulations made under clause 165a (7) (c) that are set out in the certificate.

Where certificate does not apply

(5) A certificate issued under this section does not apply to exempt,

- (a) an operator who is in contravention of any condition set out in the certificate;
- (b) a driver who is in contravention of any condition set out in the certificate or who is in contravention of subsection (7); or
- (c) an operator for whom a driver referred to in clause (b) is working.

(6) A certificate is valid during the period set out therein, which period shall not exceed twelve months. Duration

(7) A driver claiming an exemption under a certificate issued under this section shall carry the certificate or a true copy thereof and produce the certificate or copy for inspection upon the demand of a police officer or an officer appointed for the purpose of carrying out the provisions of this Act. Certificate to be produced for inspection

19.—(1) Subsection 184 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 61, section 7, is amended by striking out “a motor vehicle, motorized snow vehicle or street car” in the fifth and sixth lines and inserting in lieu thereof “a motor vehicle or street car within the meaning of this Act or a motorized snow vehicle within the meaning of the *Motorized Snow Vehicles Act*”.

(2) Subsection 184 (2) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 13, section 14, is repealed and the following substituted therefor:

(2) Where a person pleads guilty to or is found guilty of an offence under the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada) referred to in subsection (1) and an order directing that the person be discharged is made under section 736 of the *Criminal Code* (Canada) or section 20 or sections 28 to 32 of the *Young Offenders Act* (Canada), the judge, provincial judge or justice of the peace who makes the order or the clerk of the court in which the order is made shall forthwith certify the order to the Registrar. Order for conditional discharge
R.S.C. 1985,
cc. C-46,
Y-1

(2a) An order certified under subsection (2) shall set out the name, address and description of the person discharged by the order, the number of the person's driver's licence, the number of the permit of the motor vehicle or the registration number of the motorized snow vehicle with which the offence was committed, the time the offence was committed and the provision of the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada) contravened. Idem

20. Subsection 190a (1) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 54, section 41, is repealed and the following substituted therefor:

Cyclist to
identify self

(1) A police officer who finds any person contravening any provision under this Act or any municipal by-law regulating traffic while in charge of a bicycle may require that person to stop and to provide identification of himself or herself.

21.—(1) Subsection 192 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 16, is amended by striking out “237, 238 or 239” in the second line and inserting in lieu thereof “253, 254 or 255” and by striking out “236” in the fourth line and inserting in lieu thereof “252”.

(2) Subsection 192 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 16, is amended by striking out “236” in the second line and in the fourth line and inserting in lieu thereof in each instance “252”.

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

Regulations
respecting
off-road
vehicles

194c.—(1) The Lieutenant Governor in Council may make regulations classifying off-road vehicles and drivers thereof and exempting any class of off-road vehicle or class of driver thereof from any requirement in Parts II, III and V of this Act or any regulation made thereunder and prescribing conditions for any such exemption.

Idem
1983, c. 53

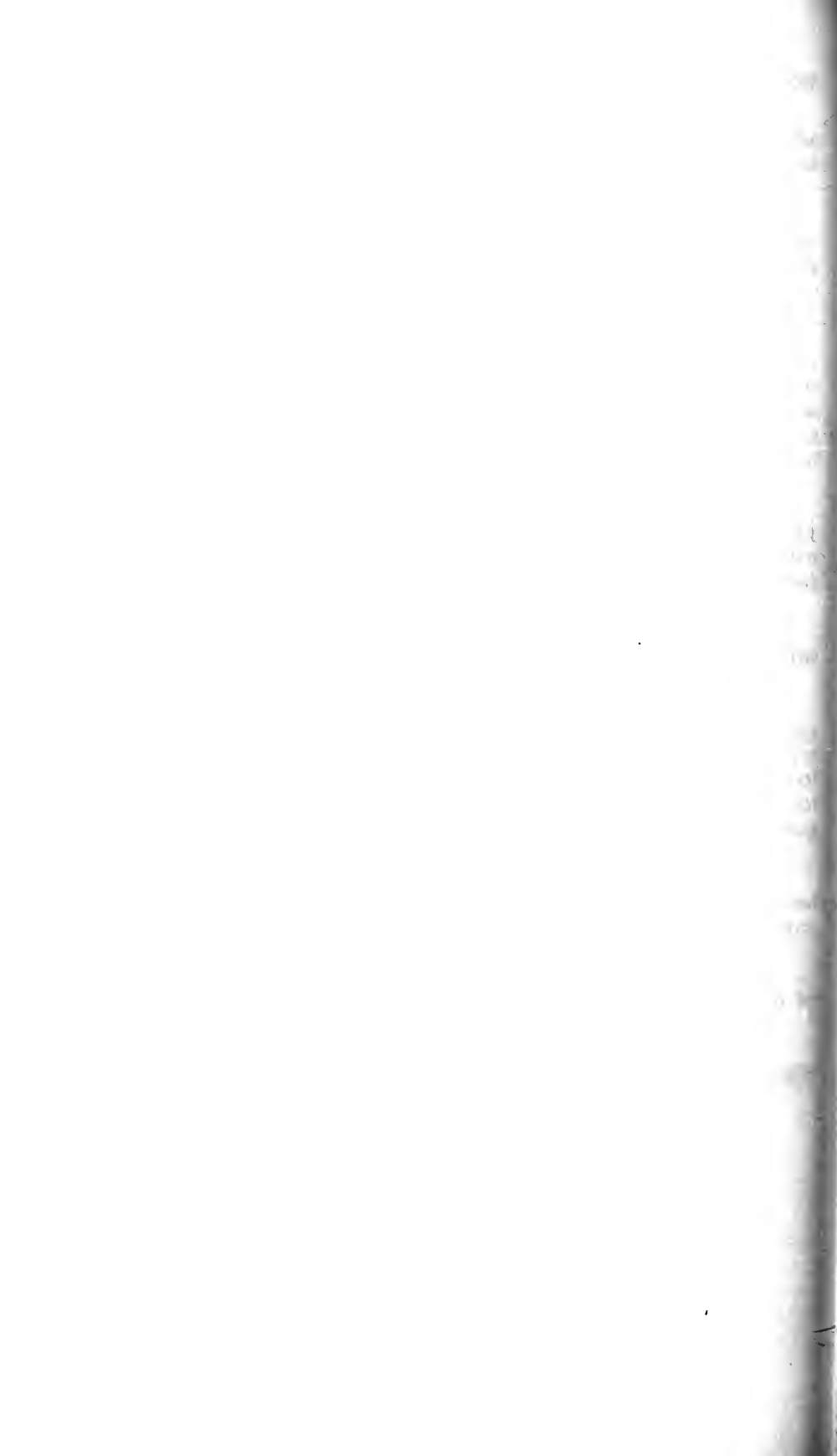
(2) In this section, “off-road vehicle” means an off-road vehicle within the meaning of the *Off-Road Vehicles Act, 1983*.

Commence-
ment

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

Short title

24. The short title of this Act is the *Highway Traffic Amendment Act, 1989*.



Bill 95

*(Chapter 87
Statutes of Ontario, 1989)*

An Act to amend the Highway Traffic Act

The Hon. W. Wrye
Minister of Transportation

<i>1st Reading</i>	December 7th, 1989
<i>2nd Reading</i>	December 13th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

Bill 95

1989

An Act to amend the Highway Traffic Act

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

1.—(1) Subsection 1 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 48, section 1, 1983, chapter 63, section 1 and 1989, chapter 54, section 1, is further amended by adding thereto the following paragraphs:

6a. “conviction” includes a disposition made under the *Young Offenders Act* (Canada);

R.S.C. 1985,
c. Y-1

35a. “state of the United States of America” includes the District of Columbia.

(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 1, 1983, chapter 63, section 1 and 1989, chapter 54, section 1, is further amended by adding thereto the following subsection:

(5) Any reference in this Act or the regulations to a conviction or discharge for an offence under the *Criminal Code* (Canada) includes a conviction or discharge for the corresponding offence under the *National Defence Act* (Canada).

Idem
R.S.C. 1985,
cc. C-46,
N-5

2.—(1) Subsection 7 (11) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 1, is amended by inserting after “permits” in the second line “or provides any other service in relation to permits”.

(2) Subsection 7 (14) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 15, section 2 and 1983, chapter 63, section 2, is further amended by adding thereto the following clause:

- (k) prescribing conditions precedent or subsequent for the issuing or validating of any class of permit or number plate or the issuing of any evidence of validation.

3. Subsection 15a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 44, section 2, is amended by striking out "sections 15d and 15e" in the first line and inserting in lieu thereof "sections 15b to 15h".

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

Liability
insurance for
commercial
motor
vehicles
R.S.O. 1980,
cc. 83, 218

15h.—(1) No operator or owner of a commercial motor vehicle shall operate the vehicle or cause or permit the vehicle to be operated on a highway unless, in addition to the minimum liability insurance required under the *Compulsory Automobile Insurance Act*, motor vehicle liability insurance in the amount prescribed by the regulations is carried for the vehicle with an insurer licensed under the *Insurance Act*.

Non-residents

(2) If an operator or owner of a commercial motor vehicle is not a resident of Ontario, the insurance required by subsection (1) may be carried with an insurer who is authorized to transact the insurance in the state or province in which the owner or operator resides.

Driver to
carry
evidence of
insurance

(3) Every driver of a commercial motor vehicle shall carry evidence of a type prescribed by the regulations that the vehicle is insured as required by this section and shall surrender the evidence for reasonable inspection upon the demand of a police officer.

Offence

(4) An operator or owner who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$2,500.

Idem

(5) A driver who contravenes subsection (3) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Regulations

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

- (a) prescribing the amount of motor vehicle liability insurance to be carried for a commercial motor vehicle;

- (b) prescribing documents that may be accepted as evidence that a commercial motor vehicle is insured as required by this section.

5.—(1) Section 18 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 7, 1984, chapter 21, section 3, 1985, chapter 13, section 2 and 1989, chapter 54, sections 4 and 5, are further amended by adding thereto the following subsection:

(4a) No person who is the owner or is in possession or control of a motor vehicle equipped with air brakes shall permit any person to drive the vehicle on a highway unless the licence of that person is endorsed to permit the driving of a vehicle equipped with air brakes. Idem

(2) Subsection 18 (10) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 63, section 7, is amended by striking out “subsection (1) or (1a)” in the first line and inserting in lieu thereof “subsection (1), (1a), (1b), (4) or (4a)”.

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

25a.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into a reciprocal agreement with the government of any state of the United States of America providing for, Agreements
with U.S.
states

- (a) the sanctioning by the licensing jurisdiction of drivers from that jurisdiction who commit offences in the other jurisdiction; and
- (b) on a driver's change of residence, the issuance of a driver's licence by one jurisdiction in exchange for a driver's licence issued by the other jurisdiction.

(2) The provisions of this Act and the regulations with respect to the licensing of drivers are subject to any agreement made under this section. Effect of
agreement

7.—(1) Clause 26 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out “203, 204 or 219” in the first line and inserting in lieu thereof “220, 221 or 236”.

(2) Clause 26 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out “233, 236, 237 or 239” in the first line and insert-

ing in lieu thereof "249, 252, 253 or 255" and by inserting after "vehicle" in the third line "or street car".

(3) Clause 26 (1)(c) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out "238 (5)" in the first line and inserting in lieu thereof "254 (5)" and by inserting after "vehicle" in the fourth line "or street car".

(4) Subsection 26 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 3, is amended by striking out "or" at the end of clause (c) and by adding thereto the following clause:

- (ca) under a provision that is enacted by a state of the United States of America and that is designated by the regulations; or

(5) Subsection 26 (4) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 13, section 3, is repealed and the following substituted therefor:

Order for
discharge

(4) This section applies in the same manner as if a person were convicted of an offence if the person pleads guilty to or is found guilty of an offence referred to in subsection (1) and,

R.S.C. 1985,
c. C-46

- (a) an order directing that the accused be discharged is made under section 736 of the *Criminal Code* (Canada) or under a provision that is enacted by a state of the United States of America and that is designated by the regulations; or

R.S.C. 1985,
c. Y-1

- (b) a disposition is made under section 20 or sections 28 to 32 of the *Young Offenders Act* (Canada), including a confirmation or variation of the disposition.

8.—(1) Subsection 27 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 4, is repealed and the following substituted therefor:

Suspension
for driving
while
disqualified

(1) The driver's licence of a person who is convicted of an offence under subsection 259 (4) of the *Criminal Code* (Canada) or under a provision that is enacted by a state of the United States of America and that is designated by the regulations is thereupon suspended for a period of,

- (a) upon the first conviction, one year; and

(b) upon a subsequent conviction, two years,

in addition to any other period for which the licence is suspended and consecutively thereto.

(2) Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

(2) This section applies in the same manner as if a person were convicted of an offence if the person pleads guilty to or is found guilty of an offence referred to in subsection (1) and,

Order for discharge

(a) an order directing that the accused be discharged is made under section 736 of the *Criminal Code* (Canada) or under a provision that is enacted by a state of the United States of America and that is designated by the regulations; or

R.S.C. 1985,
c. C-46

(b) a disposition is made under section 20 or sections 28 to 32 of the *Young Offenders Act* (Canada), including a confirmation or variation of the disposition.

R.S.C. 1985,
c. Y-1

(3) The Lieutenant Governor in Council may make regulations designating provisions enacted by a state of the United States of America for purposes of this section and section 26.

Regulations

9.—(1) Subsection 27a (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 5, is amended by striking out “242” in the second line and inserting in lieu thereof “259” and by inserting after “vehicle” in the fourth line “or street car”.

(2) Subsection 27a (2) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 5, is amended by striking out “242” in the second line and inserting in lieu thereof “259”.

10. Subsection 27b (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 6, is amended by striking out “242” in the first line and inserting in lieu thereof “259”.

11.—(1) Subsection 30a (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out “238” in the amendment of 1985 and inserting in lieu thereof “254”.

(2) Subsection 30a (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out "238" in the amendment of 1985 and inserting in lieu thereof "254" and by striking out "roadside" in the third line.

(3) Subsection 30a (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out "238" in the amendments of 1985 and inserting in lieu thereof in each instance "254".

(4) Subsection 30a (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1 and amended by 1985, chapter 13, section 8, is further amended by striking out "238" in the amendment of 1985 and inserting in lieu thereof "254".

(5) Subsection 30a (8) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is repealed and the following substituted therefor:

Calibration
of screening
device

(8) For the purposes of subsection (2), the approved screening device shall not be calibrated to register "Warn" if the proportion of alcohol in the blood of the person whose breath is being analyzed is less than 50 milligrams of alcohol in 100 millilitres of blood.

(6) Subsection 30a (9) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is repealed and the following substituted therefor:

Idem

(9) It shall be presumed, in the absence of proof to the contrary, that any approved screening device used for the purposes of subsection (2) has been calibrated as required under subsection (8).

12. Subsections 42 (4) and (5) of the said Act are repealed and the following substituted therefor:

Report as to
cars stored
or parked

(4) If a motor vehicle is placed in the possession of a person who repairs, buys, sells, wrecks or stores motor vehicles or operates a garage business, parking station, parking lot or used car lot and the vehicle remains in the person's possession for more than two weeks without good reason, the person shall forthwith, upon the expiration of the two-week period, make a report to the nearest police officer in accordance with subsection (5a).

(5) If a motor vehicle that shows evidence of having been involved in a serious accident or having been struck by a bullet is brought into a garage, parking station, parking lot, used car lot or repair shop, the person in charge of the garage, parking station, parking lot, used car lot or repair shop shall forthwith make a report to the nearest police officer in accordance with subsection (5a).

Report as to damaged or bullet-marked cars

(5a) A person making a report under subsection (4) or (5) shall give a description of the vehicle and, if known, the vehicle identification number, the permit number, and the name and address of the owner or operator.

Information to be reported

13.—(1) Clause 109 (13) (a) of the said Act is amended by striking out “\$1.25” in the second line and inserting in lieu thereof “\$3.00”.

(2) Clause 109 (13) (b) of the said Act is amended by striking out “40” in the first line and inserting in lieu thereof “35” and by striking out “\$1.75” in the third line and inserting in lieu thereof “\$4.50”.

(3) Clause 109 (13) (c) of the said Act is amended by striking out “40” in the first line and inserting in lieu thereof “35”, by striking out “60” in the first line and inserting in lieu thereof “50” and by striking out “\$2.50” in the third line and inserting in lieu thereof “\$7.00”.

(4) Clause 109 (13) (d) of the said Act is amended by striking out “60” in the first line and inserting in lieu thereof “50” and by striking out “\$3.25” in the second line and inserting in lieu thereof “\$9.75”.

14. Subsection 120 (6) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 54, section 18, is repealed and the following substituted therefor:

(6) No person shall ride a bicycle across a roadway within a pedestrian crossover.

Riding in pedestrian crossover prohibited

15.—(1) Subsection 137 (1) of the said Act is amended by striking out “located on the roof of the vehicle” in the fourth line.

(2) Subsection 137 (2) of the said Act is repealed and the following substituted therefor:

(2) No driver of a vehicle shall follow in any lane of a roadway at a distance of less than 150 metres a fire department vehicle responding to an alarm.

Following fire department vehicle

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

Alternating highbeams on emergency vehicles

146a.—(1) Notwithstanding section 146, highbeam headlamps that produce alternating flashes of white light may be used by a public utility emergency vehicle while responding to an emergency and by an emergency vehicle as defined in clause 124 (1) (b).

Alternating highbeams on other vehicles prohibited

(2) No person shall use highbeam headlamps that produce alternating flashes of white light on any vehicle other than a vehicle referred to in subsection (1).

17.—(1) Subsection 165a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 44, section 9, is amended by inserting after “section” in the first line “and in section 165b”.

(2) Clause 165a (7) (e) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 44, section 9, is amended by inserting after “section” in the second line “and section 165b”.

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

Exemption certificate

165b.—(1) An operator may apply in writing to the Registrar for a certificate exempting the operator and any driver employed by or contracted to the operator from any requirement prescribed by the regulations made under clause 165a (7) (c) regarding hours of work.

Issuance

(2) On an application under subsection (1), the Registrar may issue the certificate applied for if the Registrar is satisfied that the operator applying for the certificate has a genuine need for it and the issuance of the certificate is unlikely to jeopardize the safety or health of any person.

Conditions

(3) A certificate issued under this section may contain any conditions that the Registrar considers appropriate and a certificate is subject to the conditions set out therein.

Effect of certificate

(4) Subject to subsection (5), a certificate issued under this section exempts the operator to whom it is issued and any driver employed by or contracted to that operator from those requirements prescribed by the regulations made under clause 165a (7) (c) that are set out in the certificate.

Where certificate does not apply

(5) A certificate issued under this section does not apply to exempt,

- (a) an operator who is in contravention of any condition set out in the certificate;
- (b) a driver who is in contravention of any condition set out in the certificate or who is in contravention of subsection (7); or
- (c) an operator for whom a driver referred to in clause (b) is working.

(6) A certificate is valid during the period set out therein, which period shall not exceed twelve months. Duration

(7) A driver claiming an exemption under a certificate issued under this section shall carry the certificate or a true copy thereof and produce the certificate or copy for inspection upon the demand of a police officer or an officer appointed for the purpose of carrying out the provisions of this Act. Certificate to be produced for inspection

19.—(1) Subsection 184 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 61, section 7, is amended by striking out “a motor vehicle, motorized snow vehicle or street car” in the fifth and sixth lines and inserting in lieu thereof “a motor vehicle or street car within the meaning of this Act or a motorized snow vehicle within the meaning of the *Motorized Snow Vehicles Act*”.

(2) Subsection 184 (2) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 13, section 14, is repealed and the following substituted therefor:

(2) Where a person pleads guilty to or is found guilty of an offence under the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada) referred to in subsection (1) and an order directing that the person be discharged is made under section 736 of the *Criminal Code* (Canada) or section 20 or sections 28 to 32 of the *Young Offenders Act* (Canada), the judge, provincial judge or justice of the peace who makes the order or the clerk of the court in which the order is made shall forthwith certify the order to the Registrar. Order for conditional discharge
R.S.C. 1985,
cc. C-46,
Y-1

(2a) An order certified under subsection (2) shall set out the name, address and description of the person discharged by the order, the number of the person's driver's licence, the number of the permit of the motor vehicle or the registration number of the motorized snow vehicle with which the offence was committed, the time the offence was committed and the provision of the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada) contravened. Idem

20. Subsection 190a (1) of the said Act, as enacted by the Statutes of Ontario, 1989, chapter 54, section 41, is repealed and the following substituted therefor:

Cyclist to
identify self

(1) A police officer who finds any person contravening any provision under this Act or any municipal by-law regulating traffic while in charge of a bicycle may require that person to stop and to provide identification of himself or herself.

21.—(1) Subsection 192 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 16, is amended by striking out “237, 238 or 239” in the second line and inserting in lieu thereof “253, 254 or 255” and by striking out “236” in the fourth line and inserting in lieu thereof “252”.

(2) Subsection 192 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 16, is amended by striking out “236” in the second line and in the fourth line and inserting in lieu thereof in each instance “252”.

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

Regulations
respecting
off-road
vehicles

194c.—(1) The Lieutenant Governor in Council may make regulations classifying off-road vehicles and drivers thereof and exempting any class of off-road vehicle or class of driver thereof from any requirement in Parts II, III and V of this Act or any regulation made thereunder and prescribing conditions for any such exemption.

Idem
1983, c. 53

(2) In this section, “off-road vehicle” means an off-road vehicle within the meaning of the *Off-Road Vehicles Act, 1983*.

Commence-
ment

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

Short title

24. The short title of this Act is the *Highway Traffic Amendment Act, 1989*.

Bill 96

An Act to amend the Highway Traffic Act

The Hon. W. Wyre
Minister of Transportation

1st Reading December 13th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends certain provisions of the *Highway Traffic Act* regarding maximum allowable dimensions and weights for vehicles and combinations of vehicles.

SECTION 1. The definition of "trailer converter dolly" set out in paragraph 38a of subsection 1 (1) of the Act is amended.

SECTION 2. Section 91 of the Act is re-enacted to add additional definitions for purposes of Part VI of the Act.

SECTION 3.—Subsection 1. Subsection 92 (6a) of the Act sets out a general requirement that no combination of vehicles shall have a length in excess of twenty-three metres while on a highway. New subsection 92 (6b) permits certain combinations of vehicles to be up to twenty-five metres in length if specified conditions are satisfied.

New subsections 92 (6c) and (6d) concern the maximum allowable box lengths for certain combinations of vehicles.

Subsection 2. New subsections 92 (7) to (7b) of the Act concern the maximum allowable lengths for semi-trailers.

SECTION 4. Subsection 96 (2) of the Act is amended to authorize the making of regulations to prescribe maximum allowable dimensions for certain combinations of vehicles other than the dimensions set out in the Act.

SECTION 5. Section 108 of the Act is amended to authorize the making of regulations prescribing maximum allowable weights for classes of vehicles and combinations of vehicles and prescribing maximum allowable loadings on components of a vehicle.

SECTION 6. Several changes are made to certain tables to Part VII of the Act. The tables set out maximum allowable weights.

Bill 96

1989

An Act to amend the Highway Traffic Act

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

1. Paragraph 38a of subsection 1 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 48, section 1, is amended by inserting after "trailer converter dolly" in the first line "except in Part VI".

2. Section 91 of the said Act is repealed and the following substituted therefor:

91. In this Part,

Definitions

"A-train converter dolly" means a trailer converter dolly that is towed from a single hitch located on the centre-line of the towing unit;

"A-train double" means a combination of vehicles comprised of a tractor, a semi-trailer and either an A-train converter dolly and a semi-trailer or a full trailer attached to the lead semi-trailer in a like manner as if an A-train converter dolly were used;

"axle" has the same meaning as in Part VII;

"axle unit" has the same meaning as in Part VII;

"B-train double" means a combination of vehicles comprised of a tractor and two semi-trailers, where the second semi-trailer is attached by means of a fifth wheel assembly mounted on the rear of the first semi-trailer;

"box length", for a combination of vehicles having more than one trailer, means the distance from the front of the lead trailer to the rear of the rearmost trailer, including load, exclusive of any extension in the length caused by auxiliary

equipment or machinery at the front that is not designed for the transportation of goods;

“C-train converter dolly” means a single axle trailer converter dolly that does not articulate about a vertical axis through the hitch point on the towing trailer, is fitted with a self-steering axle and attaches a full trailer to the rear of a semi-trailer to form a C-train double;

“C-train double” means a combination of vehicles comprised of a tractor and a semi-trailer and another semi-trailer attached to the first semi-trailer by means of a C-train converter dolly;

“dual axle” has the same meaning as in Part VII;

“fifth wheel assembly” means a coupling device with,

- (a) the lower-half mounted on the rear portion of a vehicle frame or the frame of a trailer converter dolly, and
- (b) the upper-half fastened to the underside of the forward portion of a vehicle for the purpose of supporting and towing the vehicle;

“full trailer” means a trailer so designed that its weight and load is carried on its own axles and includes a combination consisting of a semi-trailer and a trailer converter dolly;

“kingpin” means the pin that couples a vehicle to the lower half of a fifth wheel assembly;

“over-dimensional farm vehicle” means a farm tractor, self-propelled implement of husbandry, implement of husbandry, or any combination of them, having a weight, width, length or height in excess of the limits provided in this Part or Part VII;

“semi-trailer” means a trailer so designed that the forward part of the trailer rests on or is carried by another vehicle or a trailer converter dolly and is coupled to that vehicle or trailer converter dolly by means of a fifth wheel assembly;

“single axle” has the same meaning as in Part VII;

“tow bar” means a towing device connected to the chassis frame of the towed vehicle and containing an eye or equivalent device for the purpose of coupling with a hitch;

“trailer converter dolly” means a vehicle that is used to convert a semi-trailer into a full trailer, consisting of one or more axles, the lower half of a fifth wheel assembly and a tow bar;

“triple axle” has the same meaning as in Part VII;

“turn centre” of an axle unit means the midway point between the centres of the first and last axles of the axle unit.

3.—(1) Subsections 92 (6b) and (6c) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 7, are repealed and the following substituted therefor:

(6b) Notwithstanding subsection (6a), an A-train double, B-train double or C-train double, including load, may be up to twenty-five metres in length while on a highway if, Idem

(a) the distance from the centre of the front axle of the tractor to the turn centre of the rear axle unit of the tractor does not exceed 6.2 metres;

(b) the tractor towing the combination of vehicles has no more than three axles; and

(c) the kingpin of the foremost trailer is located so that the front of the semi-trailer is entirely within a horizontal circular arc of two metres radius centred on the kingpin.

(6c) No combination of vehicles having more than one trailer shall have a box length in excess of 18.5 metres while on a highway. Box length of combination

(6d) Notwithstanding subsection (6c), a B-train double may have a box length of up to twenty metres while on a highway. Idem

(2) Subsection 92 (7) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 20, is repealed and the following substituted therefor:

(7) Subject to subsection (7a) and section 93, no semi-trailer shall exceed the length of 14.65 metres while on a highway. Length of semi-trailer

(7a) A semi-trailer may be up to 16.2 metres in length while on a highway if, Idem

- (a) the semi-trailer is equipped with a single axle unit, a dual axle unit or a triple axle unit;
- (b) none of the axles on the semi-trailer or the tractor towing the semi-trailer is equipped with a means to adjust the proportion of the weight on an axle independent of the load on the vehicle or equipped with a means to remove an axle from contact with the ground;
- (c) on a semi-trailer having a dual axle unit, the minimum and maximum axle spacing is 1.2 metres and 1.85 metres respectively;
- (d) on a semi-trailer having a triple axle unit, the minimum and maximum axle spacing is 2.4 metres and 3.7 metres respectively;
- (e) the distance from the kingpin to the turn centre of the semi-trailer axle unit does not exceed 12.5 metres;
- (f) the distance from the centre of the front axle of the tractor towing the semi-trailer to the turn centre of the rear axle unit of the tractor does not exceed 6.2 metres;
- (g) the kingpin is located so that the front of the semi-trailer is entirely within a horizontal circular arc of two metres radius centred on the kingpin;
- (h) the distance from the turn centre of the semi-trailer axle unit to the rear of the semi-trailer, including load, does not exceed 35 per cent of the distance from the kingpin of the semi-trailer to the turn centre of the semi-trailer axle unit; and
- (i) the tractor towing the semi-trailer has no more than three axles.

Idem

(7b) For the purposes of subsections (7) and (7a), any extension in the length of a semi-trailer caused by auxiliary equipment or machinery at the front that is not designed for the transportation of goods is not to be included in determining the length of the semi-trailer.

4. Subsection 96 (2) of the said Act is amended by adding thereto the following clause:

- (e) prescribing maximum allowable dimensions for an A-train double, B-train double or C-train double other than those set out in this Act.

5.—(1) Clause 108 (a) of the said Act is repealed and the following substituted therefor:

- (a) prescribing maximum allowable gross vehicle weights for classes of vehicles and combinations of vehicles.

(2) Section 108 of the said Act is amended by striking out “and” at the end of clause (b) and by adding thereto the following clause:

- (d) prescribing maximum allowable loadings on components of a vehicle in relation to the vehicle manufacturer’s ratings for the components.

6.—(1) Column Two of Table 1 to Part VII of the said Act is amended by striking out “16,800” in the second line and inserting in lieu thereof “17,000”.

(2) Table 2 to the said Part VII is amended by striking out,

3.0 to less than 3.1	22,400
3.1 to less than 3.2	22,700

in the fifth and sixth lines and inserting in lieu thereof,

3.0 to less than 3.2	23,000
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7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

8. The short title of this Act is the *Highway Traffic Amendment Act, 1989*.

Short title



Bill 97

An Act to amend the Law Society Act

The Hon. I. Scott
Attorney General

1st Reading December 13th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to permit the admission of persons qualified to practise law outside Ontario as temporary members of The Law Society of Upper Canada. Temporary members are permitted to act as barristers and solicitors in the employ of the Attorney General for Ontario or, if appointed under the *Crown Attorneys Act*, as Crown attorneys or assistant Crown attorneys.

Bill 97

1989

An Act to amend the Law Society 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 (c) of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by inserting after "member" in the second line "and a temporary member".

2. Section 16 of the said Act is amended by adding thereto the following subsection:

(2) For the purposes of subsection (1), "member" does not include a temporary member. Idem

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

28a.—(1) On the request of the Attorney General, a person who is of good character and who is qualified to practise law outside Ontario may be admitted by Convocation as a temporary member of the Society for a specified period. Admission of temporary members

(2) A person need not be a Canadian citizen or a permanent resident of Canada to be admitted as a temporary member of the Society. Canadian citizenship or residency not required

(3) For the period specified under subsection (1), a temporary member of the Society shall be deemed to be called to the bar and admitted and enrolled as a solicitor and is entitled to act and practise as a barrister and solicitor in the employ of the Attorney General for Ontario or, if appointed under the *Crown Attorneys Act*, as a Crown attorney or assistant Crown attorney. Limited right to practise
R.S.O. 1980, c. 107

(4) A person admitted as a temporary member of the Society for a specified period ceases to be a member at the end of the period. Termination of temporary membership

4. Subsection 50 (1) of the said Act is repealed and the following substituted therefor:

Prohibition
as to
practice, etc.

(1) Except where otherwise provided by law,

- (a) no person, other than a member whose rights and privileges are not suspended, shall act as a barrister or solicitor or hold himself or herself out as or represent himself or herself to be a barrister or solicitor or practise as a barrister or solicitor; and
- (b) no temporary member shall act as a barrister or solicitor or practise as a barrister or solicitor except to the extent permitted by subsection 28a (3).

5. Paragraph 12 of subsection 62 (1) of the said Act is repealed and the following substituted therefor:

- 12. governing members and student members or any class of either of them, and prescribing their rights and privileges.

6. Paragraph 1 of section 63 of the said Act is amended by inserting after "student members" in the third line "or any class of either of them".

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 *Law Society Amendment Act, 1989*.

Bill 98

An Act to amend the Ministry of the Environment Act

Mrs. Marland

1st Reading December 14th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to require the Minister to publish an annual report on the affairs of the Ministry.

Bill 98

1989

**An Act to amend the
Ministry of the Environment Act**

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

1. Section 5 of the *Ministry of the Environment Act*, being chapter 278 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) The Minister after the close of each year shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

Annual
report

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

Commence-
ment

3. The short title of this Act is the *Ministry of the Environment Amendment Act, 1989*.

Short title

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Bill 99

An Act to amend the Ministry of Transportation and Communications Act

The Hon. E. Fulton
Minister of Transportation

1st Reading February 10th, 1988

2nd Reading

3rd Reading

Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The Bill continues the Ministry of Transportation and Communications under the name Ministry of Transportation.

Section 5 of the Bill protects individuals acting in good faith from personal liability in tort.

Bill 99

1989

**An Act to amend the
Ministry of Transportation and Communications Act**

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

1. The title of the *Ministry of Transportation and Communications Act*, being chapter 289 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Ministry of Transportation Act

2. Section 1 of the said Act is repealed and the following substituted therefor:

1. In this Act,

Definitions

“Minister” means the Minister of Transportation;

“Ministry” means the Ministry of Transportation.

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

(1) The ministry of the public service known as the Ministry of Transportation and Communications is continued under the name of the Ministry of Transportation. Ministry
continued

4. Subsection 4 (1) of the said Act is amended by striking out “and Communications” in the fifth line and in the eighth line.

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

9.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry, anyone acting under the authority Immunity

of the Minister or the Deputy Minister, or anyone appointed under any Act assigned to the Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
liability
R.S.O. 1980,
c. 393

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Reference in
other Acts,
etc.

R.S.O. 1980,
c. 289

6. A reference in any Act, regulation, order in council, ministerial order, or act or thing made or done under any Act, to the Minister of Transportation and Communications, the Deputy Minister of Transportation and Communications, the Ministry of Transportation and Communications or the *Ministry of Transportation and Communications Act* shall be deemed to be a reference to the Minister of Transportation, the Deputy Minister of Transportation, the Ministry of Transportation or the *Ministry of Transportation Act*, respectively.

Commence-
ment

7. This Act shall be deemed to have come into force on the 29th day of September, 1987.

Short title

8. The short title of this Act is the *Ministry of Transportation and Communications Amendment Act, 1989*.

Bill 100

An Act to amend the Courts of Justice Act, 1984

The Hon. M. Elston

Chairman of the Management Board of Cabinet

1st Reading December 18th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to implement recommendations of the Henderson Report concerning remuneration, benefits and allowances of provincial judges.

SECTION 1. This section provides that provincial judges may not devote any of their time to the practice of law.

SECTION 2. This section sets the salaries for provincial judges for the year beginning April 1, 1989. It provides for annual increments based on the lesser of the increase in the Industrial Aggregate for Canada and 7 per cent.

SECTION 3. This section changes the name of the Ontario Provincial Courts Committee to the Provincial Court Commission and provides that the Commission will be appointed every three years to inquire into the adequacy of salary levels, allowances and benefits of provincial judges. It is also given discretion to conduct further inquiries into salary levels, allowances and benefits of provincial judges if requested to do so by a provincial judges' association or the Government of Ontario. In both cases it is to present recommendations and a report to the Chairman of Management Board of Cabinet.

SECTION 4.—Subsection 1. Ancillary to amendments in section 1.

Subsections 2 and 3. These subsections give the Lieutenant Governor in Council authority to make regulations concerning the appointment of a body to administer and manage any provisions concerning benefits of provincial judges and masters. A regulation may authorize the body to transfer funds respecting provincial judges' and masters' benefits from the Consolidated Revenue Fund to a separate fund to be administered by the body, to contract out the administration of any transferred fund to an administrator of another pension fund and to deduct the costs of administering the fund from the fund.

Bill 100

1989

An Act to amend the Courts of Justice Act, 1984

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

1. Subsection 42 (1) of the *Courts of Justice Act, 1984*, being chapter 11, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding at the end thereof "and shall not devote any of his or her time to the practice of law".

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

42a.—(1) For the year beginning on the 1st day of April, 1989, full-time provincial judges shall receive the following salaries:

Salaries of
full-time
provincial
judges

- | | | |
|----|--|-----------|
| 1. | Chief Judge of the Provincial Division | \$120,000 |
| 2. | Regional senior judge of the Provincial
Division..... | 115,000 |
| 3. | Co-ordinator of Justices of the Peace | 115,000 |
| 4. | Any other provincial judge | 105,000 |

(2) For subsequent years, full-time provincial judges shall receive salaries calculated as follows:

Annual
adjustment

1. Determine the Industrial Aggregate for the twelve-month period that most recently precedes the 1st day of April of the year for which the salaries are to be calculated.
2. Determine the Industrial Aggregate for the twelve-month period immediately preceding the period referred to in paragraph 1.

3. Calculate the percentage that the Industrial Aggregate under paragraph 1 is of the Industrial Aggregate under paragraph 2.
4. If the percentage calculated under paragraph 3 exceeds 100 per cent, the salaries are to be calculated by multiplying the appropriate salaries for the year preceding the year for which the salaries are to be calculated by the lesser of that percentage and 107 per cent.
5. If the percentage calculated under paragraph 3 does not exceed 100 per cent, the salaries shall remain unchanged.

Idem

(3) In subsection (2), "Industrial Aggregate" for a twelve-month period is the average for that twelve-month period of the weekly wages and salaries of the Industrial Aggregate in Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada).

R.S.C. 1985,
c. S-19Consolidated
Revenue
Fund

(4) The salaries, allowances and benefits of provincial judges shall be paid out of the Consolidated Revenue Fund.

3. Section 50 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

Provincial
Court
Commission

50.—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Court Commission.

Composition
of
Commission

(2) The Commission shall be composed of,

- (a) one member appointed jointly by the associations representing provincial judges;
- (b) one member appointed by the Lieutenant Governor in Council; and
- (c) one member who shall head the Commission, appointed jointly by the bodies referred to in clauses (a) and (b).

Appointment
of first
members

(3) The first members of the Commission shall be appointed on or before the 1st day of June, 1990.

Three-year
terms

(4) The members of the Commission shall be appointed for a term of three years and may be reappointed.

- (5) If a vacancy occurs on the Commission, a replacement may be appointed for the unexpired part of the term. Vacancies
- (6) Judges and public servants, as defined in the *Public Service Act*, shall not be members of the Commission. Judges and public servants not to be members
- (7) The members of the Commission shall be paid the remuneration fixed by the Management Board of Cabinet and, subject to Management Board's approval, the reasonable expenses actually incurred in carrying out their duties. Remuneration and expenses
- (8) The Commission may retain support services and professional services, including the services of counsel, as it considers necessary, subject to the approval of Management Board. Services
- (9) The Commission shall conduct an inquiry into the adequacy of salary levels, allowances and benefits of provincial judges and shall, within six months of its members being appointed, present recommendations and a report to the Chairman of the Management Board of Cabinet. Mandatory inquiry at three-year intervals
- (10) In addition to the inquiry referred to in subsection (9), the Commission may, in its discretion, conduct any further inquiries into the salary levels, allowances and benefits of provincial judges that are requested by a provincial judges' association or the Government of Ontario. Additional inquiries in Commission's discretion
- (11) If the Commission conducts a discretionary inquiry, it shall present its recommendations and a report to the Chairman of the Management Board of Cabinet. Idem
- (12) The Commission's recommendations and reports shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next session. Tabling
- (13) In conducting its inquiries, the Commission shall consider written and oral submissions made by provincial judges' associations and by the Government of Ontario. Manner of conducting inquiries
- (14) The Commission may hold hearings, and may consider written and oral submissions from other interested persons and groups. Idem
- (15) The following rules govern the presentation to the Commission of submissions by provincial judges' associations and by the Government of Ontario, and their consideration by the Commission: Submissions by judges' associations and Ontario government

1. Each judges' association is entitled to receive advance disclosure of written submissions by the Government of Ontario and is entitled to make a written submission in reply.
2. The Government of Ontario is likewise entitled to receive advance disclosure of written submissions by provincial judges' associations and is entitled to make a written submission in reply.
3. When a representative of the Government of Ontario or of a judges' association makes an oral submission, the Commission may exclude from the hearing all persons except representatives of the Government of Ontario and of the judges' associations.
4. The representatives of the Government of Ontario and of the judges' associations are entitled to reply to each other's oral submissions.
5. If people have been excluded from the hearing under paragraph 3, the submissions of the Government of Ontario and of the judges' association shall not be made public except to the extent that they are mentioned in the Commission's report.

Submissions
by others

(16) The Government of Ontario and the provincial judges' associations are entitled to be present when other persons make oral submissions to the Commission and are entitled to receive copies of other persons' written submissions.

Annual
report

(17) The Commission shall make an annual report of its activities to the Chairman of the Management Board.

4.—(1) Clause 52 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted therefor:

- (b) fixing the allowances payable to provincial judges;
- (ba) fixing the remuneration of masters.

(2) Subsection 52 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following clauses:

- (ca) appointing a body to administer any provisions concerning benefits of provincial judges and masters including their pension benefits;

- (cb) prescribing the powers and duties to be exercised and performed by the appointed body;
- (cc) fixing the daily rate of remuneration of part-time provincial judges.

(3) Section 52 of the said Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding thereto the following subsection:

(4a) A regulation made under clause (1) (cb) may,

Powers of
appointed
body

- (a) authorize the transfer of the custody, control and administration of any specified fund respecting provincial judges' and masters' benefits from the Consolidated Revenue Fund to a fund to be administered by the appointed body;
- (b) authorize the transfer under clause (a) to be made by cash, by the issue by Ontario of debentures to the authorized body or by both and attach conditions, including specifying the rate of interest to be paid, to the issue of the debentures;
- (c) authorize the appointed body to contract with an administrator of a pension plan, other than the Canada Pension Plan, to which the Crown in right of Ontario contributes for the administrator to provide administrative and management services respecting a transferred fund;
- (d) authorize the appointed body to deduct from a transferred fund the administrative costs of operating it or any costs incurred under a contract under clause (c); and
- (e) prescribe rules for the investment and management of a transferred fund.

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

Commence-
ment

6. The short title of this Act is the *Courts of Justice Amendment Act, 1989*.

Short title



Bill 101

An Act to repeal the Ministry of Transportation and Communications Creditors Payment Act

The Hon. E. Fulton
Minister of Transportation

1st Reading February 11th, 1988
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTE

The repeal of the Act is brought forward in conjunction with an amendment to the *Construction Lien Act, 1983* whereby it is considered that suppliers shall receive better protection.

105
105

Bill 101

1989

**An Act to repeal the Ministry of Transportation
and Communications Creditors Payment Act**

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

1. The *Ministry of Transportation and Communications Creditors Payment Act*, being chapter 290 of the Revised Statutes of Ontario, 1980, is repealed.

2.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Notwithstanding section 1, the *Ministry of Transportation and Communications Creditors Payment Act* continues to apply in respect of labour, material or services supplied as a result of a contract, as defined in that Act, made before this Act comes into force. Continued
application

3. The short title of this Act is the *Ministry of Transportation and Communications Creditors Payment Repeal Act, 1989*. Short title

Bill 101

*(Chapter 88
Statutes of Ontario, 1989)*

An Act to repeal the Ministry of Transportation and Communications Creditors Payment Act

The Hon. W. Wrye
Minister of Transportation

<i>1st Reading</i>	February 11th, 1988
<i>2nd Reading</i>	December 14th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

Bill 101

1989

**An Act to repeal the Ministry of Transportation
and Communications Creditors Payment Act**

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

1. The *Ministry of Transportation and Communications Creditors Payment Act*, being chapter 290 of the Revised Statutes of Ontario, 1980, is repealed.

2.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Notwithstanding section 1, the *Ministry of Transportation and Communications Creditors Payment Act* continues to apply in respect of labour, material or services supplied as a result of a contract, as defined in that Act, made before this Act comes into force. Continued
application

3. The short title of this Act is the *Ministry of Transportation and Communications Creditors Payment Repeal Act, 1989*. Short title



Bill 102

An Act to amend the Construction Lien Act, 1983

The Hon. E. Fulton
Minister of Transportation

1st Reading February 11th, 1988
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTE

Subsection 3 (1) of the Act is recast to remove the reference to the *Ministry of Transportation and Communications Creditors Payment Act*. The effect is that contracts that were covered by that Act will fall under the *Construction Lien Act, 1983*. A Bill repealing the *Ministry of Transportation and Communications Creditors Payment Act* is to be introduced in conjunction with this Bill.

Bill 102

1989

An Act to amend the Construction Lien Act, 1983

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

1. Subsection 3 (1) of the *Construction Lien Act, 1983*, being chapter 6, is repealed and the following substituted therefor:

(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown. Act binds
Crown

2. The *Construction Lien Act, 1983* does not apply in respect of labour, material or services supplied as a result of a contract, as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, being chapter 290 of the Revised Statutes of Ontario, 1980, made before this Act comes into force. Limited
application

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

4. The short title of this Act is the *Construction Lien Amendment Act, 1989*. Short title

The first part of the report
 is devoted to a description of
 the general situation in the
 country. It is followed by a
 detailed account of the
 various departments and
 their activities. The report
 concludes with a summary of
 the results achieved during
 the year.

Bill 102

(Chapter 89
Statutes of Ontario, 1989)

An Act to amend the Construction Lien Act, 1983

The Hon. W. Wrye
Minister of Transportation

<i>1st Reading</i>	February 11th, 1988
<i>2nd Reading</i>	December 14th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

Bill 102

1989

An Act to amend the Construction Lien Act, 1983

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

1. Subsection 3 (1) of the *Construction Lien Act, 1983*, being chapter 6, is repealed and the following substituted therefor:

(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown. Act binds
Crown

2. The *Construction Lien Act, 1983* does not apply in respect of labour, material or services supplied as a result of a contract, as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, being chapter 290 of the Revised Statutes of Ontario, 1980, made before this Act comes into force. Limited
application

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

4. The short title of this Act is the *Construction Lien Amendment Act, 1989*. Short title

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Bill 103

An Act to revise the Building Code Act

The Hon. J. Sweeney
Minister of Housing

1st Reading December 19th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill revises the existing *Building Code Act*. The purpose of the revision is to provide for greater flexibility, efficiency and effectiveness in the administration and enforcement of the Act.

The main changes effected by the Bill are as follows:

1. A program of private regulatory plans review and inspection by designated persons may be established by regulation which would apply to those areas and classes of buildings cited in the regulations.
2. Standards for existing buildings may be established in the building code.
3. Conditional permits could be issued for any stage of construction even if the proposed construction might contravene some applicable law for which approval has not as yet been obtained, if zoning approvals and such other approvals as may be cited in the regulations have been obtained.
4. The chief building official and the Building Code Commission are authorized to accept equivalent materials, techniques and systems to those contained in the building code, subject to the conditions set out therein.
5. The Minister may issue rulings to approve the use of innovative materials, products, systems or services evaluated and approved by such materials evaluation bodies as may be designated in the regulations.
6. The term "applicable law" is defined in the regulations.
7. The definition of "unsafe" is expanded in relation to buildings. Emergency remedial powers are given to the chief building official in respect of unsafe buildings.
8. The Bill provides expanded powers of entry.
9. A permit for a change in use of an existing building is required although no construction is proposed if the change will result in an increase in hazard, as defined in the regulations.
10. Fines are increased to a maximum of \$25,000 for a first offence and \$50,000 for a subsequent offence. This amount is increased to \$50,000 and \$100,000 respectively, for a corporation. For continuing offences the fine is increased to a maximum of \$10,000 per day. Formerly the fines were a maximum of \$2,000 for all offences except in the case of a corporation where the maximum fine was \$10,000. The former fine for a continuing offence was \$100 per day.
11. The plumbing code is transferred from the *Ontario Water Resources Act* to this Act and the building code.

Bill 103

1989

An Act to revise the Building Code Act

Contents

Section	Section
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6. Production of certificate	28. Service
7. Building permits	29. Building Materials Evaluation Commission continued
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10. Change of use	32. Immunity from action
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13. Order not to cover	35. Regulations
14. Stop work order	36. Municipal by-laws superseded
15. Powers of inspectors respecting unsafe buildings	37. Offences
16. Entry to dwellings	38. Proof of order
17. Special circumstances	39. Restraining order
18. Emergency order	40.-43. Complementary Amendments
19. Powers of inspector	44. Repeal
20. Obstruction	45. Commencement
21. Prohibition	46. Short title
22. Warrant to enter and inspect	

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

1.—(1) In this Act,

Definitions

“applicable law” means applicable law as defined in the building code;

“building” means,

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the func-

tion of a wall, roof or floor, including service systems related thereto,

- (b) a structure of any size that contains plumbing, including the plumbing system related thereto, or
- (c) structures designated in the building code;

“building code” means regulations made under section 35;

“chief building official” means the chief building official appointed or constituted under section 3 or 4;

“construct” means to do anything in the erection, installation, repair or extension of or material alteration to a building and includes the installation of a building unit fabricated or moved from elsewhere and “construction” has a corresponding meaning;

“demolish” means to do anything in the removal of a building or any material part thereof and “demolition” has a corresponding meaning;

“director” means the person appointed as director under section 2;

“inspector” means an inspector appointed under section 3 or 4;

“Minister” means the Minister of Housing;

“municipality” means a city, town, village, township or improvement district;

“plumbing” means a drainage system, a venting system and a water distribution system or parts thereof;

“regulations” means regulations made under this Act;

“unsafe” means,

- (a) structurally inadequate or faulty for the purpose for which it is used,
- (b) in a condition that could be hazardous to the health or safety of persons in the normal use of a building or persons outside a building or persons whose access to a building has not been reasonably prevented, or

(c) in a condition that could result in damage to neighbouring buildings or land.

(2) This Act does not apply to structures used directly in the extraction of ore from a mine.

Structures to which Act does not apply

(3) This Act applies to a plumbing system that is not located in a building in the same manner as if it were located in a building.

External plumbing systems

2. There shall be a director of the Ontario Buildings Branch who shall be appointed by the Lieutenant Governor in Council.

Director

3.—(1) The council of each municipality is responsible for the enforcement of this Act in the municipality.

Enforcement by municipality

(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the enforcement of this Act in the areas in which the municipality has jurisdiction.

Chief building official and inspectors

(3) The councils of two or more municipalities may enter into an agreement,

Agreements for joint enforcement

(a) providing for the joint enforcement of this Act within their respective municipalities;

(b) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and

(c) providing for the appointment of a chief building official and inspectors.

(4) If an agreement under subsection (3) is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities.

Joint jurisdiction

(5) The council of a county and of one or more municipalities in the county may enter into an agreement for the enforcement by the county of this Act in the municipalities and for charging the municipalities the whole or part of the cost.

County enforcement

(6) If an agreement under subsection (5) is in effect, the county shall appoint a chief building official and inspectors and has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement.

Powers of county

- Deemed county (7) The County of Oxford, The District Municipality of Muskoka and every regional municipality, except The Regional Municipality of Sudbury and The Regional Municipality of Haldimand-Norfolk, shall be deemed to be a county for the purposes of this Act.
- Certificates of appointment (8) The clerk of the municipality or county shall issue a certificate of appointment to the chief building official and each inspector.
- Enforcement by Ontario **4.**—(1) Ontario is responsible for the enforcement of this Act in territory without municipal organization.
- Agreements for provincial enforcement (2) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of costs as is set out in the agreement.
- Idem (3) If an agreement under subsection (2) is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality.
- Appointment of inspectors (4) Inspectors necessary for the enforcement of this Act in the areas in which Ontario has jurisdiction shall be appointed under the *Public Service Act*.
R.S.O. 1980, c. 418
- Director as chief building official (5) The director is the chief building official for the areas in which Ontario has jurisdiction.
- Certificates of appointment (6) The Deputy Minister of Housing shall issue a certificate of appointment to the director and each inspector appointed under subsection (4).
- Agreements for enforcement by municipality **5.**—(1) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of costs as is set out in the agreement.
- Idem (2) If an agreement under subsection (1) is in effect, the municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement.
- Production of certificate **6.** The chief building official and inspectors shall carry their certificates of appointment when performing their duties and shall produce them for inspection upon request.

7.—(1) Unless exempted by the building code, no person shall construct or demolish or cause to be constructed or demolished a building unless a permit has been issued therefor by the chief building official.

Building
permits

(2) The council of a municipality or a county that has entered into an agreement under subsection 3 (5) may pass by-laws and the Lieutenant Governor in Council may make regulations applicable in the area in which the municipality, the county or Ontario has jurisdiction,

By-laws and
regulations
for building
permits

- (a) prescribing classes of permits under this Act, including permits in respect of any stage of construction or demolition;
- (b) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;
- (c) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;
- (d) providing for the refunding of fees under such circumstances as are prescribed;
- (e) prescribing the time within which notices required by the building code must be given to the chief building official or an inspector;
- (f) prescribing forms respecting permits and applications for permits and providing for their use;
- (g) enabling the chief building official to require that a set of plans of a building or any class of buildings as constructed be filed with the chief building official on completion of the construction under such conditions as may be prescribed;
- (h) providing for the transfer of permits when land changes ownership.

8.—(1) The chief building official shall issue a permit unless,

Issue of
permits

- (a) the proposed building or the proposed construction or demolition will not comply with this Act or the building code or will contravene any other applicable law;

R.S.O. 1980,
c. 350

- (b) the applicant is a builder or vendor as defined in the *Ontario New Home Warranties Plan Act* and is not registered under that Act;
- (c) the application therefor is incomplete; or
- (d) any fees due are unpaid.

Conditional
permit

(2) Even though all requirements have not been met to obtain a permit under subsection (1), the chief building official may issue a conditional permit for any stage of construction if,

- (a) zoning approvals and such other approvals as may be set out in the building code have been obtained in respect of the proposed building or construction;
- (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted;
- (c) the applicant agrees in writing to,
 - (i) assume all risk in commencing the construction,
 - (ii) obtain all necessary approvals in the time set out in the permit or, if none, as soon as practicable,
 - (iii) file plans and specifications of the complete building in the time set out in the permit, and
 - (iv) pay all costs to remove the building and restore the site in the manner specified in the permit if approvals are not obtained or plans filed in the time set out in the permit; and
- (d) the applicant provides security in a form and in an amount satisfactory to the chief building official in respect of the performance of the agreement described in clause (c).

Criteria for
conditional
permit

(3) In considering whether a conditional permit should be granted, the chief building official shall, among other matters, have regard to the potential difficulty in restoring the site to its original state and use if required approvals are not obtained.

(4) Upon reasonable grounds, the chief building official may, and upon the request of the Association of Professional Engineers of Ontario or the Ontario Association of Architects the chief building official shall, refer drawings, plans and specifications accompanying applications for permits to those associations for the purpose of determining if the *Professional Engineers Act, 1984* or the *Architects Act, 1984* is being contravened.

Referral of plans

1984, cc. 13, 12

(5) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the chief building official.

Notice of change

(6) Subject to section 26, the chief building official may revoke a permit issued under this Act,

Revocation of permits

(a) if it was issued on mistaken, false or incorrect information;

(b) if, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief building official, been seriously commenced;

(c) if the construction or demolition of the building is, in the opinion of the chief building official, substantially suspended or discontinued for a period of more than one year;

(d) if it was issued in error; or

(e) if the holder requests in writing that it be revoked.

(7) No person shall construct or demolish or cause to be constructed or demolished a building except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes thereto authorized by the chief building official.

No construction except in accordance with permit

9. The chief building official may, subject to such conditions as may be set out in the building code, allow the use of materials, techniques and systems that are not authorized in the building code if, in the opinion of the chief building official, the level of performance that would be achieved is at least equivalent to that provided by the materials, techniques and systems authorized in the building code.

Equivalents

Change of
use

10.—(1) Even though no construction is proposed, no person shall change the use of a building or part of a building which would result in an increase in hazard as determined under the building code unless a permit has been issued by the chief building official.

Permit

(2) The chief building official shall issue a permit under subsection (1) unless,

- (a) the change in use would result in a contravention of this Act or the building code or any other applicable law;
- (b) the application therefor is incomplete; or
- (c) any fees due are unpaid.

Conditions
for
occupation

11. Except as authorized by the building code, no person shall occupy or use or permit to be occupied or used any building or part thereof newly erected or installed unless,

- (a) notice of the date of completion of the building or part thereof has been given to the chief building official;
- (b) an inspection has been made pursuant to the notice or ten days have elapsed since the later of the service of the notice and the date of completion; and
- (c) any order made by an inspector under section 12 has been complied with.

Inspection

12.—(1) An inspector may enter upon land at any reasonable time without a warrant for the purpose of,

- (a) inspecting the building or site in respect of which a permit is issued or an application for a permit is made; or
- (b) determining if a permit is required to be issued.

Order by
inspector

(2) An inspector who finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out immediately or within such time as is specified in the order.

Service

(3) The order shall be served on the person to whom the permit is issued and any other person whom the inspector believes is contravening this Act or the building code.

- (4) The order shall contain sufficient information to specify the nature of the contravention and its location. Idem
- (5) The inspector may post a copy of the order on the site of the construction or demolition. Posting of order
- 13.—(1)** An inspector may make an order prohibiting the covering or enclosing of any part of a building pending inspection. Order not to cover
- (2) The order shall be served on the person to whom the permit is issued and on such other persons affected thereby as the inspector determines. Service
- (3) An inspector who makes an order under this section may post a copy of it on the site of the construction. Posting of order
- (4) An inspection shall be made within a reasonable time after the person to whom the order is made has given notice that the part of the building is ready for inspection. Inspection
- (5) Section 28 does not apply to a notice under subsection (4). Service not required
- (6) A chief building official who has reason to believe that part of a building that is covered or enclosed has not been constructed in compliance with this Act or the building code may order the person to whom the permit is issued and any other person responsible for the construction to uncover the part at their own expense for the purpose of an inspection if,
- (a) the part was covered or enclosed contrary to an order made under subsection (1);
 - (b) the notice was not given in the time prescribed by by-law or regulation made under clause 7 (2) (e);
 - (c) a reasonable time was not allowed after the notice was given for an inspection to be carried out; or
 - (d) the part has been constructed without a building permit being issued.
- 14.—(1)** If an order made under section 12 or 13 is not complied with within the time specified therein, or where no time is specified, within a reasonable time, the chief building official may order that all or any part of the construction or demolition cease. Stop work order

Service of
order

(2) The order shall be served on the person to whom the permit is issued and on such other persons affected thereby as the chief building official determines and a copy shall be posted on the site of the construction or demolition.

When order
effective

(3) The order is effective from the time it is posted under subsection (2).

Idem

(4) If an order to cease construction or demolition is made, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than work necessary to carry out the order made under section 12 or 13.

Powers of
inspectors
respecting
unsafe
buildings

15.—(1) An inspector may enter upon land at any reasonable time without a warrant for the purpose of inspecting a building to determine,

(a) whether the building is unsafe; or

(b) whether an order made under subsection (2) has been complied with.

Order to
remedy
unsafe
building

(2) An inspector who finds that a building is unsafe may make an order setting out the reasons why the building is unsafe and the remedial steps necessary to render the building safe and may require the order to be carried out within the time specified in the order.

Service

(3) The order shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy of the order shall be posted on the site of the building, construction or demolition.

Order
respecting
occupancy,
remedial
steps

(4) If an order of an inspector under subsection (2) is not complied with within the time specified therein, or where no time is specified, within a reasonable time, the chief building official,

(a) may by order prohibit the use or occupancy of the building; and

(b) may cause the building to be renovated, repaired or demolished to remove the unsafe condition.

Power of
entry

(5) For the purpose of clause (4) (b), the chief building official, an inspector and their agents may enter upon land.

(6) The chief building official, the municipality, the Province of Ontario, or anyone acting on behalf of the chief building official, the municipality or the Province of Ontario, is not liable to compensate the owner or occupant or any other person for anything done in the reasonable exercise of the power under subsections (4) and (5).

No compensation where reasonable exercise of power

(7) The order under clause (4) (a) shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy shall be posted on site of the building, construction or demolition.

Service

(8) The order under clause (4) (a) is effective from the time it is posted under subsection (7).

When service effective

(9) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair or demolition under clause (4) (b) and the amount shall be deemed to be taxes and may be added by the clerk to the collector's roll and collected in like manner as municipal taxes.

Deemed taxes

(10) If the building is in territory without municipal organization, the Crown shall have a lien on the land for the amount spent on the renovation, repair or demolition under clause (4) (b) and the amount shall be deemed to be taxes imposed under section 3 of the *Provincial Land Tax Act* and may be added to the Provincial Land Tax Register and collected in like manner as taxes under that Act.

Idem, territory without municipal organization
R.S.O. 1980, c. 399

16. Despite sections 12 and 15, an inspector shall not enter or remain in any room or place actually being used as a dwelling unit except with the consent of the occupier or under the authority of a warrant issued under this Act.

Entry to dwellings

17. Despite section 16, an inspector and his or her agents may enter upon land, including a room or place actually being used as a dwelling unit, by force if necessary, together with such police officers as may be called upon to assist the inspector, for the purposes of this Act without a warrant and without the consent of the occupier,

Special circumstances

- (a) if the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person; or
- (b) if the entry is necessary to carry out the measures necessary to terminate a danger under subsection

18 (3) or to remove an unsafe condition under clause 15 (4) (b).

Emergency order

18.—(1) If upon inspection of a building an inspector is satisfied that the building is unsafe to such extent as to pose an immediate danger to the health or safety of any person, the chief building official may make an order containing particulars of the unsafe conditions and requiring remedial repairs or other work to be carried out immediately to terminate the danger.

Service

(2) The order shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy shall be posted on the site of the building, construction or demolition.

Emergency powers

(3) After making an order under subsection (1), the chief building official may, either before or after the order is served, take or cause to be taken any measures necessary to terminate the danger and for this purpose the chief building official, an inspector and their agents may enter upon land.

No compensation where reasonable exercise of powers

(4) The chief building official, the municipality, the Province of Ontario or anyone acting on behalf of the chief building official, the municipality or the Province of Ontario is not liable to compensate the owner, occupant or any other person by reason of anything done in the reasonable exercise of the powers under subsection (3).

Service of order

(5) If the order was not served before measures were taken to terminate the danger, the chief building official shall immediately after the measures have been taken serve copies of the order in accordance with subsection (2).

Statement

(6) Each copy of the order shall have attached to it a statement by the chief building official describing the measures taken and providing details of the amount spent in taking the measures.

Separate service of statement

(7) If the order was served before the measures were taken, the chief building official shall, immediately after the measures have been taken, serve a copy of the statement mentioned in subsection (6), in accordance with subsection (2).

Application to court

(8) Immediately after subsections (5) to (7) have been complied with, the chief building official shall apply to a judge of the district court for an order confirming the order made under subsection (1) and the judge shall hold a hearing for that purpose.

(9) The judge in disposing of an application under subsection (8) may, Powers of judge

- (a) confirm, modify or rescind the order; and
- (b) determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all.

(10) The disposition under subsection (9) is final. Disposition final

(11) If the building is in a municipality, the amount determined by the judge to be recoverable shall be a lien on the land and shall be deemed to be taxes and may be added by the clerk to the collector's roll and collected in like manner as municipal taxes. Deemed taxes

(12) If the building is in territory without municipal organization, the amount determined by the judge to be recoverable shall be a lien on the land and shall be deemed to be taxes imposed under section 3 of the *Provincial Land Tax Act* and may be added to the Provincial Land Tax Register and collected in like manner as taxes imposed under that Act. Idem, territory without municipal organization R.S.O. 1980, c. 399

19.—(1) For the purposes of an inspection under this Act, an inspector may, Powers of inspector

- (a) require the production of the drawings and specifications of a building or any part thereof, including drawings prescribed by the building code;
- (b) require information from any person concerning a matter related to a building or part thereof;
- (c) be accompanied by a person who has special or expert knowledge in relation to a building or part thereof;
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection;
- (e) order any person responsible for the construction to take and supply at that person's expense such tests and samples as are specified in the order.

(2) The inspector shall divide the sample taken under clause (1) (d) into two parts and deliver one part to the person from whom the sample is taken, if the person so requests Samples

at the time the sample is taken and provides the necessary facilities.

Idem (3) If an inspector takes a sample under clause (1) (d) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

Receipt (4) An inspector shall provide a receipt for any document or thing removed under this section and if possible shall make copies of the documents and return the originals to the person from whom they were taken.

Copies (5) Copies of documents and things removed under this section and certified as being true copies of the originals by the person who made them are admissible in evidence to the same extent as the originals.

Obstruction **20.**—(1) No person shall hinder or obstruct, or attempt to hinder or obstruct, an inspector from lawfully carrying out a duty or exercising a power under this Act.

Occupied dwellings (2) Subject to section 17, a refusal of consent to enter or remain in a place actually used as a dwelling unit without a warrant is not hindering or obstructing within the meaning of subsection (1).

Assistance of inspector (3) Every person shall assist any entry, inspection, examination, testing or inquiry by an inspector or chief building official in the exercise of a power or duty under this Act.

Refusal to produce (4) No person shall neglect or refuse to produce any drawings and specifications required by an inspector under clause 19 (1) (a).

Prohibition **21.** No person shall remove the copy of any order posted under this Act unless authorized by an inspector.

Warrant to enter and inspect **22.**—(1) A justice of the peace may issue a warrant in the form prescribed by the building code authorizing an inspector to enter upon the land specified in the warrant to carry out an inspection if the justice of the peace is satisfied on evidence upon oath,

- (a) that there is reasonable ground for believing that it is necessary to carry out an inspection to determine whether an order should be made under this Act or whether an order made under subsection 15 (2) has been complied with; and

- (b) that the inspector has been denied entry to the land, has reasonable grounds to believe that entry would be denied, has been obstructed or has been refused the production of any thing.

(2) If a justice of the peace is satisfied upon evidence on oath that there is reasonable ground for believing that an offence under this Act has been committed and entry to land for the purpose of making examinations, investigations or inquiries and taking tests or any of them would afford evidence as to the commission of the offence, the justice of the peace may issue a warrant in the form prescribed by the building code authorizing the entry upon the land specified in the warrant for those purposes.

Warrant to enter and search

(3) A warrant issued for the purposes of subsection 15 (1) or under subsection (2) authorizes the inspector named in the warrant to enter upon land by use of force if necessary, together with such police officers as may be called upon for assistance, to execute the warrant but no force may be used in respect of any other warrant issued under this Act.

Use of force

(4) A warrant issued under this section shall be executed at reasonable times as specified in the warrant and shall state the date upon which it expires, which shall be a date not later than fifteen days after it is issued.

Execution and expiry of warrant

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

Application without notice

(6) An inspector shall provide a receipt for any document or thing removed under this section and if possible shall make copies of the documents and return the originals to the person from whom they were taken.

Receipt

(7) Copies of documents and things removed under this section and certified as being true copies of the originals by the person who made them are admissible in evidence to the same extent as the originals.

Copies

23.—(1) The chief building official may review and amend or rescind an order made by an inspector.

Review

(2) A chief building official may exercise any of the powers or perform any of the duties of an inspector.

Chief building official may act as inspector

Building
Code
Commission
continued

24.—(1) The Building Code Commission is continued and shall be composed of those persons appointed by the Lieutenant Governor in Council.

Chairperson

(2) The Lieutenant Governor in Council may designate one of the members as chairperson and one or more of the members as vice-chairpersons.

Eligibility

(3) No member of the Commission shall be in the public service of Ontario or an employee of a municipality.

Remuneration

(4) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Quorum

(5) Three members of the Commission constitute a quorum.

Disputes

25.—(1) If there is a dispute between an applicant for a permit or holder of a permit or a person to whom an order is given and the chief building official or an inspector, any party to the dispute may apply to the Building Code Commission for the resolution of any issue involving,

- (a) the interpretation of the technical requirements of the building code; or
- (b) the authorization of a material, technique or system under section 9.

Hearing

(2) The Building Code Commission shall hold a hearing and shall notify the parties to the dispute of the hearing.

Powers of
Commission

(3) The Building Code Commission shall by order determine the dispute and for such purposes may substitute its opinion for that of the inspector or chief building official.

Decision final

(4) The decision of the Building Code Commission is final.

Restrictions
on members

(5) Members of the Building Code Commission holding a hearing shall not,

- (a) take part before the hearing in any investigation or consideration of the subject-matter of the hearing; or
- (b) communicate directly or indirectly in relation to the subject-matter of the hearing with any person unless all parties are given notice and allowed to participate.

- (6) Despite subsection (5), members of the Building Code Commission may seek independent legal or technical advice but the advice shall be made known to the parties in order that they may make submissions. Independent advice
- (7) The findings of fact at a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Evidence
R.S.O. 1980, c. 484
- (8) Members of the Building Code Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing. Participation requirement
- (9) Except with the consent of the parties, no decision of the Building Code Commission shall be given unless all members present throughout the hearing participate in the decision. Idem
- (10) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released by the Building Code Commission to that person within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence
- 26.**—(1) Any person who objects to an order or decision made by an inspector or chief building official under this Act or the building code may, within twenty days after the order or decision is made, appeal to a judge of the district court. Appeal
- (2) A judge to whom an appeal is made may, upon such terms as the judge considers appropriate, extend the time for making the appeal before or after the time set out in subsection (1), if the judge is satisfied that there is reasonable grounds for the appeal and for applying for the extension. Extension of time
- (3) If an appeal is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated. Effect of appeal on proceeding before Commission
- (4) If an appeal is made under subsection (1), the judge shall hold a hearing and may confirm, modify or rescind the order or decision of the inspector or chief building official or substitute his or her opinion for that of the inspector or chief building official. Powers of judge on hearing
- (5) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the authorization of a material, technique or system under section Reference to Commission

9 to the Building Code Commission for a hearing and report to the judge.

Procedure (6) The procedure on the reference shall be the same as on an application under section 25.

Stay of order or decision (7) Subject to subsection (8), an appeal under this section stays the order or decision appealed from.

Order may take effect despite appeal (8) Upon application without notice, a judge may order that the order or decision appealed from takes effect immediately if, in his or her opinion, such action is necessary for public safety and would not make the appeal meaningless.

Appeal to Divisional Court **27.**—(1) A party to the hearing before the district court judge may appeal from the decision to the Divisional Court.

Minister entitled to be heard (2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal (3) An appeal under this section may be made on any question that is not a question of fact alone and the court may,

- (a) confirm or alter the decision of the judge;
- (b) direct the inspector or chief building official to do any act he or she is authorized to do under this Act;
- (c) refer the matter back to the judge for reconsideration; or
- (d) substitute its opinion for that of the inspector or chief building official or the judge.

Service **28.**—(1) A notice or order required by this Act to be served may be served personally or by registered mail sent to the last known address of the person to whom notice is to be given or to an agent of that person.

Idem (2) If a notice or order is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given or an agent of that person establishes that through absence, accident, illness or other unintentional cause the notice was not received until a later date.

Building Materials Evaluation Commission continued **29.**—(1) The Building Materials Evaluation Commission is continued and shall be composed of those persons appointed by the Lieutenant Governor in Council.

- (2) The Lieutenant Governor in Council may designate one of the members as chairperson and one of the members as vice-chairperson. Chairperson
- (3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration
- (4) The Building Materials Evaluation Commission may, Powers and duties
- (a) examine and research or cause examination and research into materials, techniques and building design for construction;
- (b) upon application therefor, authorize the use, subject to any conditions that may be set out, of any innovative material, technique or building design in respect of any building or part thereof; and
- (c) make recommendations to the Minister respecting changes in this Act or the building code.
- (5) The use of any innovative material, technique or design in the manner approved by the Commission shall be deemed not to be a contravention of the building code. Innovative materials
- 30.—(1)** The Minister may make rulings approving the use of innovative materials, products, systems or services evaluated by a materials evaluation body designated in the building code. Rulings of Minister
- (2) The Minister may by order delegate the power to make rulings to the director. Delegation
- (3) A ruling is not a regulation within the meaning of the *Regulations Act*. Ruling not regulation R.S.O. 1980, c. 446
- (4) A ruling shall be published at least once in *The Ontario Gazette* and made available, upon request, to members of the public. Publication of ruling
- (5) A ruling of the Minister entitles a person to use the approved material, product, system or service in all of the province unless the ruling states otherwise. Application of ruling
- (6) The use of an approved material, product, system or service in the manner approved in the ruling shall be deemed not to be a contravention of the building code. Approved materials

Conflicts

(7) In the event of a conflict between an authorization of the Building Materials Evaluation Commission and a ruling of the Minister, the ruling prevails.

Restrictions on Commission

(8) If a materials evaluation body designated in the building code has examined or has expressed its intention to examine an innovative material, product, system or service, the Building Materials Evaluation Commission shall not exercise its power under subsection 29 (4) in respect of that material, product, system or service.

Inquiry

31.—(1) If it appears to the Minister that there is or may be a failure in construction or demolition standards or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into the failure.

Powers on inquiry
R.S.O. 1980,
c. 411

(2) The person conducting the inquiry has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

Immunity from action

32.—(1) No action or other proceeding for damages shall be instituted against the director, the chief building official, an inspector, a member of the Building Code Commission or Building Materials Evaluation Commission, any person acting under the authority of the director, Building Code Commission or Building Materials Evaluation Commission or any person conducting an inquiry under section 31 for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Liability of Crown and municipality

(2) Subsection (1) does not relieve the Crown, a municipal corporation, a county corporation or a board of health of liability in respect of a tort committed by their respective chief building official or inspectors to which they would otherwise be subject.

Plumbing

33.—(1) Despite any other provision of this Act, the council of a county and of one or more municipalities in the county may enter into an agreement for the enforcement by the county of the provisions of this Act and the building code related to plumbing in the municipalities and for charging the municipalities the whole or part of the cost.

Delegation to health unit

(2) If an agreement under subsection (1) is in effect, the county council may by agreement delegate its powers under subsection (1) to a board of health having jurisdiction in the municipalities that are parties to the agreement.

(3) A municipality that is not a party to an agreement under subsection (1) may enter into an agreement with the board of health having jurisdiction in the municipality for the enforcement of the provisions of this Act and the building code relating to plumbing.

Delegation
by municipi-
pality

(4) The county council or the board of health may appoint plumbing inspectors for the purpose of this section.

Plumbing
inspectors

(5) A plumbing inspector or, if there is more than one inspector in the area of jurisdiction, the senior plumbing inspector has the same powers and duties in relation to plumbing as does the chief building official in respect of buildings other than the issuance of conditional permits.

Powers

(6) If plumbing inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of plumbing.

Responsi-
bility for
plumbing

(7) Subsections 3 (8) and 7 (2) apply with necessary modifications to a county council and a board of health that has assumed responsibility for plumbing under this section.

Application
of certain
provisions

34.—(1) If on the date this Act comes into force, a county was carrying out plumbing inspections under the *Ontario Water Resources Act* in the municipalities that form part of the county, the county shall enforce the provisions of this Act and the building code related to plumbing in all of the municipalities forming part of the county until the county council by by-law determines otherwise whereupon section 3 applies.

Transition,
plumbing
R.S.O. 1980,
c. 361

(2) Subsections 33 (4) to (7) apply with necessary modifications to a county that has assumed responsibility for plumbing under this section.

Idem

(3) For the purpose of this section, "county" includes any regional municipality that has been deemed to be a county for the purposes of section 45 of the *Ontario Water Resources Act*, as it read before the coming into force of this Act, by any general or special Act.

Interpretation

35.—(1) The Lieutenant Governor in Council may make regulations for the purpose of establishing a building code governing standards for the construction, maintenance and demolition of buildings, including,

Regulations

1. designating structures which are to be defined as buildings under subsection 1 (1);

2. prescribing classes of buildings for the purposes of clause 7 (2) (g);
3. governing the manner of construction and types and quality of materials used therein;
4. setting out the approvals that must be obtained before a conditional permit may be issued;
5. governing the design of buildings and the use to which they may be put;
6. defining applicable law for the purposes of this Act and the building code;
7. determining which parts of the applicable law are to be verified by the chief building official before a permit is issued;
8. establishing conditions under which equivalent measures may be allowed under section 9;
9. determining a hazard for the purposes of section 10;
10. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;
11. providing for the testing and marking of pipes, fittings, fixtures and materials or classes thereof by organizations accredited for that purpose by the Standards Council of Canada and prohibiting the use in plumbing of pipes, fittings, fixtures and materials that are not marked as approved by those organizations;
12. requiring any part of the design, construction or demolition of a building to be under the field review of an architect as defined in the *Architects Act, 1984* or a professional engineer as defined in the *Professional Engineers Act, 1984*;
13. allowing the review of plans and inspection of buildings and the powers of the chief building official and inspectors related thereto to be delegated to persons who meet the requirements set out in the building code and prescribing conditions under which such delegation may occur;

14. designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of their label on units that conform to the standards;
15. requiring the approval of an inspector in respect of any method, matter or thing;
16. requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;
17. requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;
18. requiring notice to be given to the chief building official or an inspector respecting any matter in the course of construction or demolition;
19. requiring notice to be given to the chief building official respecting the change in prescribed classes of use made of a building;
20. requiring the chief building official to transmit to the director such returns or reports as are prescribed;
21. prescribing conditions under which a building or any part of a building may be occupied;
22. exempting any building or class thereof from compliance with this Act and the regulations or any provision thereof;
23. prescribing the form of a warrant and the form in which the evidence upon oath will be taken under section 22;
24. requiring the alteration of any part of an existing building where construction in relation to the building affects that part;
25. requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;
26. designating materials evaluation bodies for the purposes of section 30;

27. establishing criteria to be followed by the Minister in respect of a ruling under section 30;
28. prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;
29. prescribing the persons to whom notice shall be given of the issuance of a permit, the time for giving the notice and the class of buildings for which notice is required;
30. defining drainage system, venting system and water distribution system for the purposes of this Act and the building code;
31. establishing minimum standards of repair that existing buildings must meet even though no construction is proposed;
32. prescribing forms and providing for their use or requiring that forms provided by the Minister be used.

Limitation of application

(2) Any regulation made under this section may be limited in its application territorially or to any class of building, construction, maintenance or demolition.

Municipal by-laws superseded

36. This Act and the building code supersede all municipal by-laws respecting the construction or demolition of buildings.

Offences

37.—(1) A person is guilty of an offence if the person,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with an order, direction or other requirement made under this Act; or
- (c) contravenes this Act or the regulations or a by-law passed under this Act.

Idem

(2) Every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention under subsection (1) is guilty of an offence.

Penalties

(3) A person who is convicted of an offence is liable,

(a) for a first offence, to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both; and

(b) for a subsequent offence, to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or both.

(4) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence and not as provided in subsection (3). Corporations

(5) For the purposes of clause (3) (b) and subsection (4), an offence is a subsequent offence if there has been a previous conviction under this Act. Subsequent offence

(6) Every person who fails to comply with an order made by a chief building official under subsection 14 (1) or clause 15 (4) (a) is guilty of an offence and on conviction, in addition to the penalties mentioned in subsections (3) and (4), is liable to a fine of not more than \$10,000 per day for every day upon which the offence continues after the time given for complying with the order has expired. Continuing offence

(7) If this Act or the regulations are contravened and a conviction is entered, in addition to any other penalty, the court in which the conviction is 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

(8) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose. Limitation period

(9) If an offence under this section has been committed within a municipality, the proceeds of a fine imposed under this section shall be paid to the treasurer of the municipality within which the offence giving rise to the fine was committed, and section 4 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of the fine. Fine paid to municipality

R.S.O. 1980,
cc. 6, 162

(10) If an offence under this section has been committed within territory without municipal organization, the proceeds of a fine imposed for the offence shall be paid to the Treasurer of Ontario. Fine paid to Ontario

Proof of order

38.—(1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is, in the absence of evidence to the contrary, proof of the direction or order without proof of the signature or authority of the person by whom it purports to be signed.

Proof of matters of record

(2) A statement as to any matter of record in an office of the chief building official purporting to be certified by the chief building official is, without proof of the office or signature of the chief building official, receivable in evidence, in the absence of evidence to the contrary, as proof of the facts stated therein in any judicial proceeding.

Restraining order

39.—(1) Where it appears to a chief building official that a person does not comply with this Act, the regulations or an order made under this Act, despite the imposition of any penalty in respect of the non-compliance and in addition to any other rights he or she may have, the chief building official may apply to a judge of the High Court for an order directing that person to comply with the provision.

Idem

(2) Upon the application under subsection (1), the judge may make the order subject to such conditions as the judge thinks fit.

Appeal

(3) An appeal lies to the Divisional Court from an order made under subsection (1).

COMPLEMENTARY AMENDMENTS

40.—(1) **Clauses 1 (s) and (u) of the *Ontario Water Resources Act*, being chapter 361 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:**

1989, c. ...

(s) “sewage works” means any works for the collection, transmission, treatment and disposal of sewage or any part of such works but does not include plumbing to which the *Building Code Act, 1989* applies;

(u) “water works” means any works for the collection, production, treatment, storage, supply and distribution of water, or any part of such works but does not include plumbing to which the *Building Code Act, 1989* applies.

(2) Section 2 of the said Act is repealed and the following substituted therefor:

2. The Minister of the Environment is responsible for the administration of this Act. Adminis-
tration

(3) Subsection 44 (2) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 35 and 1988, chapter 54, section 76, is repealed.

(4) Subsection 44 (4) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 35 and 1988, chapter 54, section 88, is repealed.

(5) Sections 45, 46, 47 and 48 of the said Act are repealed.

(6) Subsection 66 (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41, is amended by striking out "44 (4) or " in the second line.

(7) Subsection 67 (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41, is amended by striking out "44 (4) or" in the second line.

(8) Clause 69 (a) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 54, section 85, is repealed and the following substituted therefor:

(a) this Act.

41. Section 210c of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 5, section 1, is repealed.

42. Section 52 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 11, is repealed and the following substituted therefor:

52. Any costs incurred by the Regional Corporation under clause 15 (4) (b) of the *Building Code Act, 1989* or determined by a judge to be recoverable under subsection 18 (9) of that Act may be charged to the area municipality in which the building is located and the area municipality shall collect the costs in the manner set out in subsections 15 (9) and 18 (11) of that Act and pay them to the Regional Corporation when collected.

Costs
recovered
1989, c. ...

43. Subsection 27 (4) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 5, is repealed and the following substituted therefor:

Costs
recovered
1989, c. ...

(4) Any costs incurred by the Regional Corporation under clause 15 (4) (b) of the *Building Code Act, 1989* or determined by a judge to be recoverable under subsection 18 (9) of that Act may be charged to the area municipality in which the building is located and the area municipality shall collect the costs in the manner set out in subsections 15 (9) and 18 (11) of that Act and pay them to the Regional Corporation when collected.

Repeal

44. The *Building Code Act*, being chapter 51 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

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

Short title

46. The short title of this Act is the *Building Code Act, 1989*.



Bill 104

An Act to amend the Mining Tax Act

The Hon. R. Mancini
Minister of Revenue

1st Reading December 20th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill implements the proposal in the Treasurer's Budget of May 17, 1989 to require all mine operators to make monthly mining tax instalments. It also makes several administrative changes.

SECTION 1. The re-enactment of section 2 of the Act requires operators to make monthly instalment payments on account of the current year's mining tax instead of paying the full tax after the end of the year. The amount of each instalment is based on either the current year's tax or the tax payable for the preceding year. Instalments are due by the 25th day of each calendar month commencing in the operator's taxation year.

SECTION 2.—Subsection 1. The amendments impose interest on late or deficient mining tax instalments and continue to impose interest after the end of the taxation year on any unpaid balance of tax.

Subsection 2. The enactment of subsections 8 (6a) to (6d) of the Act permits the Minister to refund excess instalment payments and to pay interest where the instalments paid exceed the tax liability of the operator for the taxation year. Technical rules are included for the calculation of interest on instalments where the amount of tax on which the instalments are based is subsequently changed on assessment.

SECTION 3. The re-enactment of subsections 14 (1) and (2) of the Act brings the provisions governing confidentiality of taxpayer information into line with the current provisions of other taxing statutes administered by the Minister of Revenue. The maximum court fine on conviction of the offence of breaching the confidentiality provisions is increased from \$200 to \$2,000.

SECTION 4. The re-enactment of subsection 18 (2) reinstates a \$50 per day administrative penalty formerly assessed under the Act for failing to file an annual tax return under the Act. The present administrative penalty is 10 per cent of unpaid tax for the year (if any remains unpaid on the date the return is to be filed) up to a maximum penalty of \$1,000. If no tax is payable for the year or the operator has already paid the full tax for the year through monthly instalments, the amount of the penalty imposed on the operator for failing to file the annual return is nil under the current Act. After the proposed amendment, the penalty will be the greater of the present penalty or \$50 per day.

Bill 104

1989

An Act to amend the Mining Tax Act

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

1. Section 2 of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 2, is repealed and the following substituted therefor:

2.—(1) The tax payable under this Act by an operator for a taxation year shall be deemed to accrue proportionately during the taxation year. When taxes accrue

(2) Every operator liable to pay tax under this Act for a taxation year shall pay the tax by monthly instalments during the taxation year with the balance of the tax, if any, payable not later than two months after the end of the taxation year. Payment of taxes

(3) The amount of each monthly instalment payable under this section for the taxation year is the lesser of, Amount of instalments

(a) the amount of tax payable by the operator for the taxation year divided by the number of months commencing in the taxation year; or

(b) the amount of tax payable by the operator for the taxation year ending immediately before the taxation year for which the instalment is being calculated, divided by the number of months commencing in that immediately preceding taxation year.

(4) If the taxation year of an operator is the first taxation year after an amalgamation within the meaning of section 87 of the *Income Tax Act* (Canada), the amount of each monthly instalment payable under this section for the taxation year is the lesser of, Instalments after amalgamation
R.S.C. 1952,
c. 148

(a) the amount determined under clause (3) (a); or

R.S.C. 1952,
c. 148

- (b) the aggregate of all amounts each of which is the amount of tax payable by a predecessor corporation of the operator, within the meaning of section 87 of the *Income Tax Act* (Canada), for its last taxation year divided by the number of months commencing in the year.

Payment of
instalments

- (5) Instalment payments under this section shall be paid to the Treasurer on or before the 25th day of each month commencing in the taxation year by remitting the payments to the Minister.

2.—(1) Subsection 8 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 8, is repealed and the following substituted therefor:

Interest on
unpaid tax

- (2) An operator is liable to pay interest at the prescribed rate on the amount, if any, by which the amount of tax payable by the operator for a taxation year exceeds the amount paid on account of the tax payable, from the day that is two months after the end of the taxation year until the day the tax payable is fully paid.

Interest on
deficient
instalments

- (2a) If an operator fails to pay a monthly instalment as required under section 2, interest at the prescribed rate is payable by the operator, in addition to any interest payable under subsection (2), on the difference between the amount of the monthly instalment required to be paid under section 2 and the amount, if any, of the monthly instalment paid by the operator, from the day the monthly instalment was required to be paid to the earlier of the day the instalment is fully paid or the day which is two months after the end of the taxation year.

Date of
payment

- (2b) A payment made on account of tax payable under this Act shall be deemed to have been made on the day the payment is received by the Minister.

(2) Section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 8, is amended by adding thereto the following subsections:

Refund of
overpaid
instalments

- (6a) If the Minister is satisfied, after receiving written application from an operator for a refund under this subsection and before assessing tax payable by the operator for a taxation year, that the total amount of monthly instalments paid by the operator in respect of the taxation year exceeds the amount of tax that is or will be payable by the operator for the taxation year, the Minister may refund the excess amount to the operator before the end of the taxation year.

(6b) Interest at the prescribed rate is payable to the operator on the amount, if any, by which the total of the monthly instalments paid for a taxation year exceeds the total amount of monthly instalments required by section 2 to have been paid on or before that time by the operator in respect of the taxation year, from the day on which the excess payment arose until the earlier of,

Interest allowed on overpaid instalments

- (a) the day the excess is refunded, or applied under this section on other liability; or
- (b) the day that is two months after the end of the taxation year.

(6c) For the purposes of determining the amount of interest payable by or to an operator under subsection (2a) or (6b) with respect to the amount of a monthly instalment required to be paid by the operator for a taxation year, the amount of the monthly instalment required under section 2 shall be deemed to be the amount that would be determined under section 2 if the amounts of tax payable by the operator for the taxation year and for the immediately preceding taxation year were the amounts of tax for those taxation years as originally assessed by the Minister and for which notices of assessment were issued by the Minister, despite any subsequent assessment.

Idem

(6d) Subsection (6c) does not apply in determining the amount of interest payable by an operator under subsection (2a) with respect to the amount of a monthly instalment required under section 2 if,

Idem

- (a) the operator has failed to deliver the return required under subsection 7 (1) for the taxation year for which the instalment was payable; and
- (b) the amount of tax payable for the taxation year as originally assessed by the Minister is less than the amount of tax subsequently assessed for the taxation year.

3. Subsections 14 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the

Confidentiality

course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

- (a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;
- (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
- (c) to counsel for the person required by this section to preserve secrecy; or
- (d) with the consent of the person to whom the information or material relates.

Offence

(2) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

4. Subsection 18 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 15, is repealed and the following substituted therefor:

Penalty for failure to deliver return

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay, when assessed therefor, a penalty equal to the greater of,

- (a) \$50 for each day during which the operator fails to deliver the return; or
- (b) an amount equal to the lesser of \$1,000 or 10 per cent of the tax that was unpaid when the return was required to be delivered.

Application

5. The following provisions apply in respect of taxation years commencing after the 17th day of May, 1989:

- 1. Section 2 of the said Act, as re-enacted by section 1.
- 2. Subsection 8 (2) of the said Act, as re-enacted by subsection 2 (1).
- 3. Subsections 8 (2a) and (2b) of the said Act, as enacted by subsection 2 (1).

4. Subsections 8 (6a), (6b), (6c) and (6d) of the said Act, as enacted by subsection 2 (2).

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

(2) Sections 1 and 2 shall be deemed to have come into force on the 18th day of May, 1989. Idem

7. The short title of this Act is the *Mining Tax Amendment Act, 1989*. Short title



Bill 104

*(Chapter 3
Statutes of Ontario, 1990)*

An Act to amend the Mining Tax Act

The Hon. R. Mancini
Minister of Revenue

<i>1st Reading</i>	December 20th, 1989
<i>2nd Reading</i>	June 4th, 1990
<i>3rd Reading</i>	June 18th, 1990
<i>Royal Assent</i>	June 21st, 1990

11. 1. 1911

Bill 104

1989

An Act to amend the Mining Tax Act

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

1. Section 2 of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 2, is repealed and the following substituted therefor:

2.—(1) The tax payable under this Act by an operator for a taxation year shall be deemed to accrue proportionately during the taxation year. When taxes accrue

(2) Every operator liable to pay tax under this Act for a taxation year shall pay the tax by monthly instalments during the taxation year with the balance of the tax, if any, payable not later than two months after the end of the taxation year. Payment of taxes

(3) The amount of each monthly instalment payable under this section for the taxation year is the lesser of, Amount of instalments

(a) the amount of tax payable by the operator for the taxation year divided by the number of months commencing in the taxation year; or

(b) the amount of tax payable by the operator for the taxation year ending immediately before the taxation year for which the instalment is being calculated, divided by the number of months commencing in that immediately preceding taxation year.

(4) If the taxation year of an operator is the first taxation year after an amalgamation within the meaning of section 87 of the *Income Tax Act* (Canada), the amount of each monthly instalment payable under this section for the taxation year is the lesser of, Instalments after amalgamation
R.S.C. 1952,
c. 148

(a) the amount determined under clause (3) (a); or

R.S.C. 1952,
c. 148

- (b) the aggregate of all amounts each of which is the amount of tax payable by a predecessor corporation of the operator, within the meaning of section 87 of the *Income Tax Act* (Canada), for its last taxation year divided by the number of months commencing in the year.

Payment of
instalments

(5) Instalment payments under this section shall be paid to the Treasurer on or before the 25th day of each month commencing in the taxation year by remitting the payments to the Minister.

2.—(1) Subsection 8 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 8, is repealed and the following substituted therefor:

Interest on
unpaid tax

(2) An operator is liable to pay interest at the prescribed rate on the amount, if any, by which the amount of tax payable by the operator for a taxation year exceeds the amount paid on account of the tax payable, from the day that is two months after the end of the taxation year until the day the tax payable is fully paid.

Interest on
deficient
instalments

(2a) If an operator fails to pay a monthly instalment as required under section 2, interest at the prescribed rate is payable by the operator, in addition to any interest payable under subsection (2), on the difference between the amount of the monthly instalment required to be paid under section 2 and the amount, if any, of the monthly instalment paid by the operator, from the day the monthly instalment was required to be paid to the earlier of the day the instalment is fully paid or the day which is two months after the end of the taxation year.

Date of
payment

(2b) A payment made on account of tax payable under this Act shall be deemed to have been made on the day the payment is received by the Minister.

(2) Section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 8, is amended by adding thereto the following subsections:

Refund of
overpaid
instalments

(6a) If the Minister is satisfied, after receiving written application from an operator for a refund under this subsection and before assessing tax payable by the operator for a taxation year, that the total amount of monthly instalments paid by the operator in respect of the taxation year exceeds the amount of tax that is or will be payable by the operator for the taxation year, the Minister may refund the excess amount to the operator before the end of the taxation year.

(6b) Interest at the prescribed rate is payable to the operator on the amount, if any, by which the total of the monthly instalments paid for a taxation year exceeds the total amount of monthly instalments required by section 2 to have been paid on or before that time by the operator in respect of the taxation year, from the day on which the excess payment arose until the earlier of,

Interest allowed on overpaid instalments

- (a) the day the excess is refunded, or applied under this section on other liability; or
- (b) the day that is two months after the end of the taxation year.

(6c) For the purposes of determining the amount of interest payable by or to an operator under subsection (2a) or (6b) with respect to the amount of a monthly instalment required to be paid by the operator for a taxation year, the amount of the monthly instalment required under section 2 shall be deemed to be the amount that would be determined under section 2 if the amounts of tax payable by the operator for the taxation year and for the immediately preceding taxation year were the amounts of tax for those taxation years as originally assessed by the Minister and for which notices of assessment were issued by the Minister, despite any subsequent assessment.

Idem

(6d) Subsection (6c) does not apply in determining the amount of interest payable by an operator under subsection (2a) with respect to the amount of a monthly instalment required under section 2 if,

Idem

- (a) the operator has failed to deliver the return required under subsection 7 (1) for the taxation year for which the instalment was payable; and
- (b) the amount of tax payable for the taxation year as originally assessed by the Minister is less than the amount of tax subsequently assessed for the taxation year.

3. Subsections 14 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the

Confidentiality

course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

- (a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;
- (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
- (c) to counsel for the person required by this section to preserve secrecy; or
- (d) with the consent of the person to whom the information or material relates.

Offence

(2) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

4. Subsection 18 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 15, is repealed and the following substituted therefor:

Penalty for failure to deliver return

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay, when assessed therefor, a penalty equal to the greater of,

- (a) \$50 for each day during which the operator fails to deliver the return; or
- (b) an amount equal to the lesser of \$1,000 or 10 per cent of the tax that was unpaid when the return was required to be delivered.

Application

5. The following provisions apply in respect of taxation years commencing after the 17th day of May, 1989:

1. Section 2 of the said Act, as re-enacted by section 1.
2. Subsection 8 (2) of the said Act, as re-enacted by subsection 2 (1).
3. Subsections 8 (2a) and (2b) of the said Act, as enacted by subsection 2 (1).

4. Subsections 8 (6a), (6b), (6c) and (6d) of the said Act, as enacted by subsection 2 (2).

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

(2) Sections 1 and 2 shall be deemed to have come into force on the 18th day of May, 1989. Idem

7. The short title of this Act is the *Mining Tax Amendment Act, 1990*. Short title



Bill 105

An Act to amend the Ontario Home Ownership Savings Plan Act, 1988

The Hon. R. Mancini
Minister of Revenue

1st Reading December 20th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to implement the Treasurer's May 17, 1989 Budget proposals relating to the Ontario Home Ownership Savings Plan Program and to make minor administrative changes.

SECTION 1.—Subsections 1 and 2. The amendments clarify the wording of the existing definitions.

Subsections 3 and 4. The amendments expand the definition of an eligible home under the Act to include a partial ownership interest of a multi-unit residential property, as a tenant in common with other owners, if the ownership interest carries the right of the individual to inhabit one of the housing units on the property.

Subsection 5. New subsections 1 (4) and (5) set out the date on which a person will be considered to have acquired an ownership interest in an eligible home when the person acquires the home by gift or inheritance.

Subsection 6. The enactment of subsections 1 (6) and (7) is to prevent abuse under the Act by permitting the Minister to exercise his or her discretion to deem a person to own an eligible home when the home is held in trust for the person and the Minister is satisfied that the person is exercising effective control over the home.

SECTION 2.—Subsection 1. The re-enactment of paragraph 2 of section 2 is consequential upon the amendments to the Act which will permit the withdrawal of the assets of the plan in certain circumstances without repayment of the tax credits.

Subsection 2. The amendments and the amendments in section 3 of the Bill implement the Treasurer's Budget proposal to permit participation in the Program in 1989 and subsequent years of persons whose spouses previously owned a home, as long as the home was not owned during the marriage.

SECTION 3. See the explanatory note for subsection 2 (2), above.

SECTION 4. The amendments implement the Treasurer's Budget proposal to remove the liquidity restrictions on qualified investments which may be held by Ontario home ownership savings plans.

SECTION 5.—Subsection 1. The amendment is consequential upon the expansion of the definition of "eligible home" in section 1 of the Bill.

Subsection 2. The amendments implement the Treasurer's Budget proposals,

- (a) to permit the termination of an Ontario home ownership savings plan without a recovery of any tax credits, if the planholder obtains an eligible home either by way of a gift or inheritance, or marries a person who already owns an eligible home; and
- (b) to permit the early release of plan assets prior to completion of the purchase of an eligible home which is under construction, if interim payments to the builder of the home are required under the terms of the agreement of purchase and sale.

Subsection 3. The amendment to subsection 5 (6) is consequential upon the amendments made in subsection 2 of the Bill.

Subsection 4. The enactment of subsection 5 (8) will provide that where the assets of an Ontario home ownership savings plan are released before the completion of construction of the eligible home and the home is not completed, or completion is delayed, for reasons beyond the control of the planholder, the planholder will have an extension of time

under the Act in which to meet the requirements in the Act of purchasing and residing in an eligible home.

SECTION 6.—Subsection 1. The addition of subsection 9 (1a) confirms that no tax credits will be repayable by a planholder who terminates a plan because he or she has either inherited a home, received a home as a gift or has married a person who already owned a home.

Subsection 2. The amendment to clause 9 (2) (b) is consequential upon the amendment in subsection 1 of the Bill and will permit a depository, when authorized by the Minister, to pay out the assets of a plan to the planholder on termination of the plan without withholding an amount under section 9.

SECTION 7. The amendments are consequential upon amendments to section 3 of the Act.

SECTION 8. The amendments are consequential upon amendments to sections 3 and 5 of the Act.

SECTION 9. The amendment clarifies the time limitation for prosecutions of offences committed under the Act.

SECTION 10. The amendment to the *Succession Law Reform Act* will permit the designation of a beneficiary to receive the assets of an Ontario home ownership savings plan on the death of the planholder by means of a signed statement, in the same manner currently permitted for registered pension plans, registered retirement savings plans and similar plans. In default of this amendment, the planholder would be able to appoint a beneficiary of the plan only by means of a will.

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Bill 105**1989**

**An Act to amend the
Ontario Home Ownership Savings Plan Act, 1988**

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

1.—(1) The definition of “depository” in subsection 1 (1) of the *Ontario Home Ownership Savings Plan Act, 1988*, being chapter 35, is repealed and the following substituted therefor:

“depository” means either the Province of Ontario Savings Office or a financial institution that carries on business in Ontario and is a member of either the Canada Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation.

(2) The definition of “qualifying contribution” in subsection 1 (1) of the said Act is repealed and the following substituted therefor:

“qualifying contribution” means a contribution that is a qualifying contribution under section 3.

(3) Subsection 1 (2) of the said Act is amended by striking out “or” at the end of clause (g) and by adding thereto the following clause:

(ga) a partial ownership interest as a tenant in common of real property, if the ownership interest was acquired for the purpose of acquiring the right to inhabit a housing unit forming part of the real property; or

(4) Subsection 1 (3) of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clause:

(da) in the case of an eligible home referred to in clause (2) (ga), the individual has acquired a freehold estate in the real property, other than as a mortgagee, and is entitled to vacant possession of the housing unit referred to in clause (2) (ga); and

(5) Section 1 of the said Act is amended by adding thereto the following subsections:

Gift or inheritance

(4) A person who acquires an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest shall be deemed to own the eligible home for the purposes of this Act on the earliest date on or after the date of the gift or the death on which the person resides in the eligible home, is entitled to possession of the eligible home or acquires the ownership interest in the eligible home.

Application of subs. (4)

(5) Subsection (4) does not apply in respect of an ownership interest acquired under the terms of an agreement enforceable by or against the person legally or beneficially entitled to the interest immediately following the death of the owner of the interest.

(6) The said section 1 is further amended by adding thereto the following subsections:

Deemed owner of eligible home

(6) For the purposes of this Act, the Minister may deem an individual to have owned an eligible home at a particular time if ownership was at that time vested in a person under the terms of an express or implied trust by which the person held the property for the benefit of the individual, either alone or with one or more other persons, and the Minister is of the opinion that the individual exercised effective control, either alone or with one or more other persons, over the eligible home.

Ownership

(7) For the purposes of subsection (6), "ownership" means the ownership of the eligible home, the ownership of the land subjacent to the eligible home or a leasehold interest in the land subjacent to the eligible home.

2.—(1) Paragraph 2 of section 2 of the said Act is repealed and the following substituted therefor:

2. The terms of the plan require the depositary to withhold and remit to the Minister any amount required under section 9 on any payment of assets

of the plan to the planholder or to the legal personal representative of the planholder on the death of the planholder.

(2) Paragraphs 9 and 10 of the said section 2 are repealed and the following substituted therefor:

9. In the case of a plan entered into by a planholder and a depositary before the 1st day of January, 1989, no spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned at any time an eligible home anywhere in the world.
- 9a. In the case of a plan entered into by the planholder and a depositary after the 31st day of December, 1988, no spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned at any time during the marriage an eligible home anywhere in the world.
10. The terms of the plan prohibit any amendment to the terms of the plan,
 - i. that would result in the terms of the plan as amended failing to comply with this Act,
 - ii. that would permit or require any person to do anything contrary to this Act, or
 - iii. that would prevent or prohibit any person from doing anything required by this Act to be done.

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

(3) No contribution to an Ontario home ownership savings plan is a qualifying contribution for the purposes of this Act and the *Income Tax Act* if,

Idem

R.S.O. 1980,
c. 213

- (a) the planholder has received, or has been deemed by this Act to have received, any assets of the plan or the benefit or use of any of the assets of the plan during the year in which the contribution is made, except by way of a release of the assets of the plan

under section 5 for the purpose of the acquisition by the planholder of a qualifying eligible home;

- (b) the contribution is made at a time when the planholder or a spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, is the owner of an eligible home or is a partner in a partnership that owns property that would be an eligible home of the partner if the property was owned by the partner;
- (c) at any time before the contribution is made, the planholder owned an interest in an eligible home;
- (d) the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned at any time an eligible home unless,
 - (i) in the case of a contribution made to a plan before the 1st day of January, 1989, the contribution was made to the plan before the planholder married the spouse and either,
 - (A) the spouse owned no interest in an eligible home at the time of the marriage and the only interest in an eligible home the spouse may have acquired after the marriage was an interest in an eligible home in respect of which the assets of the planholder's plan were released under section 5, or
 - (B) the marriage occurred after the date on which the planholder acquired an interest in an eligible home in respect of which the assets of the planholder's plan were released under section 5, or
 - (ii) in the case of a contribution made to a plan after the 31st day of December, 1988, the spouse has not owned, at any time during marriage to the planholder, an interest in an eligible home, other than an interest in an eligible home acquired during the marriage in respect of which the assets of the planholder's plan were released under section 5; or

- (e) the planholder does not reside in Ontario at the end of the taxation year in which the contribution is made.

(2) Subsection 3 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 10, is repealed.

4.—(1) Subsection 4 (1) of the said Act is repealed and the following substituted therefor:

(1) A depository of an Ontario home ownership savings plan shall hold all assets of the plan only in qualified investments and, at the option of the planholder of the plan, shall hold part or all of such assets in qualified investments that are repayable on demand.

Duty to hold
in qualified
investments

(2) Clause 4 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) a deposit that is with a branch of the Province of Ontario Savings Office or that is insured by the Canada Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation;
or

5.—(1) Clause 5 (4) (a) of the said Act is repealed and the following substituted therefor:

- (a) the eligible home is located in Ontario and is suitable for use as a year-round dwelling place or, in the case of an eligible home that is in the form of a share or shares in the capital stock of a co-operative corporation or is described in clause 1 (2) (ga), the housing unit is located in Ontario and is suitable for use as a year-round dwelling place.

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

(5) Where the assets of the plan have not been released under subsection (1), the Minister may, in the circumstances described in subsection (5a),

Minister's
discretion to
release

- (a) consent to the release of the assets of the plan by the depository to the planholder;
- (b) direct that on the release of the assets of the plan, no amount, or an amount not in excess of the

amount that would otherwise be deducted, withheld and remitted to the Minister by the depositary of the plan under subsection 9 (2) shall be remitted to the Minister; and

- (c) impose such conditions on the release as the Minister in his or her discretion, considers necessary to ensure compliance with this Act and the regulations.

When
Minister's
discretion
may be
exercised

(5a) The Minister may exercise his or her discretion under subsection (5) if the Minister is satisfied that,

- (a) the planholder has purchased property that is or that will become a qualifying eligible home under subsection (4);
- (b) the planholder has entered into an agreement to purchase a proposed condominium unit that will become a qualifying eligible home and is required under the agreement to take possession of or occupy the proposed condominium unit before a deed or transfer of the unit acceptable for registration is delivered to the planholder;
- (c) the planholder has entered into an agreement to purchase an eligible home, the construction of which has not yet been completed, and the Minister is satisfied that the planholder is required under the terms of the agreement to make interim payments to the builder or developer of the eligible home before completion of the purchase thereof;
- (d) the planholder or the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has acquired, after the planholder has entered into an Ontario home ownership savings plan, an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest; or
- (e) the planholder, after having entered into an Ontario home ownership savings plan, has married a person who had an ownership interest in an eligible home at the time of the marriage.

(3) Subsection 5 (6) of the said Act is amended by striking out "clause (5) (c)" in the second line and inserting in lieu thereof "subsection (5)".

(4) Section 5 of the said Act is amended by adding thereto the following subsection:

(8) Where the assets of an Ontario home ownership savings plan have been released under subsection (5) to a planholder referred to in clause (5a)(c) or to a planholder who owns property that will contain a qualifying eligible property following completion of construction thereon of an eligible home, the following rules apply:

Eligible
home under
construction

1. The planholder shall be deemed to have acquired ownership of the eligible home on the date the assets of the plan were released, whether or not construction of the eligible home was completed.
2. If construction of the eligible home has been delayed and, as a result, the planholder has failed to acquire a qualifying eligible home within a time limit imposed by this Act, the planholder shall not be considered, for the purposes of subsection 12 (1), to have used the assets of the plan for a purpose other than the purchase of a qualifying eligible home, if the Minister is satisfied that,
 - i. any failure to inhabit the eligible home for at least thirty days within two years of the date the assets of the plan were released was due to the delay in the construction of the eligible home,
 - ii. the delay in the construction was for a prescribed reason that was beyond the control of the planholder and of anyone not dealing at arm's length with the planholder within the meaning of section 251 of the *Income Tax Act* (Canada), and
 - iii. the planholder has acquired, within four years of the date the assets of the plan were released, an eligible home that is a qualifying eligible home within the meaning of subsection (4).

R.S.C. 1952,
c. 148

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

Exception

R.S.O. 1980,
c. 213

(1a) No amount is payable under subsection (1) with respect to tax credits allowed to the planholder or to his or her spouse or former spouse under the *Income Tax Act* in respect of qualifying contributions made by the planholder to his or her Ontario home ownership savings plan if the planholder has otherwise complied with this Act and the regulations but is terminating his or her plan for the reason that,

- (a) the planholder or the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has acquired, after the planholder entered into the plan, an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest; or
- (b) the planholder, after having entered into an Ontario home ownership savings plan, has married a person who had an ownership interest in an eligible home at the time of the marriage.

(2) Clause 9 (2) (b) of the said Act is amended by inserting after "be" in the tenth line "unless the depositary is in receipt of written authorization from the Ministry of Revenue advising the depositary that it is relieved of its obligation under this subsection to deduct, withhold and remit the amount".

7.—(1) Clause 10 (1) (b) of the said Act is amended by striking out "clause 3 (3) (a), (b) or (d)" in the third line and inserting in lieu thereof "subsection 3 (3)".

(2) Subsection 10 (1) of the said Act is amended by adding "or" at the end of clause (c) and by repealing clause (d).

8. Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

Tax credit
recovery
after release
of assets of
plan

(1) The Minister may serve on the former planholder of an Ontario home ownership savings plan, by ordinary mail to his or her last address known to the Minister or by personal service, a notice of determination of tax credit recovery and interest, together with written reasons therefor, after the assets of the plan have been released by the depositary, if the Minister is of the opinion that,

- (a) the Ontario home ownership savings plan failed to comply with the requirements of section 2;

- (b) a contribution made to the Ontario home ownership savings plan was not a qualifying contribution by reason of subsection 3 (3);
- (c) the planholder owned an interest in an eligible home at any time before the date of release of the assets of the plan, other than an eligible home in respect of which the assets of the plan were released under section 5; or
- (d) the assets of the plan, after release by the depositary (other than in the circumstances described in clause 5 (5a) (d) or (e)), were used for a purpose other than the acquisition of an eligible home that became a qualifying eligible home under subsection 5 (4).

9. Section 18 of the said Act is amended by striking out the first three lines and inserting in lieu thereof "Proceedings to enforce any provision of this Act or the regulations with respect to a home ownership savings plan may be commenced and any information in respect of any offence under this Act or the regulations with respect to a home ownership savings plan may be laid not later than six years after".

COMPLEMENTARY AMENDMENT

10. Section 50 of the *Succession Law Reform Act*, being chapter 488 of the Revised Statutes of Ontario, 1980, is amended by inserting after "(Canada)" in the last line "and an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act, 1988*".

11. Subsection 5 (5) of the said Act, as re-enacted by subsection 5 (2) of this Act, subsection 5 (5a) of the said Act, as enacted by subsection 5 (2) of this Act, and subsection 5 (8) of the said Act, as enacted by subsection 5 (4) of this Act, apply in respect of consents given by the Minister after the 17th day of May, 1989. Application

12.—(1) This Act, except as provided in subsections (2), (3) and (4), comes into force on the day it receives Royal Assent. Commencement

(2) Subsections 1 (1), (2), (3), (4) and (5), sections 2 and 3, subsections 5 (1) and 6 (1) and sections 7, 8 and 9 shall be deemed to have come into force on the 8th day of June, 1988. Idem

(3) Section 10 shall be deemed to have come into force on the 1st day of September, 1988. Idem

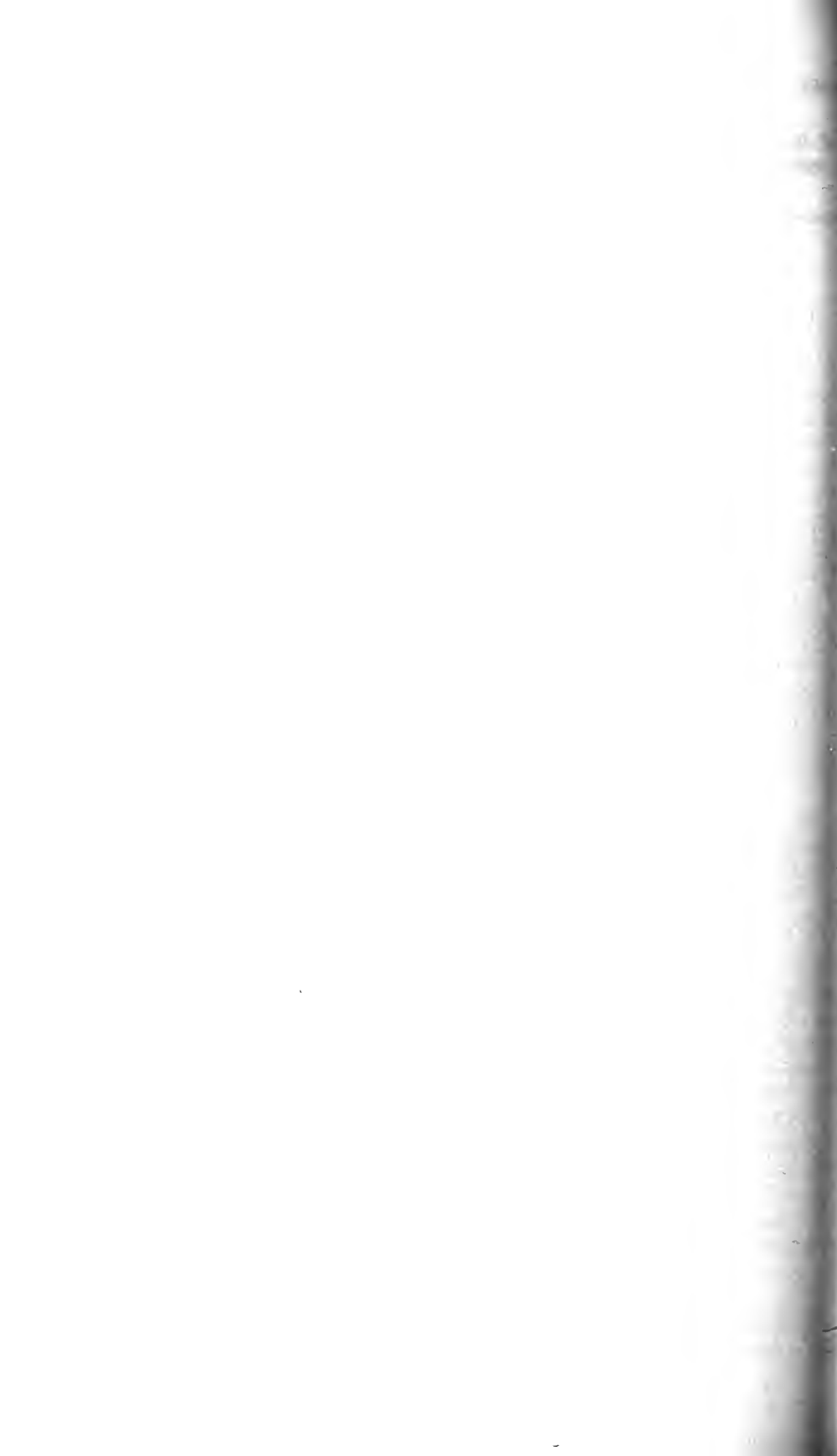
Idem

(4) Section 4 and subsections 5 (2), (3) and (4) shall be deemed to have come into force on the 18th day of May, 1989.

Short title

13. The short title of this Act is the *Ontario Home Ownership Savings Plan Amendment Act, 1989*.





Bill 105

An Act to amend certain Acts in relation to Ontario Home Ownership Savings Plans

The Hon. R. Mancini
Minister of Revenue

1st Reading December 20th, 1989
2nd Reading June 4th, 1990
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The purpose of the Bill is to implement the Treasurer's May 17, 1989 Budget proposals relating to the Ontario Home Ownership Savings Plan Program and to make minor administrative changes.

SECTION 1.—Subsections 1 and 2. The amendments clarify the wording of the existing definitions.

Subsections 3 and 4. The amendments expand the definition of an eligible home under the Act to include a partial ownership interest of a multi-unit residential property, as a tenant in common with other owners, if the ownership interest carries the right of the individual to inhabit one of the housing units on the property.

Subsection 5. New subsections 1 (4) and (5) set out the date on which a person will be considered to have acquired an ownership interest in an eligible home when the person acquires the home by gift or inheritance.

Subsection 6. The enactment of subsections 1 (6) and (7) is to prevent abuse under the Act by permitting the Minister to exercise his or her discretion to deem a person to own an eligible home when the home is held in trust for the person and the Minister is satisfied that the person is exercising effective control over the home.

SECTION 2.—Subsection 1. The re-enactment of paragraph 2 of section 2 is consequential upon the amendments to the Act which will permit the withdrawal of the assets of the plan in certain circumstances without repayment of the tax credits.

Subsection 2. The amendments and the amendments in section 3 of the Bill implement the Treasurer's Budget proposal to permit participation in the Program in 1989 and subsequent years of persons whose spouses previously owned a home, as long as the home was not owned during the marriage.

SECTION 3. See the explanatory note for subsection 2 (2), above.

SECTION 4. The amendments implement the Treasurer's Budget proposal to remove the liquidity restrictions on qualified investments which may be held by Ontario home ownership savings plans.

SECTION 5.—Subsection 1. The amendment is consequential upon the expansion of the definition of "eligible home" in section 1 of the Bill.

Subsection 2. The amendment makes it clear that an eligible home that has been converted from a rental property contrary to the *Rental Housing Protection Act, 1989* or the predecessor to the Act is not a qualifying eligible home.

Subsection 3. The amendments implement the Treasurer's Budget proposals,

- (a) to permit the termination of an Ontario home ownership savings plan without a recovery of any tax credits, if the planholder obtains an eligible home either by way of a gift or inheritance, or marries a person who already owns an eligible home; and
- (b) to permit the early release of plan assets prior to completion of the purchase of an eligible home which is under construction, if interim payments to the builder of the home are required under the terms of the agreement of purchase and sale.

Subsection 4. The amendment to subsection 5 (6) is consequential upon the amendments made in subsection 3 of the Bill.

Subsection 5. The enactment of subsection 5 (8) will provide that where the assets of an Ontario home ownership savings plan are released before the completion of construction of the eligible home and the home is not completed, or completion is delayed, for reasons beyond the control of the planholder, the planholder will have an extension of time under the Act in which to meet the requirements in the Act of purchasing and residing in an eligible home.

SECTION 6.—Subsection 1. The addition of subsection 9 (1a) confirms that no tax credits will be repayable by a planholder who terminates a plan because he or she has either inherited a home, received a home as a gift or has married a person who already owned a home.

Subsection 2. The amendment to clause 9 (2) (b) is consequential upon the amendment in subsection 1 of the Bill and will permit a depository, when authorized by the Minister, to pay out the assets of a plan to the planholder on termination of the plan without withholding an amount under section 9.

SECTION 7. The amendments are consequential upon amendments to section 3 of the Act.

SECTION 8. The amendments are consequential upon amendments to sections 3 and 5 of the Act.

SECTION 9. The amendment clarifies the time limitation for prosecutions of offences committed under the Act.

SECTION 10. The amendment to the *Succession Law Reform Act* will permit the designation of a beneficiary to receive the assets of an Ontario home ownership savings plan on the death of the planholder by means of a signed statement, in the same manner currently permitted for registered pension plans, registered retirement savings plans and similar plans. In default of this amendment, the planholder would be able to appoint a beneficiary of the plan only by means of a will.



Bill 105**1989****An Act to amend certain Acts in relation to
Ontario Home Ownership Savings Plans**

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

1.—(1) The definition of “depository” in subsection 1 (1) of the *Ontario Home Ownership Savings Plan Act, 1988*, being chapter 35, is repealed and the following substituted therefor:

“depository” means either the Province of Ontario Savings Office or a financial institution that carries on business in Ontario and is a member of either the Canada Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation.

(2) The definition of “qualifying contribution” in subsection 1 (1) of the said Act is repealed and the following substituted therefor:

“qualifying contribution” means a contribution that is a qualifying contribution under section 3.

(3) Subsection 1 (2) of the said Act is amended by striking out “or” at the end of clause (g) and by adding thereto the following clause:

(ga) a partial ownership interest as a tenant in common of real property, if the ownership interest was acquired for the purpose of acquiring the right to inhabit a housing unit forming part of the real property; or

(4) Subsection 1 (3) of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clause:

(da) in the case of an eligible home referred to in clause (2) (ga), the individual has acquired a freehold estate in the real property, other than as a mortgagee, and is entitled to vacant possession of the housing unit referred to in clause (2) (ga); and

(5) Section 1 of the said Act is amended by adding thereto the following subsections:

Gift or inheritance

(4) A person who acquires an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest shall be deemed to own the eligible home for the purposes of this Act on the earliest date on or after the date of the gift or the death on which the person resides in the eligible home, is entitled to possession of the eligible home or acquires the ownership interest in the eligible home.

Application of subs. (4)

(5) Subsection (4) does not apply in respect of an ownership interest acquired under the terms of an agreement enforceable by or against the person legally or beneficially entitled to the interest immediately following the death of the owner of the interest.

(6) The said section 1 is further amended by adding thereto the following subsections:

Deemed owner of eligible home

(6) For the purposes of this Act, the Minister may deem an individual to have owned an eligible home at a particular time if ownership was at that time vested in a person under the terms of an express or implied trust by which the person held the property for the benefit of the individual, either alone or with one or more other persons, and the Minister is of the opinion that the individual exercised effective control, either alone or with one or more other persons, over the eligible home.

Ownership

(7) For the purposes of subsection (6), "ownership" means the ownership of the eligible home, the ownership of the land subjacent to the eligible home or a leasehold interest in the land subjacent to the eligible home.

2.—(1) Paragraph 2 of section 2 of the said Act is repealed and the following substituted therefor:

2. The terms of the plan require the depository to withhold and remit to the Minister any amount required under section 9 on any payment of assets

of the plan to the planholder or to the legal personal representative of the planholder on the death of the planholder.

(2) Paragraphs 9 and 10 of the said section 2 are repealed and the following substituted therefor:

9. In the case of a plan entered into by a planholder and a depositary before the 1st day of January, 1989, no spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned at any time an eligible home anywhere in the world.

9a. In the case of a plan entered into by the planholder and a depositary after the 31st day of December, 1988, no spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned at any time during the marriage an eligible home anywhere in the world.

10. The terms of the plan prohibit any amendment to the terms of the plan,

i. that would result in the terms of the plan as amended failing to comply with this Act,

ii. that would permit or require any person to do anything contrary to this Act, or

iii. that would prevent or prohibit any person from doing anything required by this Act to be done.

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

(3) No contribution to an Ontario home ownership savings plan is a qualifying contribution for the purposes of this Act and the *Income Tax Act* if,

Idem

R.S.O. 1980,
c. 213

(a) the planholder has received, or has been deemed by this Act to have received, any assets of the plan or the benefit or use of any of the assets of the plan during the year in which the contribution is made, except by way of a release of the assets of the plan

under section 5 for the purpose of the acquisition by the planholder of a qualifying eligible home;

- (b) the contribution is made at a time when the planholder or a spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, is the owner of an eligible home or is a partner in a partnership that owns property that would be an eligible home of the partner if the property was owned by the partner;
- (c) at any time before the contribution is made, the planholder owned an interest in an eligible home;
- (d) the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned at any time an eligible home unless,
 - (i) in the case of a contribution made to a plan before the 1st day of January, 1989, the contribution was made to the plan before the planholder married the spouse and either,
 - (A) the spouse owned no interest in an eligible home at the time of the marriage and the only interest in an eligible home the spouse may have acquired after the marriage was an interest in an eligible home in respect of which the assets of the planholder's plan were released under section 5, or
 - (B) the marriage occurred after the date on which the planholder acquired an interest in an eligible home in respect of which the assets of the planholder's plan were released under section 5, or
 - (ii) in the case of a contribution made to a plan after the 31st day of December, 1988, the spouse has not owned, at any time during marriage to the planholder, an interest in an eligible home, other than an interest in an eligible home acquired during the marriage in respect of which the assets of the planholder's plan were released under section 5; or

- (e) the planholder does not reside in Ontario at the end of the taxation year in which the contribution is made.

(2) Subsection 3 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 10, is repealed.

4.—(1) Subsection 4 (1) of the said Act is repealed and the following substituted therefor:

(1) A depository of an Ontario home ownership savings plan shall hold all assets of the plan only in qualified investments and, at the option of the planholder of the plan, shall hold part or all of such assets in qualified investments that are repayable on demand.

Duty to hold
in qualified
investments

(2) Clause 4 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) a deposit that is with a branch of the Province of Ontario Savings Office or that is insured by the Canada Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation;
or

5.—(1) Clause 5 (4) (a) of the said Act is repealed and the following substituted therefor:

- (a) the eligible home is located in Ontario and is suitable for use as a year-round dwelling place or, in the case of an eligible home that is in the form of a share or shares in the capital stock of a co-operative corporation or is described in clause 1 (2) (ga), the housing unit is located in Ontario and is suitable for use as a year-round dwelling place.

(2) Subsection 5 (4) of the said Act is amended by striking out "and" at the end of clause (b) and by adding the following clauses:

- (d) in the case of an eligible home described in clause 1 (2) (a), (b), (c), (f), (g) or (h), the eligible home has not been converted from rental property contrary to the *Rental Housing Protection Act, 1989* or the *Rental Housing Protection Act, 1986*; and

1989. c. 31
1986. c. 26

- (e) in the case of an eligible home described in clause 1 (2) (d) or (ga), if the co-operative corporation or

the real property is a co-operative as defined in the *Rental Housing Protection Act, 1989* or the *Rental Protection Act, 1986*, the co-operative corporation or the real property has not been converted from rental property contrary to either of those Acts.

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

Minister's
discretion to
release

(5) Where the assets of the plan have not been released under subsection (1), the Minister may, in the circumstances described in subsection (5a),

- (a) consent to the release of the assets of the plan by the depositary to the planholder;
- (b) direct that on the release of the assets of the plan, no amount, or an amount not in excess of the amount that would otherwise be deducted, withheld and remitted to the Minister by the depositary of the plan under subsection 9 (2) shall be remitted to the Minister; and
- (c) impose such conditions on the release as the Minister in his or her discretion, considers necessary to ensure compliance with this Act and the regulations.

When
Minister's
discretion
may be
exercised

(5a) The Minister may exercise his or her discretion under subsection (5) if the Minister is satisfied that,

- (a) the planholder has purchased property that is or that will become a qualifying eligible home under subsection (4);
- (b) the planholder has entered into an agreement to purchase a proposed condominium unit that will become a qualifying eligible home and is required under the agreement to take possession of or occupy the proposed condominium unit before a deed or transfer of the unit acceptable for registration is delivered to the planholder;
- (c) the planholder has entered into an agreement to purchase an eligible home, the construction of which has not yet been completed, and the Minister is satisfied that the planholder is required under the terms of the agreement to make interim payments to the builder or developer of the eligible home before completion of the purchase thereof;

- (d) the planholder or the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has acquired, after the planholder has entered into an Ontario home ownership savings plan, an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest; or
- (e) the planholder, after having entered into an Ontario home ownership savings plan, has married a person who had an ownership interest in an eligible home at the time of the marriage.

(4) Subsection 5 (6) of the said Act is amended by striking out "clause (5) (c)" in the second line and inserting in lieu thereof "subsection (5)".

(5) Section 5 of the said Act is amended by adding thereto the following subsection:

(8) Where the assets of an Ontario home ownership savings plan have been released under subsection (5) to a planholder referred to in clause (5a)(c) or to a planholder who owns property that will contain a qualifying eligible property following completion of construction thereon of an eligible home, the following rules apply:

Eligible
home under
construction

1. The planholder shall be deemed to have acquired ownership of the eligible home on the date the assets of the plan were released, whether or not construction of the eligible home was completed.
2. If construction of the eligible home has been delayed and, as a result, the planholder has failed to acquire a qualifying eligible home within a time limit imposed by this Act, the planholder shall not be considered, for the purposes of subsection 12 (1), to have used the assets of the plan for a purpose other than the purchase of a qualifying eligible home, if the Minister is satisfied that,
 - i. any failure to inhabit the eligible home for at least thirty days within two years of the date the assets of the plan were released was due to the delay in the construction of the eligible home,

R.S.C. 1952,
c. 148

ii. the delay in the construction was for a prescribed reason that was beyond the control of the planholder and of anyone not dealing at arm's length with the planholder within the meaning of section 251 of the *Income Tax Act* (Canada), and

iii. the planholder has acquired, within four years of the date the assets of the plan were released, an eligible home that is a qualifying eligible home within the meaning of subsection (4).

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

Exception

R.S.O. 1980,
c. 213

(1a) No amount is payable under subsection (1) with respect to tax credits allowed to the planholder or to his or her spouse or former spouse under the *Income Tax Act* in respect of qualifying contributions made by the planholder to his or her Ontario home ownership savings plan if the planholder has otherwise complied with this Act and the regulations but is terminating his or her plan for the reason that,

(a) the planholder or the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has acquired, after the planholder entered into the plan, an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest; or

(b) the planholder, after having entered into an Ontario home ownership savings plan, has married a person who had an ownership interest in an eligible home at the time of the marriage.

(2) Clause 9 (2) (b) of the said Act is amended by inserting after "be" in the tenth line "unless the depositary is in receipt of written authorization from the Ministry of Revenue advising the depositary that it is relieved of its obligation under this subsection to deduct, withhold and remit the amount".

7.—(1) Clause 10 (1) (b) of the said Act is amended by striking out "clause 3 (3) (a), (b) or (d)" in the third line and inserting in lieu thereof "subsection 3 (3)".

(2) Subsection 10 (1) of the said Act is amended by adding "or" at the end of clause (c) and by repealing clause (d).

8. Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may serve on the former planholder of an Ontario home ownership savings plan, by ordinary mail to his or her last address known to the Minister or by personal service, a notice of determination of tax credit recovery and interest, together with written reasons therefor, after the assets of the plan have been released by the depository, if the Minister is of the opinion that,

Tax credit
recovery
after release
of assets of
plan

- (a) the Ontario home ownership savings plan failed to comply with the requirements of section 2;
- (b) a contribution made to the Ontario home ownership savings plan was not a qualifying contribution by reason of subsection 3 (3);
- (c) the planholder owned an interest in an eligible home at any time before the date of release of the assets of the plan, other than an eligible home in respect of which the assets of the plan were released under section 5; or
- (d) the assets of the plan, after release by the depository (other than in the circumstances described in clause 5 (5a) (d) or (e)), were used for a purpose other than the acquisition of an eligible home that became a qualifying eligible home under subsection 5 (4).

9. Section 18 of the said Act is amended by striking out the first three lines and inserting in lieu thereof "Proceedings to enforce any provision of this Act or the regulations with respect to a home ownership savings plan may be commenced and any information in respect of any offence under this Act or the regulations with respect to a home ownership savings plan may be laid not later than six years after".

COMPLEMENTARY AMENDMENT

10. Section 50 of the *Succession Law Reform Act*, being chapter 488 of the Revised Statutes of Ontario, 1980, is amended by inserting after "(Canada)" in the last line "and an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act, 1988*".

11. Subsection 5 (5) of the said Act, as re-enacted by subsection 5 (3) of this Act, subsection 5 (5a) of the said Act, as enacted by subsection 5 (3) of this Act, and subsection 5 (8) of

Application

the said Act, as enacted by subsection 5 (5) of this Act, apply in respect of consents given by the Minister after the 17th day of May, 1989.

Commence-
ment

12.—(1) This Act, except as provided in subsections (2), (3) and (4), comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1 (1), (2), (3), (4) and (5), sections 2 and 3, subsections 5 (1), (2) and 6 (1) and sections 7, 8 and 9 shall be deemed to have come into force on the 8th day of June, 1988.

Idem

(3) Section 10 shall be deemed to have come into force on the 1st day of September, 1988.

Idem

(4) Section 4 and subsections 5 (3), (4) and (5) shall be deemed to have come into force on the 18th day of May, 1989.

Short title

13. The short title of this Act is the *Ontario Home Ownership Savings Plan Amendment Act, 1990*.

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Bill 105

(Chapter 9
Statutes of Ontario, 1990)

An Act to amend certain Acts in relation to Ontario Home Ownership Savings Plans

The Hon. R. Mancini
Minister of Revenue

<i>1st Reading</i>	December 20th, 1989
<i>2nd Reading</i>	June 4th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 105**1989****An Act to amend certain Acts in relation to
Ontario Home Ownership Savings Plans**

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

1.—(1) The definition of “depository” in subsection 1 (1) of the *Ontario Home Ownership Savings Plan Act, 1988*, being chapter 35, is repealed and the following substituted therefor:

“depository” means either the Province of Ontario Savings Office or a financial institution that carries on business in Ontario and is a member of either the Canada Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation.

(2) The definition of “qualifying contribution” in subsection 1 (1) of the said Act is repealed and the following substituted therefor:

“qualifying contribution” means a contribution that is a qualifying contribution under section 3.

(3) Subsection 1 (2) of the said Act is amended by striking out “or” at the end of clause (g) and by adding thereto the following clause:

(ga) a partial ownership interest as a tenant in common of real property, if the ownership interest was acquired for the purpose of acquiring the right to inhabit a housing unit forming part of the real property; or

(4) Subsection 1 (3) of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clause:

(da) in the case of an eligible home referred to in clause (2) (ga), the individual has acquired a freehold estate in the real property, other than as a mortgagee, and is entitled to vacant possession of the housing unit referred to in clause (2) (ga); and

(5) Section 1 of the said Act is amended by adding thereto the following subsections:

Gift or inheritance

(4) A person who acquires an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest shall be deemed to own the eligible home for the purposes of this Act on the earliest date on or after the date of the gift or the death on which the person resides in the eligible home, is entitled to possession of the eligible home or acquires the ownership interest in the eligible home.

Application of subs. (4)

(5) Subsection (4) does not apply in respect of an ownership interest acquired under the terms of an agreement enforceable by or against the person legally or beneficially entitled to the interest immediately following the death of the owner of the interest.

(6) The said section 1 is further amended by adding thereto the following subsections:

Deemed owner of eligible home

(6) For the purposes of this Act, the Minister may deem an individual to have owned an eligible home at a particular time if ownership was at that time vested in a person under the terms of an express or implied trust by which the person held the property for the benefit of the individual, either alone or with one or more other persons, and the Minister is of the opinion that the individual exercised effective control, either alone or with one or more other persons, over the eligible home.

Ownership

(7) For the purposes of subsection (6), "ownership" means the ownership of the eligible home, the ownership of the land subjacent to the eligible home or a leasehold interest in the land subjacent to the eligible home.

2.—(1) Paragraph 2 of section 2 of the said Act is repealed and the following substituted therefor:

2. The terms of the plan require the depositary to withhold and remit to the Minister any amount required under section 9 on any payment of asse

of the plan to the planholder or to the legal personal representative of the planholder on the death of the planholder.

(2) Paragraphs 9 and 10 of the said section 2 are repealed and the following substituted therefor:

9. In the case of a plan entered into by a planholder and a depositary before the 1st day of January, 1989, no spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned at any time an eligible home anywhere in the world.
- 9a. In the case of a plan entered into by the planholder and a depositary after the 31st day of December, 1988, no spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned at any time during the marriage an eligible home anywhere in the world.
10. The terms of the plan prohibit any amendment to the terms of the plan,
 - i. that would result in the terms of the plan as amended failing to comply with this Act,
 - ii. that would permit or require any person to do anything contrary to this Act, or
 - iii. that would prevent or prohibit any person from doing anything required by this Act to be done.

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

(3) No contribution to an Ontario home ownership savings plan is a qualifying contribution for the purposes of this Act and the *Income Tax Act* if,

- (a) the planholder has received, or has been deemed by this Act to have received, any assets of the plan or the benefit or use of any of the assets of the plan during the year in which the contribution is made, except by way of a release of the assets of the plan

Idem

R.S.O. 1980.
c. 213

under section 5 for the purpose of the acquisition by the planholder of a qualifying eligible home;

- (b) the contribution is made at a time when the planholder or a spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, is the owner of an eligible home or is a partner in a partnership that owns property that would be an eligible home of the partner if the property was owned by the partner;
- (c) at any time before the contribution is made, the planholder owned an interest in an eligible home;
- (d) the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned at any time an eligible home unless,
 - (i) in the case of a contribution made to a plan before the 1st day of January, 1989, the contribution was made to the plan before the planholder married the spouse and either,
 - (A) the spouse owned no interest in an eligible home at the time of the marriage and the only interest in an eligible home the spouse may have acquired after the marriage was an interest in an eligible home in respect of which the assets of the planholder's plan were released under section 5, or
 - (B) the marriage occurred after the date on which the planholder acquired an interest in an eligible home in respect of which the assets of the planholder's plan were released under section 5, or
 - (ii) in the case of a contribution made to a plan after the 31st day of December, 1988, the spouse has not owned, at any time during marriage to the planholder, an interest in an eligible home, other than an interest in an eligible home acquired during the marriage in respect of which the assets of the planholder's plan were released under section 5; or

- (e) the planholder does not reside in Ontario at the end of the taxation year in which the contribution is made.

(2) Subsection 3 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 10, is repealed.

4.—(1) Subsection 4 (1) of the said Act is repealed and the following substituted therefor:

(1) A depository of an Ontario home ownership savings plan shall hold all assets of the plan only in qualified investments and, at the option of the planholder of the plan, shall hold part or all of such assets in qualified investments that are repayable on demand.

Duty to hold
in qualified
investments

(2) Clause 4 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) a deposit that is with a branch of the Province of Ontario Savings Office or that is insured by the Canada Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation;
or

5.—(1) Clause 5 (4) (a) of the said Act is repealed and the following substituted therefor:

- (a) the eligible home is located in Ontario and is suitable for use as a year-round dwelling place or, in the case of an eligible home that is in the form of a share or shares in the capital stock of a co-operative corporation or is described in clause 1 (2) (ga), the housing unit is located in Ontario and is suitable for use as a year-round dwelling place.

(2) Subsection 5 (4) of the said Act is amended by striking out "and" at the end of clause (b) and by adding the following clauses:

- (d) in the case of an eligible home described in clause 1 (2) (a), (b), (c), (f), (g) or (h), the eligible home has not been converted from rental property contrary to the *Rental Housing Protection Act, 1989* or the *Rental Housing Protection Act, 1986*; and

1989, c. 31
1986, c. 26

- (e) in the case of an eligible home described in clause 1 (2) (d) or (ga), if the co-operative corporation or

the real property is a co-operative as defined in the *Rental Housing Protection Act, 1989* or the *Rental Protection Act, 1986*, the co-operative corporation or the real property has not been converted from rental property contrary to either of those Acts.

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

Minister's
discretion to
release

(5) Where the assets of the plan have not been released under subsection (1), the Minister may, in the circumstances described in subsection (5a),

- (a) consent to the release of the assets of the plan by the depository to the planholder;
- (b) direct that on the release of the assets of the plan, no amount, or an amount not in excess of the amount that would otherwise be deducted, withheld and remitted to the Minister by the depository of the plan under subsection 9 (2) shall be remitted to the Minister; and
- (c) impose such conditions on the release as the Minister in his or her discretion, considers necessary to ensure compliance with this Act and the regulations.

When
Minister's
discretion
may be
exercised

(5a) The Minister may exercise his or her discretion under subsection (5) if the Minister is satisfied that,

- (a) the planholder has purchased property that is or that will become a qualifying eligible home under subsection (4);
- (b) the planholder has entered into an agreement to purchase a proposed condominium unit that will become a qualifying eligible home and is required under the agreement to take possession of or occupy the proposed condominium unit before a deed or transfer of the unit acceptable for registration is delivered to the planholder;
- (c) the planholder has entered into an agreement to purchase an eligible home, the construction of which has not yet been completed, and the Minister is satisfied that the planholder is required under the terms of the agreement to make interim payments to the builder or developer of the eligible home before completion of the purchase thereof;

- (d) the planholder or the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has acquired, after the planholder has entered into an Ontario home ownership savings plan, an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest; or
- (e) the planholder, after having entered into an Ontario home ownership savings plan, has married a person who had an ownership interest in an eligible home at the time of the marriage.

(4) Subsection 5 (6) of the said Act is amended by striking out "clause (5) (c)" in the second line and inserting in lieu thereof "subsection (5)".

(5) Section 5 of the said Act is amended by adding thereto the following subsection:

(8) Where the assets of an Ontario home ownership savings plan have been released under subsection (5) to a planholder referred to in clause (5a)(c) or to a planholder who owns property that will contain a qualifying eligible property following completion of construction thereon of an eligible home, the following rules apply:

Eligible
home under
construction

1. The planholder shall be deemed to have acquired ownership of the eligible home on the date the assets of the plan were released, whether or not construction of the eligible home was completed.
2. If construction of the eligible home has been delayed and, as a result, the planholder has failed to acquire a qualifying eligible home within a time limit imposed by this Act, the planholder shall not be considered, for the purposes of subsection 12 (1), to have used the assets of the plan for a purpose other than the purchase of a qualifying eligible home, if the Minister is satisfied that,
 - i. any failure to inhabit the eligible home for at least thirty days within two years of the date the assets of the plan were released was due to the delay in the construction of the eligible home,

R.S.C. 1952,
c. 148

- ii. the delay in the construction was for a prescribed reason that was beyond the control of the planholder and of anyone not dealing at arm's length with the planholder within the meaning of section 251 of the *Income Tax Act* (Canada), and
- iii. the planholder has acquired, within four years of the date the assets of the plan were released, an eligible home that is a qualifying eligible home within the meaning of subsection (4).

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

Exception

R.S.O. 1980,
c. 213

(1a) No amount is payable under subsection (1) with respect to tax credits allowed to the planholder or to his or her spouse or former spouse under the *Income Tax Act* in respect of qualifying contributions made by the planholder to his or her Ontario home ownership savings plan if the planholder has otherwise complied with this Act and the regulations but is terminating his or her plan for the reason that,

- (a) the planholder or the spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has acquired, after the planholder entered into the plan, an ownership interest in an eligible home by gift from the owner of the interest or by reason of the death of the owner of the interest; or
- (b) the planholder, after having entered into an Ontario home ownership savings plan, has married a person who had an ownership interest in an eligible home at the time of the marriage.

(2) Clause 9 (2) (b) of the said Act is amended by inserting after "be" in the tenth line "unless the depositary is in receipt of written authorization from the Ministry of Revenue advising the depositary that it is relieved of its obligation under this subsection to deduct, withhold and remit the amount".

7.—(1) Clause 10 (1) (b) of the said Act is amended by striking out "clause 3 (3) (a), (b) or (d)" in the third line and inserting in lieu thereof "subsection 3 (3)".

(2) Subsection 10 (1) of the said Act is amended by adding "or" at the end of clause (c) and by repealing clause (d).

8. Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may serve on the former planholder of an Ontario home ownership savings plan, by ordinary mail to his or her last address known to the Minister or by personal service, a notice of determination of tax credit recovery and interest, together with written reasons therefor, after the assets of the plan have been released by the depository, if the Minister is of the opinion that,

Tax credit
recovery
after release
of assets of
plan

- (a) the Ontario home ownership savings plan failed to comply with the requirements of section 2;
- (b) a contribution made to the Ontario home ownership savings plan was not a qualifying contribution by reason of subsection 3 (3);
- (c) the planholder owned an interest in an eligible home at any time before the date of release of the assets of the plan, other than an eligible home in respect of which the assets of the plan were released under section 5; or
- (d) the assets of the plan, after release by the depository (other than in the circumstances described in clause 5 (5a) (d) or (e)), were used for a purpose other than the acquisition of an eligible home that became a qualifying eligible home under subsection 5 (4).

9. Section 18 of the said Act is amended by striking out the first three lines and inserting in lieu thereof "Proceedings to enforce any provision of this Act or the regulations with respect to a home ownership savings plan may be commenced and any information in respect of any offence under this Act or the regulations with respect to a home ownership savings plan may be laid not later than six years after".

COMPLEMENTARY AMENDMENT

10. Section 50 of the *Succession Law Reform Act*, being chapter 488 of the Revised Statutes of Ontario, 1980, is amended by inserting after "(Canada)" in the last line "and an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act, 1988*".

11. Subsection 5 (5) of the said Act, as re-enacted by subsection 5 (3) of this Act, subsection 5 (5a) of the said Act, as enacted by subsection 5 (3) of this Act, and subsection 5 (8) of

Application

the said Act, as enacted by subsection 5 (5) of this Act, apply in respect of consents given by the Minister after the 17th day of May, 1989.

Commence-
ment

12.—(1) This Act, except as provided in subsections (2), (3) and (4), comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1 (1), (2), (3), (4) and (5), sections 2 and 3, subsections 5 (1), (2) and 6 (1) and sections 7, 8 and 9 shall be deemed to have come into force on the 8th day of June, 1988.

Idem

(3) Section 10 shall be deemed to have come into force on the 1st day of September, 1988.

Idem

(4) Section 4 and subsections 5 (3), (4) and (5) shall be deemed to have come into force on the 18th day of May, 1989.

Short title

13. The short title of this Act is the *Ontario Home Ownership Savings Plan Amendment Act, 1990*.

Bill 106

An Act to amend certain Acts with respect to Easements and other matters

The Hon. G. Sorbara
Minister of Consumer and Commercial Relations

1st Reading December 20, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill makes certain changes in the law with respect to municipal easements and easements of the Ministry of Government Services. It also clarifies part of the *Registry Act*.

SECTION 1.—Subsection 1. The amendment to subsection 106 (7) of the *Registry Act* clarifies that the registration of a notice of claim does not extend a claim that has expired for some reason other than the expiry of the notice period in the *Registry Act*.

Subsection 2. Section 106a which is added to the *Registry Act* relates to public utility easements of municipalities and easements of the Ministry of Government Services. Easements that existed on July 31, 1981 continue until December 31, 1999 even if they were not protected by a notice of claim. Persons who are prejudiced by this continuation are eligible to receive compensation unless the easement is abandoned. These easements can be protected beyond December 31, 1999 by the registration of a notice of claim registered before that date.

SECTION 2. Section 195a which is added to the *Municipal Act* relates to public utilities of municipalities. The common law is changed so that a public utility easement does not have to be attached to any particular parcel of land to be valid. Public utilities placed on land with the consent or acquiescence of the owner are exempted from Part III of the *Registry Act* which relates to the investigation of titles and the expiry of certain claims. Persons are prohibited from interfering with public utilities that are not protected by easements unless they obtain a court order or the municipality consents. Municipalities are given the right to enter lands to repair their utilities. In cases where a municipality puts a public utility on what was mistakenly believed to be a road allowance, the municipality is deemed to have an easement and the owner is given a right to compensation determined in accordance with the *Expropriations Act*.

SECTION 3. Section 9a which is added to the *Ministry of Government Services Act* relates to public utilities of the Ministry of Government Services. It provides the same scheme for the Ministry of Government Services as the amendment in section 2 of the Bill provides for municipalities.

Bill 106

1989

**An Act to amend certain Acts
with respect to Easements and other matters**

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

1.—(1) Subsection 106 (7) of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 17, section 4, is amended by adding at the end thereof “other than as a result of subsection (1)”.

(2) The said Act is amended by adding thereto the following section:

106a.—(1) In this section,

Definitions

“Ministry of Government Services” means Her Majesty in right of the Ministry of Government Services as represented by the Minister of Government Services;

“municipality” means a municipality within the meaning of the *Municipal Act* and includes a regional, metropolitan or district municipality, the County of Oxford and a local board within the meaning of the *Municipal Affairs Act*;

R.S.O. 1980,
cc. 302, 303

“public utility easement” means an easement in respect of a water works or water supply system, sewage works, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

(2) Despite sections 105 and 106, a public utility easement of a municipality or an easement of the Ministry of Government Services that existed on the 31st day of July, 1981 continues until the 31st day of December, 1999.

Continuation
of public
utility
easements

(3) If, except for subsection (2), an easement would not affect land, a person who has an interest in the land acquired

Eligibility for
compensation

on or after the 1st day of August, 1981 and before the day this section comes into force is entitled to compensation for the easement.

Idem

(4) Subsection (3) does not apply to a person if the easement is specifically referred to in,

- (a) the instrument by which the person acquired the interest; or
- (b) a registered instrument executed by the person before the day this section comes into force.

Time of calculation

(5) Compensation shall be calculated as though the easement had been expropriated on the earlier of,

- (a) the day the person who has an interest in the land gives the municipality or the Ministry of Government Services notice that he or she claims compensation under this section; or
- (b) the day the municipality or the Ministry of Government Services gives the person who has an interest in the land notice of its easement.

Calculation of compensation

R.S.O. 1980, c. 148

Abandonment of easement

(6) The *Expropriations Act* applies with necessary modifications to claims for compensation.

(7) A municipality or the Ministry of Government Services is relieved from paying compensation for an easement if it,

- (a) removes anything placed under the authority of the easement;
- (b) restores the land to the condition it was in immediately before any removal; and
- (c) abandons the easement.

Notices of claim

(8) A notice of claim in respect of a public utility easement of a municipality or an easement of the Ministry of Government Services registered before the 31st day of December, 1999 is as effective as if it had been registered on the 31st day of July, 1981.

2. The *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

195a.—(1) In this section,

Definitions

“municipal public utility” means a public utility owned and operated by a municipality;

“municipal public utility easement” means an easement of a municipality in respect of a municipal public utility;

“municipality” includes a regional, metropolitan or district municipality, the County of Oxford and a local board within the meaning of the *Municipal Affairs Act*;

R.S.O. 1980,
c. 303

“public utility” means a water works or water supply system, sewage works, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

(2) A municipal public utility easement does not have to be appurtenant or annexed to or for the benefit of any specific parcel of land to be valid.

Dominant
tenement

(3) Part III of the *Registry Act* does not apply to a claim of a person in respect of a part of a municipal public utility constructed on land before this section comes into force with the consent or acquiescence of the owner of the land.

R.S.O. 1980,
c. 445,
Part III
not to apply

(4) No person shall interfere with a part of a municipal public utility for which there is no municipal public utility easement unless,

Interference
with utilities

(a) the municipality consents; or

(b) the interference is authorized by a court order under this section.

(5) The District Court may make an order authorizing interference with a part of a municipal public utility on the application of a person who has an interest in the land where the part is located if the use of the land by the person is substantially affected.

Court orders
with respect
to utilities

(6) A person making an application for an order under subsection (5) in respect of a part of a municipal public utility shall give the municipality ninety days notice of the application or such other notice as the court may direct.

Notice

(7) In making an order under subsection (5), the court may make such other orders as it considers necessary including an order that the applicant provide an easement for the alterna-

Other orders

tive location of the public utility for such compensation as the court may determine.

Stay of orders

(8) The court shall stay an order under subsection (5) at the request of the municipality for such time as the court determines to allow the municipality to acquire an interest in land to accommodate the part of its public utility that is subject to the order.

Right to repair utilities

(9) Subject to any court order under this section, a municipality may enter upon any land to repair and maintain its public utilities.

Utilities located by mistake

(10) If, before this section comes into force, a municipality located a part of a municipal public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, the municipality that owns and operates the utility shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be entitled to compensation for the easement determined in accordance with the *Expropriations Act*.

R.S.O. 1980, c. 148

Offence

(11) Every person who knowingly contravenes subsection (4) is guilty of an offence.

3. The Ministry of Government Services Act, being chapter 279 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Definitions

9a.—(1) In this section,

“government public utility” means a public utility owned and operated by Her Majesty in right of the Ministry as represented by the Minister;

“government public utility easement” means an easement of Her Majesty in right of the Ministry as represented by the Minister in respect of a government public utility;

“public utility” means a water works or water supply system, sewage works, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

R.S.O. 1980, c. 445, Part III not to apply

(2) Part III of the *Registry Act* does not apply to a claim of a person in respect of a part of a government public utility constructed on land before this section comes into force with the consent or acquiescence of the owner of the land.

(3) No person shall interfere with a part of a government public utility for which there is no government public utility easement unless, Interference with utilities

(a) the Minister consents; or

(b) the interference is authorized by a court order under this section.

(4) The District Court may make an order authorizing interference with a part of a government public utility on the application of a person who has an interest in the land where the part is located if the use of the land by the person is substantially affected. Court orders with respect to utilities

(5) A person making an application for an order under subsection (4) in respect of a part of a government public utility shall give the Minister ninety days notice of the application or such other notice as the court may direct. Notice

(6) In making an order under subsection (4), the court may make such other orders as it considers necessary including an order that the applicant provide an easement for the alternative location of the public utility for such compensation as the court may determine. Other orders

(7) The court shall stay an order under subsection (4) at the request of the Minister for such time as the court determines to allow the Government to acquire an interest in land to accommodate the part of the public utility that is subject to the order. Stay of orders

(8) Subject to any court order under this section, the Minister may enter upon any land to repair and maintain a government public utility. Right to repair utilities

(9) If, before this section comes into force, the Government located a part of a government public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, Her Majesty in right of the Ministry as represented by the Minister shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be entitled to compensation for the easement determined in accordance with the *Expropriations Act*. Utilities located by mistake

R.S.O. 1980,
c. 148

(10) Every person who knowingly contravenes subsection (3) is guilty of an offence. Offence

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 *Easement Statute Law Amendment Act, 1989*.

Bill 106

An Act to amend certain Acts with respect to Easements and other matters

The Hon. G. Sorbara
Minister of Consumer and Commercial Relations

1st Reading December 20th, 1989
2nd Reading June 4th, 1990
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

GENERAL. The Bill makes certain changes in the law with respect to municipal easements and easements of the Ministry of Government Services. It also clarifies part of the *Registry Act*.

SECTION 1.—Subsection 1. The amendment to subsection 106 (7) of the *Registry Act* clarifies that the registration of a notice of claim does not extend a claim that has expired for some reason other than the expiry of the notice period in the *Registry Act*.

Subsection 2. Section 106a which is added to the *Registry Act* relates to public utility easements of municipalities and easements of the Ministry of Government Services. Easements that existed on July 31, 1981 continue until December 31, 1999 even if they were not protected by a notice of claim. Persons who are prejudiced by this continuation are eligible to receive compensation unless the easement is abandoned. These easements can be protected beyond December 31, 1999 by the registration of a notice of claim registered before that date.

SECTION 2. Section 195a which is added to the *Municipal Act* relates to public utilities of municipalities. The common law is changed so that a public utility easement does not have to be attached to any particular parcel of land to be valid. Public utilities placed on land with the consent or acquiescence of the owner are exempted from Part III of the *Registry Act* which relates to the investigation of titles and the expiry of certain claims. Persons are prohibited from interfering with public utilities that are not protected by easements unless they obtain a court order or the municipality consents. Municipalities are given the right to enter lands to repair their utilities. In cases where a municipality puts a public utility on what was mistakenly believed to be a road allowance, the municipality is deemed to have an easement and the owner is given a right to compensation determined in accordance with the *Expropriations Act*.

SECTION 3. Section 9a which is added to the *Ministry of Government Services Act* relates to public utilities of the Ministry of Government Services. It provides the same scheme for the Ministry of Government Services as the amendment in section 2 of the Bill provides for municipalities.

Bill 106

1989

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with respect to Easements and other matters**

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1.—(1) Subsection 106 (7) of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 17, section 4, is amended by adding at the end thereof “other than as a result of subsection (1)”.

(2) The said Act is amended by adding thereto the following section:

106a.—(1) In this section,

Definitions

“Ministry of Government Services” means Her Majesty the Queen in right of Ontario as represented by the Minister of Government Services;

“municipality” means a municipality within the meaning of the *Municipal Act* and includes a regional, metropolitan or district municipality, the County of Oxford and a local board within the meaning of the *Municipal Affairs Act*;

R.S.O. 1980,
cc. 302, 303

“public utility easement” means an easement in respect of a water works or water supply system, sewage works, steam or hot water distribution system, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

(2) Despite sections 105 and 106, a public utility easement of a municipality or an easement of the Ministry of Government Services that existed on the 31st day of July, 1981 continues until the 31st day of December, 1999.

Continuation
of public
utility
easements

Eligibility for
compensation

(3) If, except for subsection (2), an easement would not affect land, a person who has an interest in the land acquired on or after the 1st day of August, 1981 and before the day this section comes into force is entitled to compensation for the easement.

Idem

(4) Subsection (3) does not apply to a person if the easement is specifically referred to in,

- (a) the instrument by which the person acquired the interest; or
- (b) a registered instrument executed by the person before the day this section comes into force.

Time of
calculation

(5) Compensation shall be calculated as though the easement had been expropriated on the earlier of,

- (a) the day the person who has an interest in the land gives the municipality or the Ministry of Government Services notice that he or she claims compensation under this section; or
- (b) the day the municipality or the Ministry of Government Services gives the person who has an interest in the land notice of its easement.

Calculation
of compen-
sation

R.S.O. 1980,
c. 148

Abandonment
of easement

(6) The *Expropriations Act* applies with necessary modifications to claims for compensation.

(7) A municipality or the Ministry of Government Services is relieved from paying compensation for an easement if it,

- (a) removes anything placed under the authority of the easement;
- (b) restores the land to the condition it was in immediately before any removal; and
- (c) abandons the easement.

Notices of
claim

(8) A notice of claim in respect of a public utility easement of a municipality or an easement of the Ministry of Government Services registered before the 31st day of December, 1999 is as effective as if it had been registered on the 31st day of July, 1981.

2. The *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

195a.—(1) In this section,

Definitions

“municipal public utility” means a public utility owned and operated by a municipality;

“municipal public utility easement” means an easement of a municipality in respect of a municipal public utility;

“municipality” includes a regional, metropolitan or district municipality, the County of Oxford and a local board within the meaning of the *Municipal Affairs Act*;

R.S.O. 1980,
c. 303

“public utility” means a water works or water supply system, sewage works, steam or hot water distribution system, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

(2) A municipal public utility easement does not have to be appurtenant or annexed to or for the benefit of any specific parcel of land to be valid.

Dominant
tenement

(3) Part III of the *Registry Act* does not apply to a claim of a person in respect of a part of a municipal public utility constructed on land before this section comes into force with the consent or acquiescence of the owner of the land.

R.S.O. 1980,
c. 445,
Part III
not to apply

(4) No person shall interfere with a part of a municipal public utility for which there is no municipal public utility easement unless,

Interference
with utilities

(a) the municipality consents; or

(b) the interference is authorized by a court order under this section.

(5) The District Court may make an order authorizing interference with a part of a municipal public utility on the application of a person who has an interest in the land where the part is located if the use of the land by the person is substantially affected.

Court orders
with respect
to utilities

(6) A person making an application for an order under subsection (5) in respect of a part of a municipal public utility shall give the municipality ninety days notice of the application or such other notice as the court may direct.

Notice

Other orders (7) In making an order under subsection (5), the court may make such other orders as it considers necessary including an order that the applicant provide an easement for the alternative location of the public utility for such compensation as the court may determine.

Stay of orders (8) The court shall stay an order under subsection (5) at the request of the municipality for such time as the court determines to allow the municipality to acquire an interest in land to accommodate the part of its public utility that is subject to the order.

Right to repair utilities (9) Subject to any court order under this section, a municipality may enter upon any land to repair and maintain its public utilities.

Utilities located by mistake (10) If, before this section comes into force, a municipality located a part of a municipal public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, the municipality that owns and operates the utility shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be entitled to compensation for the easement determined in accordance with the *Expropriations Act*.

R.S.O. 1980,
c. 148

Offence (11) Every person who knowingly contravenes subsection (4) is guilty of an offence.

3. The Ministry of Government Services Act, being chapter 279 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Definitions

9a.—(1) In this section,

“government public utility” means a public utility owned and operated by Her Majesty the Queen in right of Ontario as represented by the Minister;

“government public utility easement” means an easement of Her Majesty the Queen in right of Ontario as represented by the Minister in respect of a government public utility;

“public utility” means a water works or water supply system, sewage works, steam or hot water distribution system, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

(2) Part III of the *Registry Act* does not apply to a claim of a person in respect of a part of a government public utility constructed on land before this section comes into force with the consent or acquiescence of the owner of the land.

R.S.O. 1980, c. 445, Part III not to apply

(3) No person shall interfere with a part of a government public utility for which there is no government public utility easement unless,

Interference with utilities

(a) the Minister consents; or

(b) the interference is authorized by a court order under this section.

(4) The District Court may make an order authorizing interference with a part of a government public utility on the application of a person who has an interest in the land where the part is located if the use of the land by the person is substantially affected.

Court orders with respect to utilities

(5) A person making an application for an order under subsection (4) in respect of a part of a government public utility shall give the Minister ninety days notice of the application or such other notice as the court may direct.

Notice

(6) In making an order under subsection (4), the court may make such other orders as it considers necessary including an order that the applicant provide an easement for the alternative location of the public utility for such compensation as the court may determine.

Other orders

(7) The court shall stay an order under subsection (4) at the request of the Minister for such time as the court determines to allow the Government to acquire an interest in land to accommodate the part of the public utility that is subject to the order.

Stay of orders

(8) Subject to any court order under this section, the Minister may enter upon any land to repair and maintain a government public utility.

Right to repair utilities

(9) If, before this section comes into force, the Government located a part of a government public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, Her Majesty the Queen in right of Ontario as represented by the Minister shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be

Utilities located by mistake

R.S.O. 1980,
c. 148

entitled to compensation for the easement determined in accordance with the *Expropriations Act*.

Offence

(10) Every person who knowingly contravenes subsection (3) is guilty of an offence.

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 *Easement Statute Law Amendment Act, 1990*.

Bill 106

(Chapter 4
Statutes of Ontario, 1990)

An Act to amend certain Acts with respect to Easements and other matters

The Hon. G. Sorbara
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 20th, 1989
<i>2nd Reading</i>	June 4th, 1990
<i>3rd Reading</i>	June 18th, 1990
<i>Royal Assent</i>	June 21st, 1990

1877

Bill 106

1989

**An Act to amend certain Acts
with respect to Easements and other matters**

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

1.—(1) Subsection 106 (7) of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 17, section 4, is amended by adding at the end thereof “other than as a result of subsection (1)”.

(2) The said Act is amended by adding thereto the following section:

106a.—(1) In this section,

Definitions

“Ministry of Government Services” means Her Majesty the Queen in right of Ontario as represented by the Minister of Government Services;

“municipality” means a municipality within the meaning of the *Municipal Act* and includes a regional, metropolitan or district municipality, the County of Oxford and a local board within the meaning of the *Municipal Affairs Act*;

R. S. O. 1980,
cc. 302, 303

“public utility easement” means an easement in respect of a water works or water supply system, sewage works, steam or hot water distribution system, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, or a transportation system.

(2) Despite sections 105 and 106, a public utility easement of a municipality or an easement of the Ministry of Government Services that existed on the 31st day of July, 1981 continues until the 31st day of December, 1999.

Continuation
of public
utility
easements

Eligibility for compensation

(3) If, except for subsection (2), an easement would not affect land, a person who has an interest in the land acquired on or after the 1st day of August, 1981 and before the day this section comes into force is entitled to compensation for the easement.

Idem

(4) Subsection (3) does not apply to a person if the easement is specifically referred to in,

- (a) the instrument by which the person acquired the interest; or
- (b) a registered instrument executed by the person before the day this section comes into force.

Time of calculation

(5) Compensation shall be calculated as though the easement had been expropriated on the earlier of,

- (a) the day the person who has an interest in the land gives the municipality or the Ministry of Government Services notice that he or she claims compensation under this section; or
- (b) the day the municipality or the Ministry of Government Services gives the person who has an interest in the land notice of its easement.

Calculation of compensation

(6) The *Expropriations Act* applies with necessary modifications to claims for compensation.

R.S.O. 1980, c. 148

Abandonment of easement

(7) A municipality or the Ministry of Government Services is relieved from paying compensation for an easement if it,

- (a) removes anything placed under the authority of the easement;
- (b) restores the land to the condition it was in immediately before any removal; and
- (c) abandons the easement.

Notices of claim

(8) A notice of claim in respect of a public utility easement of a municipality or an easement of the Ministry of Government Services registered before the 31st day of December, 1999 is as effective as if it had been registered on the 31st day of July, 1981.

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Dominant
tenement

(3) Part III of the *Registry Act* does not apply to a claim of a person in respect of a part of a municipal public utility constructed on land before this section comes into force with the consent or acquiescence of the owner of the land.

R.S.O. 1980,
c. 445,
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not to apply

(4) No person shall interfere with a part of a municipal public utility for which there is no municipal public utility easement unless,

Interference
with utilities

(a) the municipality consents; or

(b) the interference is authorized by a court order under this section.

(5) The District Court may make an order authorizing interference with a part of a municipal public utility on the application of a person who has an interest in the land where the part is located if the use of the land by the person is substantially affected.

Court orders
with respect
to utilities

(6) A person making an application for an order under subsection (5) in respect of a part of a municipal public utility shall give the municipality ninety days notice of the application or such other notice as the court may direct.

Notice

Other orders

(7) In making an order under subsection (5), the court may make such other orders as it considers necessary including an order that the applicant provide an easement for the alternative location of the public utility for such compensation as the court may determine.

Stay of orders

(8) The court shall stay an order under subsection (5) at the request of the municipality for such time as the court determines to allow the municipality to acquire an interest in land to accommodate the part of its public utility that is subject to the order.

Right to repair utilities

(9) Subject to any court order under this section, a municipality may enter upon any land to repair and maintain its public utilities.

Utilities located by mistake

(10) If, before this section comes into force, a municipality located a part of a municipal public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, the municipality that owns and operates the utility shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be entitled to compensation for the easement determined in accordance with the *Expropriations Act*.

R.S.O. 1980, c. 148

Offence

(11) Every person who knowingly contravenes subsection (4) is guilty of an offence.

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c. 445,
Part III
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Interference
with utilities

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Court orders
with respect
to utilities

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Other orders

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Stay of
orders

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Right to
repair
utilities

(9) If, before this section comes into force, the Government located a part of a government public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, Her Majesty the Queen in right of Ontario as represented by the Minister shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be

Utilities
located by
mistake

- entitled to compensation for the easement determined in accordance with the *Expropriations Act*.
- R.S.O. 1980,
c. 148
- Offence (10) Every person who knowingly contravenes subsection (3) is guilty of an offence.
- 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 *Easement Statute Law Amendment Act, 1990*.**

Bill 107

An Act to revise the Police Act and amend the law relating to Police Services

The Hon. S. Offer
Solicitor General

1st Reading December 20th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill replaces the *Police Act*. The following are some of the proposed changes:

1. A declaration of principles is included (section 1).
2. Every municipality responsible for providing police services is required to establish a police services board to govern the municipal police force (section 27). These boards (formerly boards of commissioners of police) will be supervised by the Ontario Civilian Commission on Police Services (formerly the Ontario Police Commission) (Part II).
3. The minimum educational standard required of candidates for the position of police officer is raised from two to four years of secondary education (section 43).
4. Every police force is required to establish and implement an employment equity plan (section 48).
5. Special constables will be appointed by municipal police services boards and by the Commissioner of the Ontario Provincial Police (section 53).
6. The category of First Nations Constable is created (section 54).
7. Provisions relating to police disciplinary proceedings are revised (Part V).
8. A province-wide mandatory system for dealing with public complaints is introduced, based on the system currently in use in The Municipality of Metropolitan Toronto (Part VI).
9. A special investigations unit of the Ministry of the Solicitor General is established to investigate police conduct and to lay charges where appropriate (Part VII).
10. Bargaining, conciliation and arbitration provisions that apply to municipal police forces are revised (Part VIII).
11. The regulation-making powers of the Lieutenant Governor in Council are expanded to cover subjects such as standards of police services, the administration and operation of police forces, police pursuits and political activities (section 133).
12. Distinctions between municipal police forces and the Ontario Provincial Police are reduced.

Bill 107

1989

An Act to revise the Police Act and amend the law relating to Police Services

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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:

1. Police services shall be provided throughout Ontario in accordance with the following principles: Declaration of principles

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code, 1981*. 1981, c. 53
3. The need for co-operation between the providers of police services and the communities they serve.

4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multi-racial and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve.

Definitions

2. In this Act,

“association” means an association whose members belong to one police force and whose objects include the improvement of their working conditions and remuneration;

“board” means, except in Part VI, a municipal police services board;

“chief of police” means a municipal chief of police or the Commissioner of the Ontario Provincial Police and includes an acting chief of police;

“Commission” means the Ontario Civilian Commission on Police Services;

“Commissioner” means, except in Part VI, the Commissioner of the Ontario Provincial Police;

“member of a police force” means a police officer, and in the case of a municipal police force includes a civilian employee;

“municipality” includes district, metropolitan and regional municipalities and the County of Oxford;

“police force” means the Ontario Provincial Police or a municipal police force;

“police officer” means a chief of police or any other police officer, but does not include a special constable, a First Nations Constable, a by-law enforcement officer or an auxiliary member of a police force;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

PART I

RESPONSIBILITY FOR POLICE SERVICES

SOLICITOR GENERAL

3.—(1) This Act, except Part VI, shall be administered by the Solicitor General.

Adminis-
tration of
Act

(2) The Solicitor General shall,

Duties and
powers of
Solicitor
General

- (a)** monitor police forces to ensure that adequate and effective police services are provided at the municipal and provincial levels;
- (b)** monitor boards and police forces to ensure that they comply with prescribed standards of service;
- (c)** monitor the establishment and implementation of employment equity plans;
- (d)** develop and promote programs to enhance professional police practices, standards and training;
- (e)** conduct a system of inspection and review of police forces across Ontario;
- (f)** assist in the co-ordination of police services;
- (g)** consult with and advise boards, municipal chiefs of police, employers of special constables and associations on matters relating to police and police services;
- (h)** develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters;
- (i)** provide to boards and municipal chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;
- (j)** issue directives and guidelines respecting policy matters;
- (k)** develop and promote programs for community-oriented police services;

(1) operate the Ontario Police College.

Ontario
Police
College
continued

(3) The police college known as the Ontario Police College for the training of members of police forces is continued.

MUNICIPALITIES

Police
services in
municipalities

4.—(1) Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.

Application
of subsection
(1)

(2) Subsection (1) applies to,

(a) cities, towns, villages and townships (other than area municipalities within regional or metropolitan municipalities); and

(b) regional and metropolitan municipalities.

Exception,
Muskoka

(3) Subsection (1) does not apply to The District Municipality of Muskoka or to its area municipalities.

Exception,
Ottawa-
Carleton

(4) Subsection (1) does not apply to The Regional Municipality of Ottawa-Carleton but does apply to its area municipalities.

Exception,
Oxford
County

(5) Subsection (1) does not apply to the County of Oxford but does apply to its area municipalities.

Exemption of
towns of less
than 5,000

(6) The Lieutenant Governor in Council may, on the Solicitor General's recommendation, exempt any town having a population of less than 5,000 according to the last enumeration taken under section 14 of the *Assessment Act* from the application of subsection (1), and the exemption continues in effect until it is revoked.

R.S.O. 1980,
c. 31

Restriction,
villages and
townships

(7) Subsection (1) applies to a village or township only if it has been so designated by the Lieutenant Governor in Council on the Solicitor General's recommendation; the designation may relate to all or part of the village or township.

Methods of
establishing
municipal
police forces

5. A municipality's responsibility for providing police services shall be discharged in one of the following ways:

1. The board may appoint the members of a police force under clause 31 (1) (a), in which case the municipal council shall pay the cost of the police force.

2. The board may enter into an agreement under section 7 (sharing police services).

3. The council may enter into an agreement under section 10 (agreements for provision of police services by O.P.P.).

4. With the Commission's approval, the municipality may adopt a different method of providing police services.

6.—(1) Despite any other Act, two or more municipalities that have police forces may enter into an agreement to amalgamate them. Amalgamation of police forces

(2) The agreement shall deal with, Contents of amalgamation agreement

(a) the establishment and composition of a board for the amalgamated police forces;

(b) the amalgamation of the police forces and the appointment or transfer of their members;

(c) the amalgamated board's use of the assets and its responsibility for the liabilities associated with the police forces;

(d) the budgeting of the cost for the operation of the amalgamated police force;

(e) any other matter that is necessary or advisable to effect the amalgamation.

(3) The agreement does not take effect until the Commission has approved the organization of the amalgamated police force. Commission's approval

(4) Appointments to a board for amalgamated police forces may be made before the agreement takes effect. Exception, board appointments

7. Two boards may agree that one board will provide police services to the other, on the conditions set out in the agreement. Municipal agreements for sharing police services

8.—(1) A municipality to which subsection 4 (1) (obligation to provide police services) does not apply may, with the Commission's approval, establish and maintain a police force. Additional municipal police forces

(2) An approval given or deemed to have been given under section 19 of the *Police Act* in respect of a police force that Transition R.S.O. 1980, c. 381

was being maintained on the day before this Act comes into force shall be deemed to have been given under this section.

Revocation

(3) The Commission may revoke an approval given or deemed to have been given under this section.

Failure to provide police services

9.—(1) If the Commission finds that a municipality to which subsection 4 (1) applies is not providing police services, it may request that the Commissioner have the Ontario Provincial Police give assistance.

Inadequate police services

(2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.

Idem

(3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.

Crown Attorney's request

(4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.

Board's request

(5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.

Request of chief of police in emergency

(6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.

Chief of police to advise board

(7) A chief of police who makes a request under subsection (6) shall advise the chair of the board of the fact as soon as possible.

Assistance of O.P.P.

(8) When a request is made under this section, the Commissioner shall have the Ontario Provincial Police give such assistance as he or she considers necessary.

Cost of services

(9) The Commissioner shall certify the cost of the services provided under this section by the Ontario Provincial Police and, unless the Solicitor General directs otherwise, the municipality shall pay that amount to the Treasurer of Ontario.

Idem

(10) The amount may be deducted from any grant payable to the municipality out of provincial funds or may be

recovered by a court action, with costs, as a debt due to Her Majesty.

10.—(1) The Solicitor General may enter into an agreement with the council of a municipality for the provision of police services for the municipality by the Ontario Provincial Police.

Municipal agreements for provision of police services by O.P.P.

(2) The agreement requires the board's consent.

Board's consent

(3) No agreement shall be entered into under this section if, in the Solicitor General's opinion, the council seeks the agreement for the purpose of defeating the collective bargaining provisions of this Act.

Collective bargaining

(4) When the agreement comes into effect, the members of the Ontario Provincial Police assigned to the municipality shall provide police services, including by-law enforcement, for the municipality, and shall perform any other duties that are specified in the agreement.

Duties of O.P.P.

(5) The amounts received from the municipality under the agreement shall be paid into the Consolidated Revenue Fund.

Payment into Consolidated Revenue Fund

(6) If the municipality has an agreement under this section, section 31 (responsibilities of board), section 38 (municipal police force) and clause 39 (2) (a) (estimates respecting police force) do not apply; however, the board shall advise the Solicitor General and the senior officer of the Ontario Provincial Police in the municipality with respect to police services in the municipality, and may generally determine priorities in the municipality with respect to police services, in accordance with the agreement and with provincial policies affecting the Ontario Provincial Police.

Role of board

11.—(1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police force.

Fines

(2) If the municipality does not have its own police force because of an agreement under section 7 or 10, the police officers who are assigned to the municipality under the agreement shall, for the purposes of determining entitlement to fines, be deemed to be police officers of the municipal police force.

Idem

12.—(1) With the Commission's approval, the costs incurred by a municipality in providing police services may be paid by levying different rates for different areas defined by the municipal council or by levying rates in some but not all areas.

Rates for cost of police services

Exemption
for farm
lands and
buildings

(2) With the Commission's approval, the municipal council may grant a total or partial exemption from a rate or rates levied under subsection (1) to lands and buildings used exclusively for farming purposes.

Special areas

13.—(1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Solicitor General's opinion, to impose the responsibility for police services on a municipality or on the Province, the Lieutenant Governor in Council may designate the area as a special area.

Agreement
for provision
of police
services by
O.P.P.

(2) The person who operates the business or owns the special area shall enter into an agreement with the Solicitor General for the provision of police services by the Ontario Provincial Police for the special area.

Duties of
O.P.P.,
payment

(3) Subsections 10 (4) and (5) apply to the agreement with necessary modifications.

Failure to
enter into
agreement

(4) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Ontario Provincial Police shall provide police services for the area.

Cost of
services

(5) The costs of the services may be recovered from the person by a court action, with costs, as a debt due to Her Majesty.

Police
services
outside
municipality

14. A municipality that has an interest in land outside the territory of the municipality may agree to pay all or part of the cost of providing police services for the land.

Municipal by-
law
enforcement
officers

15.—(1) A municipal council may appoint persons to enforce the by-laws of the municipality.

Peace officers

(2) Municipal by-law enforcement officers are peace officers for the purpose of enforcing municipal by-laws.

Aid to
survivors

16. A municipal council may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police force who die from injuries received or illnesses contracted in the discharge of their duties.

ONTARIO PROVINCIAL POLICE

Commis-
sioner

17.—(1) There shall be a Commissioner of the Ontario Provincial Police who shall be appointed by the Lieutenant Governor in Council.

(2) Subject to the Solicitor General's direction, the Commissioner has the general control and administration of the Ontario Provincial Police and the employees connected with it.

Functions

(3) The Commissioner shall prepare and implement an employment equity plan in accordance with section 48 and the regulations.

Employment equity plans

(4) After the end of each calendar year, the Commissioner shall file with the Solicitor General an annual report on the affairs of the Ontario Provincial Police.

Annual report

18.—(1) The Ontario Provincial Police shall consist of the Commissioner and other police officers appointed under the *Public Service Act*.

Composition of O.P.P.

R.S.O. 1980, c. 418

(2) The Commissioner shall establish the ranks within the Ontario Provincial Police and shall determine the rank of each police officer.

Ranks

(3) The Lieutenant Governor in Council may name police officers of the Ontario Provincial Police to the rank of commissioned officers and may authorize the issue of commissions to them under the Great Seal.

Commissioned officers

(4) The Commissioner may appoint such other employees as are required in connection with the Ontario Provincial Police.

Employees

19.—(1) The Ontario Provincial Police have the following responsibilities:

Responsibilities of O.P.P.

1. Providing police services in respect of the parts of Ontario that do not have municipal police forces other than by-law enforcement officers.
2. Providing police services in respect of all navigable bodies and courses of water in Ontario, except those that lie within municipalities designated by the Solicitor General.
3. Maintaining a traffic patrol on the King's Highway, except the parts designated by the Solicitor General.
4. Maintaining a traffic patrol on the connecting links within the meaning of section 21 of the *Public Transportation and Highway Improvement Act* that are designated by the Solicitor General.

R.S.O. 1980, c. 421

5. Maintaining investigative services to assist municipal police forces on the Solicitor General's direction or at the Crown Attorney's request.

Municipal by-laws

(2) The Ontario Provincial Police have no responsibilities in connection with municipal by-laws, except under agreements made in accordance with section 10.

Aid to survivors

20. The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties.

PART II

ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

Commission continued

21.—(1) The commission known as the Ontario Police Commission is continued under the name of "Ontario Civilian Commission on Police Services".

Composition

(2) The Commission shall consist of not fewer than three and not more than nine members who shall be appointed by the Lieutenant Governor in Council.

Chair

(3) The Lieutenant Governor in Council may designate one of the members of the Commission to be the chair.

Delegation

(4) The chair may authorize a member of the Commission to exercise the Commission's powers and perform its duties with respect to a particular matter, but the authority conferred on the Commission by sections 23 and 24 may not be delegated.

Quorum

(5) Two members of the Commission constitute a quorum.

Meetings open to public

(6) The meetings of the Commission shall be open to the public unless the Commission directs otherwise, and notice of meetings that are open to the public shall be published in the manner that the Commission determines.

Exception

(7) The Commission may direct that a meeting be closed to the public if it is of the opinion that,

- (a) matters involving public security may be disclosed at the meeting and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of

adhering to the principle that meetings be open to the public; or

- (b) intimate financial or personal matters or other matters may be disclosed at the meeting of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public.

(8) A document purporting to be issued by the Commission and signed by one of its members is admissible in evidence without proof of the signature or authority of the person signing.

Admissibility
of documents

(9) After the end of each calendar year, the Commission shall file with the Solicitor General an annual report on its affairs.

Annual
report

(10) The money required for the Commission's purposes shall be paid out of the amounts appropriated by the Legislature for that purpose.

Expenses

22.—(1) The Commission's powers and duties include,

Powers and
duties of
Commission

- (a) if the Solicitor General advises the Commission that a board or municipal police force is not complying with prescribed standards of police services,
 - (i) directing the board or police force to comply, and
 - (ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (1);
- (b) if the Solicitor General advises the Commission that a board or municipal chief of police is not complying with the requirements of this Act and the regulations respecting employment equity plans,
 - (i) directing the board or chief of police to comply, and
 - (ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (2);

- (c) conducting investigations with respect to municipal police matters under section 25;
- (d) conducting inquiries into matters relating to crime and law enforcement under section 26;
- (e) inquiring into any matter regarding the designation of a municipality under subsection 4 (7) (police services in villages and townships) and, after a hearing, making recommendations to the Solicitor General;
- (f) hearing and disposing of appeals by members of police forces in accordance with Part V.

Powers of Commission in hearings, investigations and inquiries R.S.O. 1980, c. 411

Counsel

(2) When the Commission conducts a hearing, investigation or inquiry, it has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the proceeding as if it were an inquiry under that Act.

(3) At the Commission's request, the Solicitor General may appoint counsel to assist the Commission in a hearing, investigation or inquiry.

Sanctions for failure to comply with prescribed standards of police services

23.—(1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services, the Commission may take any of the following measures or any combination of them:

- (a) suspending the chief of police, one or more members of the board, or the whole board, for a specified period;
- (b) removing the chief of police, one or more members of the board, or the whole board from office;
- (c) disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality;
- (d) appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period.

Sanctions for failure to comply with requirements respecting employment equity plans

(2) If the Commission is of the opinion, after holding a hearing, that a board or municipal chief of police has failed to comply with the requirements of this Act and the regulations respecting employment equity plans, the Commission may

take any of the following measures or any combination of them:

- (a) suspending the chief of police, one or more members of the board, or the whole board, for a specified period;
- (b) removing the chief of police, one or more members of the board, or the whole board from office;
- (c) appointing an administrator to perform specified functions with respect to employment equity, recruitment and promotion in the police force for a specified period.

(3) The Commission shall not take measures under subsection (2) with respect to the failure of a chief of police to meet specific goals or timetables contained in the employment equity plan if the Commission finds that the chief of police has made all reasonable efforts to meet them. Defence

(4) An administrator appointed under clause (1) (d) or (2) (c) has all the powers necessary for the performance of his or her functions. Powers of administrator

(5) If the Commission suspends or removes the chief of police, it may appoint a person to replace him or her. Replacement of chief of police

(6) The parties to the hearing are the chief of police, the board and any member of the board that the Commission designates. Parties

(7) The Commission may add parties at any stage of the hearing on the conditions it considers proper. Idem

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member. Replacement of suspended or removed member

(9) A member who has been removed shall not be reappointed to the board, and a member who has been suspended shall not be reappointed during the period of suspension. No reappointment of suspended or removed member

(10) A party may appeal to the Divisional Court within thirty days of the Commission's decision. Appeal to Divisional Court

(11) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both. Grounds for appeal

Idem

(12) An appeal may also be made from a finding that a chief of police has made all reasonable efforts to meet the specific goals and timetables contained in an employment equity plan.

Appeal by non-parties

(13) If the consent of the Attorney General is sought within thirty days of the Commission's decision and is given, a person who is not a party may appeal under subsection (12) as if he or she were a party.

Emergency, interim order

24.—(1) The Commission may make an interim order under subsection 23 (1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.

Restriction

(2) The Commission shall not remove a person from office or disband a police force by means of an interim order.

Investigations

25.—(1) The Commission may, at the Solicitor General's request, at a municipal council's request or of its own motion, investigate, inquire into and report on,

- (a) the conduct or the performance of duties of a municipal chief of police or other municipal police officer, an auxiliary member of a municipal police force, a special constable, a by-law enforcement officer or a member of a board;
- (b) the administration of a municipal police force;
- (c) the manner in which police services are provided for a municipality;
- (d) the police needs of a municipality.

Cost of investigation

(2) The cost of an investigation conducted at a council's request shall be paid by the municipality, unless the Solicitor General directs otherwise.

Report

(3) The Commission shall communicate its report of an investigation under subsection (1) to the Solicitor General at his or her request and to the board or council at its request, and may communicate the report to any other person as the Commission considers advisable.

Penalties, member of police force

(4) If the Commission concludes after a hearing that a member of a police force is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that the member be,

- (a) demoted as the Commission specifies, permanently or for a specified period;
- (b) dismissed; or
- (c) retired, if the member is entitled to retire.

(5) If the Commission concludes that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member.

Penalties,
member of
board

(6) A member of a police force or of a board on whom a penalty is imposed under subsection (4) or (5) may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.

Appeal to
Divisional
Court

(7) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Grounds for
appeal

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(9) A member who has been removed shall not be reappointed to the board, and a member who has been suspended shall not be reappointed during the period of suspension.

No
reappoint-
ment of
suspended
or removed
member

26.—(1) The Lieutenant Governor in Council may direct the Commission to inquire into and report to the Lieutenant Governor in Council on any matter relating to crime or law enforcement, and shall define the scope of the inquiry in the direction.

Inquiries

(2) Sections 4 (hearings open, exceptions) and 6 (stated case) of the *Public Inquiries Act* apply to inquiries conducted under this section.

Application
of R.S.O.
1980, c. 411,
ss. 4, 6

(3) Witnesses at inquiries conducted under this section have the right to retain and instruct counsel and all the other rights of witnesses in civil courts.

Rights of
witnesses

(4) Any person who knowingly discloses, without the Commission's consent, evidence taken in private at an inquiry conducted under this section or information likely to identify the witness is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offence

PART III

MUNICIPAL POLICE SERVICES BOARDS

Police
services
boards

27.—(1) There shall be a police services board for every municipality that maintains a police force.

Boards of
commissioners of
police
continued as
police
services
boards

(2) Every board of commissioners of police constituted or continued under the *Police Act* or any other Act and in existence on the day this Act comes into force is continued as a police services board.

R.S.O. 1980,
c. 381

Name

(3) A board shall be known as “(insert name of municipality) Police Services Board”.

Three-
member
boards in
smaller
municipalities

R.S.O. 1980,
c. 31

(4) The board of a municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* does not exceed 25,000 shall consist of,

(a) the head of the municipal council; and

(b) two persons appointed by the Lieutenant Governor in Council.

Five-member
boards in
larger
municipalities

(5) The board of a municipality, other than a regional or metropolitan municipality, whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 25,000 shall consist of,

(a) the head of the municipal council;

(b) one person appointed by resolution of the council; and

(c) three persons appointed by the Lieutenant Governor in Council.

Smaller
municipal-
ities, option
to expand
board

(6) The council of a municipality to which subsection (4) would otherwise apply may determine, by resolution, that the composition of its board shall be as described in subsection (5).

Transition
R.S.O. 1980,
c. 381

(7) A resolution passed under clause 8 (2a) (b) of the *Police Act* before the day this Act comes into force shall be deemed to have been passed under subsection (6).

(8) The board of a regional or metropolitan municipality shall consist of,

Regional and metropolitan municipalities

- (a) two council members appointed by resolution of the municipal council; and
- (b) three persons appointed by the Lieutenant Governor in Council.

(9) The council of a regional or metropolitan municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

Seven-member boards in certain circumstances
R.S.O. 1980, c. 31

- (a) the head of the council, or another council member appointed by resolution of the council;
- (b) two council members appointed by resolution of the council; and
- (c) four persons appointed by the Lieutenant Governor in Council.

(10) If the position of a member appointed by the Lieutenant Governor in Council becomes vacant, the Solicitor General may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment.

Vacancies

(11) If the position of a member appointed by a municipal council becomes vacant, the board shall notify the council, which shall forthwith appoint a replacement.

Idem

(12) The council shall pay the members of the board who are appointed by the Lieutenant Governor in Council or Solicitor General remuneration that is at least equal to the prescribed amount.

Remuneration

(13) No judge or justice of the peace shall be appointed as a member of a board.

Judges and justices of the peace ineligible

(14) A judge or justice of the peace who is a member of a board on the day this Act comes into force may continue to be a member until the third anniversary of that day.

Transition, judges and justices of the peace

(15) In the case of a municipality that is required by subsection (1) to have a police services board and that does not, on the day this Act comes into force, have a board of commissioners of police, the following rules apply:

Transition, municipalities without boards

1. Subsection (1) does not apply to the municipality until the first anniversary of the coming into force of this Act.
2. Until subsection (1) applies to the municipality, the council shall perform the duties and may exercise the powers that this Act imposes and confers on police services boards.

Chair

28.—(1) The Lieutenant Governor in Council shall designate a member of each board to be its chair.

Transition

(2) The person who is, on the day this Act comes into force, chairman of a board of commissioners of police that is continued as a police services board shall be deemed to have been designated as its chair.

Protection from personal liability

29.—(1) No action or other proceeding for damages shall be instituted against a member of a board for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Board's liability

(2) Subsection (1) does not relieve a board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee.

Board may contract, sue and be sued

30.—(1) A board may contract, sue and be sued in its own name.

Members not liable for board's contracts

(2) The members of a board are not personally liable for the board's contracts.

Responsibilities of boards

31.—(1) A board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall,

- (a) appoint the members of the municipal police force;
- (b) generally determine objectives and priorities with respect to police services in the municipality;
- (c) establish policies for the effective management of the police force;
- (d) recruit and appoint the chief of police and any deputy chief of police, and determine their remuneration and working conditions, taking their submissions into account;

- (e) direct the chief of police and monitor his or her performance;
- (f) establish an employment equity plan in accordance with section 48 and the regulations, review its implementation by the chief of police and receive regular reports from him or her on that subject;
- (g) receive regular reports from the chief of police on disclosures and decisions made under section 46 (secondary activities);
- (h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;
- (i) establish guidelines for the administration by the chief of police of the public complaints system under Part VI;
- (j) review the administration by the chief of police of the public complaints system and receive regular reports from him or her on that subject.

(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.

Members of police force under board's jurisdiction

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

Restriction

(4) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.

Training of board members

(5) The board may, by by-law, make rules for the effective management of the police force.

Rules re management of police force

(6) The board may establish guidelines consistent with section 46 for police officers' disclosure of secondary activities to the chief of police and for the decisions of the chief of police under subsection 46 (4).

Guidelines re secondary activities

32. Before entering on the duties of office, a member of a board shall take an oath or affirmation of office in the prescribed form.

Oath of office

33.—(1) Despite any special Act, two or more municipalities whose combined population according to the last enumer-

Agreement to constitute joint board

- R.S.O. 1980,
c. 31 ation taken under section 14 of the *Assessment Act* exceeds 5,000 may enter into an agreement to constitute a joint board.
- Idem (2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the consent of their boards.
- Composition
of board (3) The joint board shall consist of,
- (a) the heads of the councils of the participating municipalities; and
 - (b) other members appointed by the Lieutenant Governor in Council.
- Application
of Act to
joint boards (4) The provisions of this Act that apply to boards also apply with necessary modifications to joint boards.
- Delegation **34.** A board may delegate to two or more of its members any authority conferred on it by this Act, except,
- (a) the authority to hear the appeals of police officers found guilty of misconduct under Part V, which must be exercised by a quorum; and
 - (b) the authority to bargain under Part VIII, which the board may delegate to one or more members.
- Meetings **35.—**(1) The board shall hold at least four meetings each year.
- Quorum (2) A majority of the members of the board constitutes a quorum.
- Meetings
open to
public (3) The meetings of the board shall be open to the public unless the board directs otherwise, and notice of meetings that are open to the public shall be published in the manner that the board determines.
- Exception (4) The board may direct that a meeting be closed to the public if it is of the opinion that,
- (a) matters involving public security may be disclosed at the meeting and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public; or

- (b) intimate financial or personal matters or other matters may be disclosed at the meeting of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public.

36. A document purporting to be a by-law of the board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing. Admissibility of documents

37. A board has the same power to summon witnesses, enforce their attendance, examine them on oath and compel them to give evidence, in connection with the board's functions, as a court of law has in civil cases. Power to summon witnesses

38. A municipal police force shall consist of a chief of police and such other police officers and civilian employees as the board considers adequate, and shall be provided with the equipment and facilities that the board considers adequate. Municipal police force

39.—(1) On or before the 1st day of March in each year, the board shall submit to the municipal council or to each council responsible for maintaining the police force, as the case may be, its estimates for the year. Estimates

(2) The estimates shall show, separately, the amounts that will be required, Idem

- (a) to maintain the police force and provide it with equipment and facilities; and
- (b) to pay the expenses of the board's operation other than the remuneration of board members.

(3) If the council does not approve the board's estimates or disagrees with the board on the number of members of the police force that is adequate or the equipment and facilities that are adequate, the Commission shall determine the question after a hearing. Commission hearing in case of disagreement

40. A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act. Reduction or abolition of police force

PART IV

POLICE OFFICERS AND OTHER POLICE STAFF

CHIEF OF POLICE

Duties of
chief of
police

41.—(1) The duties of a chief of police include,

- (a) in the case of a municipal police force, administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the board under subsection 31 (1);
- (b) ensuring that members of the police force carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community, and that discipline is maintained in the police force;
- (c) ensuring that the police force provides community-oriented police services;
- (d) administering discipline in accordance with Part V;
- (e) administering the public complaints system under Part VI;
- (f) implementing the employment equity plan established under section 48 and the regulations;
- (g) in the case of a municipal police force, reporting to the board at regular intervals on public complaints and on the implementation of the employment equity plan.

Chief of
police reports
to board

(2) The chief of police reports to the board and shall obey its lawful orders and directions.

POLICE OFFICERS

Duties of
police officer

42.—(1) The duties of a police officer include,

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;

- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;
- (h) in the case of a municipal police force and in the case of an agreement under section 10 (agreement for provision of police services by O.P.P.), enforcing municipal by-laws;
- (i) completing the prescribed training.

(2) A police officer has authority to act as such throughout Ontario. Power to act throughout Ontario

(3) A police officer has the powers and duties ascribed to a constable at common law. Powers and duties of common law constable

43.—(1) No person shall be appointed as a police officer unless he or she, Criteria for hiring

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least eighteen years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (d) is of good moral character and habits; and
- (e) has successfully completed at least four years of secondary school education or its equivalent.

(2) A candidate for appointment as a police officer shall provide any relevant information or material that is lawfully requested in connection with his or her application. Idem

44.—(1) A municipal police officer's probationary period begins on the day he or she is appointed and ends on the later of, Probationary period

- (a) the first anniversary of the day of appointment;

- (b) the first anniversary of the day the police officer successfully completes an initial period of training at the Ontario Police College.

Termination of employment during probationary period

(2) A board may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the board may determine.

Oaths of office and secrecy

45. A person appointed to be a police officer shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

Restrictions on secondary activities

46.—(1) A police officer shall not engage in any activity,

- (a) that interferes with or influences adversely the performance of his or her duties as a police officer, or is likely to do so;
- (b) that places him or her in a position of conflict of interest, or is likely to do so;
- (c) that would otherwise constitute full-time employment for another person; or
- (d) in which he or she has an advantage derived from employment as a police officer.

Exception: paid duty

(2) Clause (1) (d) does not prohibit a police officer from performing, in a private capacity, services that have been arranged through the police force.

Disclosure to chief of police

(3) A police officer who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police.

Decision of chief of police

(4) The chief of police shall decide whether the police officer is permitted to engage in the activity, and the police officer shall comply with that decision.

Accommodation of disabled police officer's needs
1981, c. 53

47.—(1) Subject to subsection (2), if a municipal police officer becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the board shall accommodate his or her needs in accordance with the *Human Rights Code, 1981*.

(2) If the police officer's needs cannot be accommodated without undue hardship on the board, it may discharge the police officer, or retire the police officer if entitled to retire, after holding a hearing and receiving the evidence of two legally qualified medical practitioners respecting the police officer's incapacity.

Undue
hardship

(3) Subject to subsection (4), if a member of the Ontario Provincial Police becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the Commissioner shall accommodate the member's needs in accordance with the *Human Rights Code, 1981*.

Idem, O.P.P.

1981, c. 53

(4) If the member's needs cannot be accommodated without undue hardship on the Crown in right of Ontario, he or she may be discharged, or retired if entitled to retire, after the Commissioner has held a hearing and received the evidence of two legally qualified medical practitioners respecting the member's incapacity.

Idem

MEMBERS OF POLICE FORCES

48.—(1) Every police force shall have an employment equity plan prepared in accordance with this section and the regulations.

Employment
equity plans

(2) An employment equity plan shall provide for,

Contents of
plan

(a) the elimination of systemic barriers to the recruitment and promotion of persons who are members of prescribed groups;

(b) the implementation of positive measures with respect to the recruitment and promotion of those persons, so as to make the police force more representative of the community or communities it serves; and

(c) specific goals and timetables with respect to the elimination of systemic barriers, the implementation of positive measures and the composition of the police force.

(3) In the case of a municipal police force, the board shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Board to
prepare plan
for municipal
police force

(4) In the case of the Ontario Provincial Police, the Commissioner shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Commis-
sioner to
prepare plan
for O.P.P.

Solicitor
General

(5) Before approving the employment equity plan, the Solicitor General may require that changes be made to it.

Political
activity

49. No member of a municipal police force shall engage in political activity, except as the regulations permit.

Liability for
torts

50.—(1) The board or the Crown in right of Ontario, as the case may be, is liable in respect of torts committed by members of the police force in the course of their employment.

Indemnifica-
tion of
member of
municipal
police force

(2) The board may, in accordance with the guidelines established under clause 31 (1) (h), indemnify a member of the police force for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of a proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Council
responsible
for board's
liabilities

(3) The council is responsible for the liabilities incurred by the board under subsections (1) and (2).

Indemnifi-
cation of
member of
O.P.P.

(4) The Treasurer of Ontario may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of a proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Police cadets

51.—(1) With the board's approval, a municipal chief of police may appoint persons as police cadets to undergo training.

Idem

(2) A police cadet is a member of the municipal police force.

52.—(1) With the Commission's approval, a board may appoint auxiliary members of the police force.

Auxiliary members of municipal police force

(2) If the board suspends or terminates the appointment of an auxiliary member of the police force, it shall promptly give the Commission written notice of the suspension or termination.

Notice of suspension or termination

(3) The Lieutenant Governor in Council may appoint auxiliary members of the Ontario Provincial Police.

Auxiliary members of O.P.P.

(4) An auxiliary member of a police force has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the chief of police.

Authority of auxiliary members of police force

(5) A person appointed to be an auxiliary member of a police force shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

Oaths of office and secrecy

SPECIAL CONSTABLES

53.—(1) With the Commission's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient.

Special constables appointed by board

(2) With the Commission's approval, the Commissioner may appoint a special constable to act for the period, area and purpose that the Commissioner considers expedient.

Special constables appointed by Commissioner

(3) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment.

Powers of police officer

(4) The power to appoint a special constable includes the power to suspend or terminate the appointment but, if a board or the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.

Suspension or termination of appointment

(5) The Commission also has power to suspend or terminate the appointment of a special constable.

Commission

(6) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the board, Commissioner or Commission, as the case may be, may determine.

Information and opportunity to reply

Oaths of
office and
secrecy

(7) A person appointed to be a special constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

FIRST NATIONS CONSTABLES

First Nations
Constables

R.S.C.
1985, c.1-5

54.—(1) With the Commission's approval and with the approval of the police governing authority or band council of a reserve as defined in the *Indian Act* (Canada), the Commissioner may appoint a First Nations Constable to perform specified duties in connection with the reserve.

Powers of
police officer

(2) The appointment of a First Nations Constable may confer on him or her the powers of a police officer to the extent and for the specific purpose set out in the appointment.

Suspension
or
termination
of
appointment

(3) The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment but, if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.

Commission

(4) The Commission also has power to suspend or terminate the appointment of a First Nations Constable.

Information
and
opportunity
to reply

(5) Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commission, as the case may be, may determine.

Oaths of
office and
secrecy

(6) A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

EMERGENCIES

Emergencies

55.—(1) In an emergency, the Solicitor General may make an agreement with the Crown in right of Canada or of another province or with any of its agencies for the provision of police services.

Authority to
act as police
officers

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates.

Application
of R.S.O.
1980, c. 539

(3) For the purpose of the *Workers' Compensation Act*, the relationship between a member of a police force and the body

that employs him or her continues as if an agreement had not been made under this section.

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses.

Expense of calling out Canadian Forces

(5) Subject to sections 33 and 34 of the *National Defence Act* (Canada), while an agreement made under this section is in force, no member of a police force that has jurisdiction in the area to which the agreement relates shall resign without the consent of the chief of police.

Resignation during emergency prohibited R.S.C. 1985, c. N-5

PART V

DISCIPLINARY PROCEEDINGS

56. A police officer is guilty of misconduct if he or she, Misconduct

- (a) commits an offence described in a prescribed code of conduct;
- (b) engages in an activity that contravenes subsection 46 (1) (secondary activities) without the permission of his or her chief of police, being aware that the activity may contravene that subsection;
- (c) contravenes section 49 (political activity);
- (d) contravenes subsection 55 (5) (resignation during emergency);
- (e) contravenes section 57 (inducing misconduct, withholding services);
- (f) contravenes subsection 95 (4) (photography at hearing);
- (g) contravenes subsection 99 (6) (obstructing Police Complaints Commissioner);
- (h) contravenes subsection 107 (1) (confidentiality);
- (i) contravenes section 116 (trade union membership);
- (j) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 130;

- (k) deals with money in a manner that is not consistent with section 131;
- (l) deals with a firearm in a manner that is not consistent with section 132;
- (m) contravenes a regulation made under paragraph 15 (equipment), 16 (use of force), 17 (standards of dress, police uniforms) 20 (police pursuits) or 21 (records) of subsection 133 (1).

Inducing
misconduct

57.—(1) No person, including a member of a police force, shall,

- (a) induce or attempt to induce a member of a police force to withhold his or her services; or
- (b) induce or attempt to induce a police officer to commit misconduct.

Withholding
services

(2) No member of a police force shall withhold his or her services.

Offence

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Consent of
Solicitor
General

(4) No prosecution shall be instituted under this section without the consent of the Solicitor General.

Chief to
investigate
misconduct

58.—(1) Any apparent or alleged misconduct by a police officer shall be investigated by his or her chief of police.

Idem

(2) The chief of police may investigate the matter by means of a hearing under section 60 or may investigate it without holding a hearing.

Effect of
complaint

(3) When a complaint is made under Part VI with respect to apparent or alleged misconduct by a police officer, the following rules apply:

1. The complaint shall be dealt with in accordance with Part VI, and recourse shall be had to this Part only as Part VI permits.
2. Any investigation of the matter under this Part, including a hearing under section 60, is suspended as soon as the chief of police becomes aware that a complaint has been made.

59.—(1) If the chief of police investigates apparent or alleged misconduct without holding a hearing and concludes that the police officer is guilty of misconduct, the following rules apply:

Procedure if
no hearing
held

1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.
2. The chief of police may then admonish the police officer and may cause particulars of the matter, of the action taken and of the police officer's reply to be recorded in his or her employment record.
3. If the police officer refuses to accept the admonition, the chief of police shall not cause particulars to be recorded without first holding a hearing.

(2) Particulars entered in the police officer's employment record under paragraph 2 of subsection (1) shall be expunged from the record two years after being entered if during that time no other entries concerning misconduct have been made in the record under this Part or Part VI.

Expungement

60.—(1) A chief of police may hold a hearing to determine whether a police officer belonging to his or her police force is guilty of misconduct.

Hearing

(2) The prosecutor at the hearing shall be a police officer of the rank of sergeant or higher, or if there is none of that rank, a police officer of a rank equal to or higher than that of the police officer who is the subject of the hearing.

Who may be
prosecutor

(3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.

Recording of
evidence

(4) Before the hearing, the police officer shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence.

Examination
of evidence

(5) If the hearing is being conducted as a result of a complaint made under Part VI, the complainant shall likewise be given an opportunity to examine evidence and reports before the hearing.

Idem

Police officer
not required
to give
evidence
R.S.O. 1980,
c. 484

(6) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.

Limited
admissibility
of certain
statements

(7) In the case of a hearing that is being conducted as a result of a complaint made under Part VI, no statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.

Release of
exhibits

(8) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them.

Stay

(9) If the police officer is charged with an offence under a law of Canada or of a province, the hearing shall continue unless the chief of police, after consulting with the Crown Attorney, is of the opinion that it should be stayed until the conclusion of the court proceedings.

Six-month
limitation
period

(10) If six months have elapsed since the facts on which an allegation of misconduct is based first came to the attention of the chief of police, no notice of hearing shall be served without leave of the board.

Penalties

61.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may,

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days;
- (e) direct that the police officer forfeit not more than five days' pay; or
- (f) direct that the police officer forfeit not more than twenty days off.

(2) Instead of or in addition to a penalty described in subsection (1), the chief of police may reprimand the police officer. Idem

(3) The chief of police shall not impose the penalties of dismissal or demotion unless the notice of hearing or a subsequent notice served on the police officer indicated that they might be imposed if the misconduct were proved on clear and convincing evidence. Dismissal and demotion

(4) The chief of police shall promptly give written notice of the decision, with reasons, to the police officer and, in the case of a municipal police force, to the board. Notice of decision

(5) If the hearing was conducted as a result of a complaint made under Part VI, the chief of police shall also give notice of the decision, with reasons, to the complainant and to the Police Complaints Commissioner. Idem

(6) Unless misconduct is proved on clear and convincing evidence, no reference to the allegations or the hearing shall be placed in the police officer's employment record and the matter shall not be taken into account for any purpose related to his or her employment. Police officer's employment record

62.—(1) A board may hold a hearing to determine whether the chief of police is guilty of misconduct, and this Part applies with necessary modifications. Misconduct by municipal chief of police

(2) The chief of police may, by serving a notice to that effect on the board and the Commission, require that the Commission hold the hearing instead of the board. Commission hearing

63.—(1) A municipal police officer on whom a penalty is imposed under section 61 may appeal to the board by serving a notice of appeal on the board and the chief of police within fifteen days of receiving notice of the decision. Appeal to board

(2) The board shall hear the appeal on the record, but may receive additional evidence as it considers just. Hearing

(3) The board may confirm, alter or revoke the decision or may require the chief of police to rehear the matter. Powers of board

(4) The board shall promptly give written notice of its decision, with reasons, to the chief of police and the police officer. Board's decision

(5) No member of the board shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the police officer's consent, no Participation of members

decision of the board shall be given unless all members who were present throughout the hearing participate in the decision.

Further
appeal to
Commission

(6) The police officer may appeal to the Commission from the board's decision by serving a notice of appeal on the Commission, the board and the chief of police within thirty days of receiving notice of the decision.

O.P.P.:
appeal to
Commission
from
Commissioner's
decision

64. A member of the Ontario Provincial Police on whom a penalty is imposed under section 61 may appeal to the Commission by serving a written notice on the Commission and the Commissioner within thirty days of receiving notice of the decision.

Exception in
case of
public
complaint

65. If the hearing was conducted as a result of a complaint made under Part VI, sections 63 and 64 do not apply and the police officer may only appeal in accordance with that Part.

Appeals to
Commission

66. Subsections 63 (2) to (5) apply to appeals heard by the Commission as if references to the board were references to the Commission and, in the case of an appeal from a board's decision, as if references to the chief of police were references to the board.

Extension of
time for
appeals

67. The board or Commission may grant an extension of the time provided for giving it a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Delegation

68. A chief of police may authorize any member of the police force to exercise any power or perform any duty of the chief of police referred to in this Part, subject to the following rules:

1. A hearing under section 60 shall be conducted by a police officer of the rank of inspector or higher, or if there is none of that rank, by a police officer of a rank higher than that of the police officer who is the subject of the hearing.
2. A police officer from another police force who meets the requirements of paragraph 1 may conduct the hearing, with the approval of his or her chief of police.
3. The measures referred to in subsection 59 (1) (procedure if no hearing is held) shall be taken by a police officer of the rank of inspector or higher.

69.—(1) A notice required to be given under this Part is sufficiently given if delivered personally or sent by prepaid registered mail addressed to the person. Notice

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date. Notice by mail

70.—(1) If a police officer is suspected of or charged with an offence under a law of Canada or of a province or is suspected of misconduct, the chief of police may suspend him or her from duty with pay. Suspension

(2) The chief of police may revoke the suspension and later reimpose it, repeatedly if necessary, as he or she considers appropriate. Revocation and reimposition of suspension

(3) Unless the chief of police revokes the suspension, it shall continue until the final disposition of the proceeding in which the police officer's conduct is at issue. Duration of suspension

(4) While suspended, the police officer shall not exercise any of the powers vested in him or her as a police officer or wear or use clothing or equipment that was issued to him or her in that capacity. Conditions of suspension

(5) If a police officer is convicted of an offence and sentenced to a term of imprisonment, the chief of police may suspend him or her without pay, even if the conviction or sentence is under appeal. Suspension without pay

71.—(1) A police officer who is suspended under section 70 or under clause 61 (1) (d) or 96 (1) (d) (penalties) may engage in other employment during the period of suspension, and sections 46 (secondary activities) and 116 (trade union membership prohibited) do not apply. Other employment during period of suspension

(2) If the police officer is suspended with pay, the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period. Earnings from other employment

PART VI

PUBLIC COMPLAINTS

72.—(1) In this Part,

Definitions

“bureau” means the public complaints investigation bureau of a police force;

“Commissioner” means the Police Complaints Commissioner appointed under section 98.

Police officer (2) In this Part, unless the context indicates otherwise, a reference to a police officer is a reference to the police officer who is the subject of a complaint.

Attorney General **73.** This Part shall be administered by the Attorney General.

Application of Part **74.** Complaints by members of the public about the conduct of police officers shall be dealt with in accordance with this Part.

Bureau **75.—(1)** Every chief of police shall establish and maintain a public complaints investigation bureau.

Staff (2) The chief of police shall ensure that the bureau is supplied with sufficient staff to perform its duties effectively.

Small police forces (3) If the police force has fewer than twenty police officers, the bureau of another police force may, under an agreement made in accordance with section 7 (municipal agreements for sharing police services) or 10 (municipal agreements for provision of police services by O.P.P.), act as the first-named police force’s bureau as well; in that case, subsections (1) and (2) do not apply.

INITIAL HANDLING OF COMPLAINT

Complaint by member of public **76.—(1)** A member of the public may make a complaint about the conduct of a police officer, orally or in writing,

(a) at the bureau of the police force to which the complaint relates, or at a station or detachment of that police force; or

(b) at an office of the Commissioner; or

(c) at any bureau, police station or detachment.

Recording of complaint (2) The person who receives the complaint shall record it on a form provided by the Commissioner and shall give the person who makes a complaint a copy of the complaint as recorded.

(3) The person who makes the complaint shall also be given a statement, in a form provided by the Commissioner, that sets out the procedures followed in dealing with a complaint and describes the rights of a complainant. Information

(4) The person on duty who is in charge of a place when a complaint is received there shall, Preservation of evidence

(a) take all reasonable steps to ensure that evidence that might otherwise be lost is secured immediately; and

(b) ensure that a report on the evidence is forthwith prepared and attached to the complaint.

(5) The person who records the complaint shall forthwith send copies of it, Copies of complaint

(a) to the bureau, the chief of police and the Commissioner, in the case of a complaint made at a station or detachment of the police force to which it relates;

(b) to the chief of police and the Commissioner, in the case of a complaint made at the bureau of the police force to which it relates;

(c) to the bureau and the chief of police of the police force to which it relates, in the case of a complaint made at an office of the Commissioner;

(d) to the Commissioner, in the case of a complaint made at a bureau, station or detachment of a different police force than the one to which it relates.

(6) If a complaint was made at a bureau, station or detachment of a different police force than the one to which it relates, the Commissioner shall forthwith send copies of the complaint and of any report prepared under subsection (4) to the appropriate bureau. Complaint made to another police force

(7) A complaint that is made more than six months after the incident to which it relates shall be further dealt with under this Part only if the Commissioner so directs. Complaint made more than six months after incident

77.—(1) In exceptional circumstances, the Attorney General may direct the Commissioner to make a complaint about the conduct of a police officer. Complaint by Commissioner

Recording of complaint, copies (2) The Commissioner shall cause the complaint to be recorded and shall send copies to the bureau and the chief of police of the force to which it relates.

Complainant (3) The Commissioner is the complainant in the case of a complaint made under this section.

Non-application of certain provisions (4) Subsection 76 (7) and sections 79 (notice to potential complainant), 80 (classification of complaint), 81 (reclassification), 82 (informal resolution) and 84 (decision by chief of police re no further action) do not apply to complaints made under this section.

Notice to police officer **78.**—(1) When the bureau receives a complaint, the person in charge shall forthwith give the police officer notice of the substance of the complaint, unless in the person's opinion to do so might prejudice the investigation.

Form (2) The notice shall be written on a form provided by the Commissioner.

Notice to potential complainant **79.**—(1) If the complaint is made by a person who was not directly affected by the incident and did not observe it, the Commissioner shall, as soon as possible after receiving the complaint, attempt to find the person who was directly affected by the incident or who observed it and send him or her a notice.

Idem (2) The notice shall indicate that a complaint has been made, that the person is entitled to be the complainant in the matter and that the complaint will not be dealt with further unless he or she is the complainant.

Idem (3) The notice shall also include information about the procedures followed in dealing with a complaint and the rights of a complainant.

No further action (4) The complaint shall not be further dealt with under this Part if,

(a) no person who was directly affected by the incident or who observed it can be found; or

(b) the person to whom the Commissioner sends the notice does not, within thirty days of the date on which it is sent, file with the Commissioner a request to be the complainant in the matter.

Disciplinary proceeding (5) However, if a disciplinary proceeding is commenced against the police officer in respect of the complaint, the chief

of police shall notify the Commissioner of the proceeding and of its result, and the Commissioner shall then notify the person who made the complaint.

(6) If the person to whom the Commissioner sends the notice files a request to be the complainant in the matter after the thirty-day period referred to in subsection (4), the Commissioner may cause the matter to be reopened despite the late filing if he or she considers it advisable to do so. Reopening of matter

80.—(1) When the bureau receives a complaint, the person in charge shall consider whether it relates to possible misconduct under section 56, to other matters or to both. Classification of complaint

(2) If the person in charge is of the opinion that all or part of the complaint relates only to other matters than possible misconduct, he or she may, with the Commissioner's consent, classify the complaint or part as an inquiry. Idem

(3) When all or part of a complaint has been classified as an inquiry, the person in charge shall forthwith notify the complainant and the police officer of the fact and may cause the inquiry to be investigated. Notice and investigation

(4) Not more than sixty days after the bureau receives the original complaint, the person in charge shall send the complainant a written response to the inquiry and shall also send the Commissioner a copy of the response, together with a summary of the results of any investigation. Response to complainant

(5) A complaint or part of a complaint that is classified as an inquiry and not reclassified as a complaint and that is the subject of a response under this section need not be dealt with further under this Part. Effect

81.—(1) During the course of the investigation of an inquiry, if the person in charge concludes that all or part of it relates to possible misconduct, he or she may reclassify the inquiry or part as a complaint. Reclassification

(2) After receiving a summary of the results of the investigation of an inquiry, the Commissioner may direct the person in charge to reclassify all or part of it as a complaint. Idem

(3) The person in charge shall forthwith notify the complainant and the police officer of the reclassification, and shall also notify the Commissioner in the case of a reclassification under subsection (1). Notice

Effect

(4) An inquiry or part of an inquiry that is reclassified as a complaint shall be dealt with as such under this Part.

INFORMAL RESOLUTION, WITHDRAWAL

Informal resolution by person in charge of bureau

82.—(1) If the complainant and the police officer consent, the complaint may be resolved informally by the person in charge of the bureau, before the chief of police gives notice of a decision under section 89, or by the Commissioner after that time.

Board's consent

(2) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, its consent is also required for an informal resolution.

Record

(3) When a complaint is resolved informally, the resolution shall be recorded on a form provided by the Commissioner and signed by the complainant and police officer.

Copies

(4) Copies of the record shall be provided to the complainant and the police officer, and to the Commissioner if the complaint was resolved by the person in charge of the bureau.

Commissioner's decision that complaint to continue

(5) If the Commissioner is of the opinion that the informal resolution is the result of a misunderstanding or a threat or other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the informal resolution.

Notice

(6) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

Withdrawal of complaint

83.—(1) The complainant may withdraw the complaint by giving a notice of withdrawal to the person in charge of the bureau, before the chief of police gives notice of a decision under section 89, or to the Commissioner after that time.

Idem, complaint made by Commissioner

(2) If the complaint was made under section 77, the Commissioner may withdraw it by giving a notice of withdrawal to the chief of police and a copy to the police officer; subsection (3) applies to the withdrawal but subsections (4) to (7) do not.

Board's consent

(3) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, it shall not be withdrawn without the board's consent.

Copies

(4) A copy of the notice of withdrawal shall be provided to the police officer, and to the Commissioner if the person in charge of the bureau received the notice.

(5) The notice of withdrawal shall be written on a form provided by the Commissioner. Form

(6) If the Commissioner is of the opinion that the withdrawal is the result of a misunderstanding or a threat or other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the withdrawal. Commissioner's decision that complaint to continue

(7) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau. Notice

POWERS OF CHIEF OF POLICE

84.—(1) At any time before making a decision under section 89, the chief of police may decide that the complaint or part of it shall not be further dealt with under this Part, if he or she is of the opinion that the complaint or part is frivolous or vexatious or was made in bad faith. Decision re no further action

(2) The chief of police shall give the Commissioner, the complainant and the police officer notice of the decision. Notice

85.—(1) The chief of police may commence or continue a disciplinary proceeding against a police officer under Part V even if, Power to commence or continue disciplinary proceeding

(a) the complaint is withdrawn or is resolved informally; or

(b) the complaint is not to be further dealt with under this Part because of subsection 76 (7) (complaint filed more than six months after incident) or section 79 (complaint made by person not directly affected), or because of a decision by the chief of police under section 84.

(2) The chief of police shall give the Commissioner and the complainant notice of a decision to commence or continue a disciplinary proceeding in the circumstances described in subsection (1), and shall also give them notice of the results of the proceeding. Notice to Commissioner and complainant

INVESTIGATION OF COMPLAINT

86.—(1) The person in charge of the bureau shall cause an investigation to be conducted into the complaint in accordance with the prescribed procedures. Investigation

Interim reports

(2) During the course of the investigation, the person in charge shall send the Commissioner, the complainant and the police officer interim reports on the investigation at monthly intervals.

Idem

(3) The first interim report shall be sent not more than thirty days after the bureau receives the complaint.

Exception

(4) If there are no new matters to report, the person in charge may send the Commissioner, the complainant and the police officer a notice to that effect instead of an interim report.

Idem

(5) The person in charge may withhold an interim report from the complainant or the police officer if, in his or her opinion, it is desirable to do so in order to avoid prejudicing the investigation, but in that case shall forthwith notify the Commissioner of the decision and the reasons for it.

Final report

(6) When the investigation has been completed, the person in charge shall cause a final report to be prepared and shall send copies of it to the Commissioner, the chief of police, the complainant and the police officer.

Contents

(7) The final report shall contain,

- (a) a summary of the complaint, including a description of the police officer's alleged misconduct;
- (b) a summary of the investigation, including summaries of the information obtained from the complainant, the police officer and any witnesses; and
- (c) a description and analysis of any physical evidence obtained.

Further investigation

(8) After receiving a final report, the Commissioner may require the chief of police to have the complaint investigated further.

Idem

(9) A summary of the results of any further investigation shall be sent to the persons who received the final report.

Forms

(10) The interim reports and final report shall be written on forms provided by the Commissioner.

Investigation by Commissioner

87.—(1) The Commissioner may conduct the investigation into the complaint, instead of the bureau,

- (a) for any reason, after receiving the first interim report or after the thirty-day period referred to in subsection 86 (3) has expired;
- (b) if he or she has reasonable grounds to believe that undue delay or other unusual circumstances have affected the bureau's investigation or the preparation of its final report; or
- (c) if the chief of police requests that the Commissioner conduct the investigation.

(2) The chief of police shall request that the Commissioner conduct the investigation into a complaint if the chief of police becomes aware that the complainant has commenced a court proceeding against the police officer, the police force or the chief of police, the police services board or the municipality (in the case of a municipal police force) or the Crown in right of Ontario (in the case of the Ontario Provincial Police) in connection with the incident to which the complaint relates.

Effect of court proceeding commenced by complainant

(3) If the complaint concerns more than one police force, the Commissioner shall conduct the investigation.

Complaints concerning more than one police force

(4) When the Commissioner decides to conduct the investigation, he or she shall forthwith notify the chief of police, giving reasons in the case of a decision under clause (1) (a) or (b).

Notice

(5) When the Commissioner notifies the chief of police of a decision to conduct the investigation, the person in charge of the bureau shall forthwith end any investigation begun by the bureau and send to the Commissioner the evidence that has been gathered and the documents relating to the complaint.

Effect on bureau

(6) Section 86 applies to the Commissioner's investigation, with necessary modifications, except that the Commissioner shall send the first interim report not more than thirty days after giving notice of the decision to conduct the investigation.

Manner of conducting investigation

88.—(1) If the complaint was made under section 77, the Commissioner shall conduct the investigation in accordance with the prescribed procedures, and section 86 does not apply.

Investigation of complaint made by Commissioner

(2) The Commissioner shall send the police officer and the chief of police interim reports on the investigation at monthly intervals.

Interim reports

- Idem (3) The first interim report shall be sent not more than thirty days after the Commissioner makes the complaint.
- Exception (4) If there are no new matters to report, the Commissioner may send the police officer and the chief of police a notice to that effect instead of an interim report.
- Idem (5) The Commissioner may withhold an interim report from the police officer if, in his or her opinion, it is desirable to do so to avoid prejudicing the investigation, but in that case shall forthwith notify the chief of police of the decision and the reasons for it.
- Final report (6) When the investigation has been completed, the Commissioner shall cause a final report to be prepared and shall send copies of it to the chief of police and the police officer.
- Contents (7) The final report shall contain,
- (a) a summary of the complaint, including a description of the police officer's alleged misconduct;
 - (b) a summary of the investigation, including summaries of the information obtained from the police officer and any witnesses; and
 - (c) a description and analysis of any physical evidence obtained.

DECISION BY CHIEF OF POLICE

- Review of final report **89.**—(1) The chief of police shall review the final report of the investigation of a complaint and may order further investigation if he or she considers it advisable.
- Results of further investigation (2) A summary of the results of any further investigation shall be sent to the persons who received the final report and to the Commissioner if he or she conducted the original investigation.
- Decision (3) After reviewing the final report and the results of any further investigation, the chief of police shall,
- (a) decide that no further action is necessary;
 - (b) admonish the police officer regarding the matter in accordance with subsection 59 (1);
 - (c) hold a disciplinary hearing under section 60;

(d) order that all or part of the complaint be the subject of a hearing by a board of inquiry; or

(e) cause an information to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.

(4) If the chief of police decides to hold a disciplinary hearing under section 60 or orders a hearing by a board of inquiry, he or she may at the same time cause an information to be laid against the police officer. Idem

(5) The chief of police shall give written notice of the decision to the Commissioner, the complainant and the police officer, with reasons in the case of a decision, that no further action is necessary or a decision to admonish the police officer. Notice

(6) The chief of police shall give notice of the decision within six months of receiving the final report, unless the Commissioner grants an extension. Six-month time limit

(7) If the chief of police does not give notice of the decision within the six-month period and is not granted an extension, he or she shall be deemed to have decided that no further action is necessary. Deemed decision

REVIEW BY COMMISSIONER

90.—(1) The Commissioner shall review the decision of the chief of police, Review by Commissioner

(a) at the complainant's or police officer's request, in the case of a decision under section 89 to admonish the police officer;

(b) at the complainant's request, in the case of a decision under section 89 that no further action is necessary;

(c) at the complainant's request, in the case of a decision under section 84 that the complaint or part of it not be further dealt with under this Part.

(2) The Commissioner shall, at the complainant's request, review the decision made in a disciplinary hearing under section 60 arising out of a complaint. Idem

(3) The complainant or police officer may request a review by the Commissioner only within thirty days of receiving Thirty-day limit

notice of the decision, unless the Commissioner grants an extension.

Complaint
made by
Commis-
sioner

(4) In the case of a complaint made under section 77, the Commissioner may review,

- (a) a decision by the chief of police to admonish the police officer;
- (b) a decision by the chief of police that no further action is necessary;
- (c) the decision made in a disciplinary hearing under section 60 arising out of the complaint.

Commis-
sioner's
decision

(5) After conducting the review, the Commissioner may decide to take no further action, or may order a hearing by a board of inquiry if he or she believes it to be necessary in the public interest.

Notice

(6) The Commissioner shall forthwith give written notice of his or her decision, with reasons in the case of a decision to take no further action, to the chief of police, the complainant and the police officer.

Idem

(7) If the Commissioner orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 102 (9).

HEARING BY BOARD OF INQUIRY

Police
officer's
appeal to
board

91.—(1) If a penalty is imposed on a police officer after a disciplinary hearing under section 60 that was conducted as a result of the complaint, he or she may appeal to a board of inquiry by serving a notice of appeal on the Commissioner, the chair of the panel and the chief of police within fifteen days of receiving notice of the decision.

Notice to
complainant

(2) The Commissioner shall forthwith notify the complainant of the appeal.

Extension of
time for
appeal

(3) A member of the panel who was appointed on a recommendation made under subsection 102 (2) may grant an extension of the time provided for serving a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Appeal to be
combined
with other
hearing

(4) The hearing of the police officer's appeal and any hearing ordered by the Commissioner under section 90 shall be combined.

92.—(1) A board of inquiry shall be constituted,

Constitution
of board

- (a) when the chief of police orders under section 89 that a matter be heard by a board of inquiry;
- (b) when the Commissioner orders a hearing under section 90; and
- (c) when a police officer appeals under section 91.

(2) The chair of the panel shall assign the following members of the panel to the board of inquiry, choosing members from the area where the complaint arose if possible:

Assignment
of members
to board

- (a) as presiding officer, a member who was appointed on a recommendation made under subsection 102 (2);
- (b) a member who was appointed on a recommendation made under subsection 102 (3); and
- (c) a member who was appointed on a recommendation made under subsection 103 (4).

93.—(1) The hearing before the board of inquiry shall be a new hearing, unless it follows a disciplinary hearing under section 60; in that case it shall be on the record, but the board may receive additional evidence as it considers just.

New hearing,
exception

(2) If a board is constituted following a disciplinary hearing, the chief of police shall cause a record of the hearing to be prepared, at the Commissioner's expense if the Commissioner ordered the hearing before the board.

Record of
disciplinary
hearing

(3) The record shall include a transcript and shall be accompanied by the documents, physical evidence and exhibits considered at the disciplinary hearing.

Idem

94.—(1) The parties to a hearing are,

Parties

- (a) the complainant;
- (b) the police officer;
- (c) the Commissioner; and
- (d) the chief of police, in the case of an appeal by the police officer.

- Idem (2) The board of inquiry may add parties at any stage of the hearing on the conditions it considers proper.
- Carriage (3) In the case of a hearing ordered by the chief of police or by the Commissioner, the Commissioner has carriage of the matter and, in the case of an appeal by the police officer, the police officer has carriage.
- Statement of alleged misconduct (4) In the case of a hearing ordered by the chief of police or by the Commissioner, the chief of police or the Commissioner, as the case may be, shall provide the parties with a concise statement of the allegations of misconduct to be heard.
- Notice of hearing **95.**—(1) The board of inquiry shall appoint a time for the hearing and notify the parties.
- Examination of evidence (2) Before the hearing, the police officer and the complainant shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence at the hearing.
- Recording of evidence (3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.
- Application of 1984, c. 11, s. 146 (4) Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to the hearing.
- Police officer not required to give evidence R.S.O. 1980, c. 484 (5) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.
- Limited admissibility of certain statements (6) No statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.
- Board not to communicate in relation to subject-matter of hearing (7) The board of inquiry shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or party or party's counsel or representative, unless all parties receive notice and have an opportunity to participate.
- Exception (8) However, the board may seek legal advice from an adviser independent of the parties, and in that case the nature of the advice shall be communicated to the parties so that they may make submissions as to the law.

(9) If it appears to be in the interests of justice, the board may direct that the board, the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Adjournment
for view

(10) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them.

Release of
exhibits

(11) If the police officer is charged with an offence under a law of Canada or of a province, the hearing shall continue unless the presiding officer, after consulting with the Crown Attorney, is of the opinion that it should be stayed until the conclusion of the court proceedings.

Hearing not
stayed

(12) No member of the board shall participate in a decision unless he or she was present throughout the hearing and heard the parties' evidence and argument; except with the parties' consent, no decision shall be given unless all the members so present participate in it.

Only
members at
hearing to
participate in
decision

(13) The decision of a majority of the members of the board is the board's decision.

Decision

96.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may make submissions as to penalty and the board of inquiry may,

Penalties

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days;
- (e) direct that the police officer forfeit not more than five days' pay; or
- (f) direct that the police officer forfeit not more than twenty days off.

(2) Instead of or in addition to a penalty described in subsection (1), the board may reprimand the police officer.

Idem

Notice of
decision

(3) The board shall promptly give written notice of the decision, with reasons, to the parties and the Attorney General.

Appeal to
Divisional
Court

97.—(1) A party to a hearing before a board of inquiry may appeal to the Divisional Court within thirty days of receiving notice of the board's decision.

Grounds for
appeal

(2) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Attorney
General

(3) The Attorney General is entitled to be heard, by counsel or otherwise, on the argument of the appeal.

POLICE COMPLAINTS COMMISSIONER

Appointment
of Commis-
sioner

98.—(1) The Lieutenant Governor in Council shall appoint a Police Complaints Commissioner, to hold office for a term not exceeding five years.

Reappointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding five years in each case.

Staff
R.S.O. 1980,
c. 418

(3) Such employees as are considered necessary for the purposes of this Part may be appointed under the *Public Service Act*.

Remuneration

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Records

(5) The Commissioner shall maintain copies of all records, reports and other materials received under this Part.

Monitoring
handling of
complaints

(6) The Commissioner shall monitor the handling of complaints by bureaus and chiefs of police.

Local offices

(7) The Commissioner may establish local offices.

Idem

(8) Anything that is given to or served upon the Commissioner under this Part may be given or served at one of the local offices.

Annual
report

(9) The Commissioner shall report annually to the Attorney General.

Audit

(10) The Commissioner's accounts shall be audited annually by the Provincial Auditor.

99.—(1) For the purposes of an investigation under section 87 or 88 or a review under section 90, the Commissioner may, if he or she has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, enter a police station after informing the chief of police and examine there documents and things related to the complaint.

Powers on investigation or review

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation or review as if it were an inquiry under that Act.

Powers on inquiry

R.S.O. 1980, c. 411

(3) The Commissioner may, in writing, appoint a person to make any investigation or review the Commissioner is authorized to make and the person has all the powers and duties of the Commissioner relating to the investigation and the review.

Appointment of person to make investigation or review

(4) The person shall be provided with a certificate of appointment containing his or her photograph, and while exercising any powers or performing any duties in respect of the investigation or review shall produce the certificate of appointment upon request.

Identification

(5) The person shall report the results of the investigation or review to the Commissioner.

Report

(6) No person shall obstruct the Commissioner or a person appointed under subsection (3) or withhold from the Commissioner or person or conceal or destroy any documents or things related to the investigation or review.

Obstruction

(7) If a justice of the peace is satisfied, on an application made without notice by the Commissioner or a person appointed under subsection (3), that there are reasonable grounds to believe that there are in any place documents or things relating to an investigation or review, the justice of the peace may make an order authorizing the applicant, together with such persons as he or she calls on for assistance, to enter the place, by force if necessary, search for the documents or things and examine them.

Search warrant

(8) The entry and search shall not be made between the hours of 9 p.m. and 6 a.m. unless the order so authorizes.

Entry and search at night restricted

(9) The Commissioner may, upon giving a receipt, remove any documents or things examined under subsection (1) or (7) relating to the investigation or review, shall cause them to be copied with reasonable dispatch and shall then return them promptly to the person from whom they were removed.

Removal of books, etc.

Admissibility
of copies

(10) A copy made as provided in subsection (9) and certified to be a true copy by the Commissioner is admissible in evidence in any proceeding and is proof, in the absence of evidence to the contrary, of the original document and its contents.

Appointment
of expert

(11) The Commissioner may appoint an expert to examine documents or things examined under subsection (1) or (7).

Recommendations
concerning
police
practices or
procedures

100.—(1) The Commissioner may make recommendations with respect to the practices or procedures of a police force by sending the recommendations, with any supporting documents, to,

- (a) the Attorney General;
- (b) the Solicitor General;
- (c) the chief of police;
- (d) the association, if any; and
- (e) the police services board, in the case of a municipal police force.

Comments

(2) Within ninety days of receiving the recommendations, the chief of police, association and police services board shall send their comments to the Attorney General, the Solicitor General and the Commissioner.

Judicial
review of
Commissioner's
decisions

101. The Commissioner's decisions under subsection 82 (5) (complaint to continue to be dealt with despite informal resolution), subsection 83 (6) (complaint to continue to be dealt with despite withdrawal) and clause 87 (1) (b) (decision to conduct investigation because of undue delay) shall be deemed to be made in the exercise of a statutory power of decision.

BOARDS OF INQUIRY

Panel for
boards of
inquiry

102.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry to conduct hearings in connection with complaints.

Recommendations
for
appointment

(2) One-third of the members of the panel shall be members of the Law Society of Upper Canada who are recommended for appointment by the Attorney General.

Idem

(3) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of

Upper Canada, who are recommended for appointment by the Police Association of Ontario.

(4) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Association of Municipalities of Ontario. Recommendations for appointment

(5) The Attorney General may make the recommendations under subsection (3) or (4) if the Police Association of Ontario or the Association of Municipalities of Ontario, as the case may be, do not submit written recommendations to the Attorney General within the time that he or she specifies. Failure to make recommendations

(6) Appointments to the panel shall be for a term not exceeding three years and a member may be reappointed for a further term or terms. Term

(7) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board to which he or she was assigned before the expiration of the term. Continuance in office for uncompleted assignments

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

(9) The Lieutenant Governor in Council shall appoint a person to be the chair of the panel. Chair

(10) The chair shall cause to be prepared and published an annual summary of the decisions of boards, with reasons. Annual summary of decisions

GENERAL MATTERS

103. No reference to a complaint, a hearing held under this Part or a disciplinary hearing conducted under section 60 as a result of the complaint shall be made in the police officer's employment record, and the matter shall not be taken into account for any purpose related to his or her employment, unless, Police officer's employment record

- (a) the police officer is convicted of an offence in connection with the incident;
- (b) misconduct is proved on clear and convincing evidence at a hearing held under this Part or at a disciplinary hearing;

- (c) the chief of police cautions or admonishes the police officer in connection with the incident, in accordance with subsection 59 (1);
- (d) the police officer admits misconduct in the course of attempts to resolve the complaint informally; or
- (e) the police officer resigns before the complaint is finally disposed of.

Resignation
after hearing
ordered

104.—(1) This section applies to a police officer who resigns from the police force after a hearing is ordered under section 89 or 90.

Idem

(2) If the police officer resigns before a board of inquiry is constituted under section 92, the following rules apply:

- 1. No board of inquiry shall be constituted unless the police officer, within six months of the resignation, applies for employment with a police force or is employed by a police force.
- 2. In that case, the board acquires jurisdiction over the police officer despite the earlier resignation.

Idem

(3) If the police officer resigns after a board of inquiry is constituted, the following rules apply:

- 1. The board of inquiry loses jurisdiction over the police officer.
- 2. If the police officer, within six months of the resignation, applies for employment with a police force or is employed by a police force, the board's jurisdiction is revived.

Notice

105.—(1) A notice or other document required to be given or sent under this Part is sufficiently given if delivered personally or sent by prepaid registered mail addressed to the person.

Notice by
mail

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date.

Delegation
by chief of
police

106.—(1) The chief of police may authorize any police officer of the rank of inspector or higher (from another police

force if there is none in the chief's own police force) to exercise any power or perform any duty of the chief of police referred to in this Part.

(2) The Commissioner may authorize any member of his or her staff to exercise any power or perform any duty of the Commissioner referred to in this Part.

Delegation
by Commis-
sioner

107.—(1) Every person engaged in the administration of this Part, including a member of a police force, shall preserve secrecy in respect of all matters that come to his or her knowledge in the course of his or her duties, and shall not communicate any such matter to any other person except,

Confiden-
tiality

- (a) as this Act or the regulations require;
- (b) as may be required for law enforcement purposes;
- (c) to his or her counsel; or
- (d) with the consent of the person to whom the matter relates.

(2) No person to whom subsection (1) applies shall be required to testify in a civil proceeding with regard to information obtained in the course of his or her duties, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Testimony

(3) No document prepared under this Part as the result of a complaint and no statement referred to in subsection 95 (6) (statements made during attempt at informal resolution) is admissible in a civil proceeding, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Inadmissi-
bility

108. The *Ombudsman Act* does not apply to anything done under this Part.

Non-
application of
R.S.O.1980,
c. 325

109. The Attorney General may, with the approval of the Lieutenant Governor in Council, enter into an agreement with a municipality providing for its payment to the Treasurer of Ontario, on such conditions as may be agreed upon, of contributions in respect of the amounts required for the purposes of this Part.

Agreement
for contri-
butions

110. A person who contravenes subsection 95 (4) (photography at hearing), 99 (6) (obstructing Commissioner) or 107 (1) (confidentiality) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Offence

Definition
1984, c. 63 **111.**—(1) In subsection (2), “former Act” means the *Metropolitan Toronto Police Force Complaints Act, 1984*.

Transition,
complaints
under former
Act (2) Despite the repeal of the former Act by subsection 145 (1), complaints made under the former Act before the day this Act comes into force shall be dealt with in accordance with the former Act, except that hearings before boards of inquiry that are constituted after the day this Act comes into force shall be conducted in accordance with this Part.

PART VII

SPECIAL INVESTIGATIONS

Special
investigations
unit **112.**—(1) There shall be a special investigations unit of the Ministry of the Solicitor General.

Composition (2) The unit shall consist of,

- (a) a director, who shall not be a police officer or former police officer, appointed by the Solicitor General; and
- (b) investigators appointed by the Solicitor General to carry out investigations under the director’s supervision.

Peace officers (3) The director and investigators are peace officers.

Investigations (4) The director may, of his or her own motion, and shall, at the request of the Solicitor General or Attorney General, cause investigations to be conducted into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers.

Charges (5) The director shall lay charges against police officers in connection with the matters investigated if, in his or her opinion, there are reasonable and probable grounds to do so.

Report (6) The director shall report the results of investigations to the Attorney General.

Co-operation
of police
forces (7) Members of police forces shall co-operate fully with the members of the unit in the conduct of investigations.

PART VIII

LABOUR RELATIONS

Definitions **113.** In this Part,

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 129 (1);

“senior officer” means a police officer of the rank of inspector or higher or a civilian employee employed in a supervisory or confidential capacity.

114.—(1) This Part, except section 115, does not apply to the Ontario Provincial Police. Exclusion of O.P.P.

(2) The working conditions and remuneration of the chief of police and deputy chief of police of a police force shall be determined under clause 31 (1) (d) (responsibilities of board) and not under this Part. Exclusion of chief of police and deputy

115.—(1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter. Hearing re person's status

(2) The Commission's decision is final. Decision final

116. A member of a police force shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities that do not contravene section 46 and the chief of police consents. Membership in trade union prohibited, exception

117.—(1) If a majority of the members of a police force, or an association that is entitled to give notices of desire to bargain, assigns the members of the police force to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police force. Categories

(2) If at least 50 per cent of the senior officers of a police force belong to an association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police force. Senior officers

118.—(1) If no agreement exists or at any time after ninety days before an agreement would expire but for subsection 127 (1) or (2), a majority of the members of a police force may give the board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement. Notice of desire to bargain

(2) Within fifteen days after the notice of desire to bargain is given or within the longer period that the parties agree Bargaining

upon, the board shall meet with a bargaining committee of the members of the police force.

Idem (3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with remuneration, pensions, sick leave credit gratuities, grievance procedures and working conditions (except those governed by the regulations) of the members of the police force.

Filing of agreement (4) The board shall promptly file a copy of any agreement with the Arbitration Commission.

Association (5) If at least 50 per cent of the members of the police force belong to an association, it shall give the notice of desire to bargain.

Pension plans under R.S.O. 1980, c. 302 (6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the *Municipal Act*, it shall also be given to the Minister of Municipal Affairs, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan.

Bargaining committee **119.**—(1) The members of the bargaining committee shall be members of the police force.

Police organization (2) If the notice of desire to bargain is given by an association that is affiliated with a police organization, or if at least 50 per cent of the members of the police force belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

Counsel and advisors (3) One legal counsel and one other advisor for each of the bargaining committee and the board may also attend the parties' bargaining sessions.

Chief of police (4) The chief of police may also attend the parties' bargaining sessions in an advisory capacity.

Appointment of conciliation officer **120.**—(1) When a notice of desire to bargain has been given, either party may ask the Solicitor General to appoint a conciliation officer.

Idem (2) The Solicitor General shall consider the matter and shall appoint a conciliation officer or inform the parties that he or she does not consider the case appropriate for the appointment of a conciliation officer.

Duty of conciliation officer (3) If a conciliation officer is appointed, he or she shall confer with the parties and endeavour to effect an agreement

and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

(4) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

Extension of time

(5) When the conciliation officer reports to the Solicitor General that an agreement has been reached or that an agreement cannot be reached, the Solicitor General shall promptly inform the parties of the report.

Report

(6) Neither party shall give a notice requiring matters in dispute to be referred for arbitration under section 121 until the Solicitor General has informed the parties of the conciliation officer's report or informed them that he or she does not consider the case appropriate for the appointment of a conciliation officer.

No arbitration during conciliation

121.—(1) If matters remain in dispute after bargaining under section 118 and conciliation, if any, under section 120, a party may give the Solicitor General and the other party a written notice referring the matters to arbitration.

Arbitration

(2) If the parties agree, the arbitration board shall consist of one person appointed by each party and a chair appointed by the Solicitor General; otherwise, it shall consist of one person appointed by the Solicitor General.

Composition of arbitration board

(3) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver its decision or award within sixty days after commencing the arbitration.

Time for arbitration

(4) The municipal council may make representations before the arbitration board if it is authorized to do so by a resolution.

Representations by council

(5) In making an award, the arbitration board shall take into account the interest and welfare of the community served by the police force as well as any local factors affecting the community.

Criteria

(6) The arbitration board shall promptly file a copy of its decision or award with the Arbitration Commission.

Filing of award

Costs and
expenses

(7) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of the person the Solicitor General appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common.

Dispute,
appointment
of concilia-
tion officer

122.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

Duty of
conciliation
officer

(2) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Extension of
time

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

Report

(4) When the conciliation officer reports to the Solicitor General that the dispute has been resolved or that it cannot be resolved by conciliation, the Solicitor General shall promptly inform the parties of the report.

No
arbitration
during concilia-
tion

(5) Neither party shall give a notice referring the dispute for arbitration until the Solicitor General has informed the parties of the conciliation officer's report.

Arbitration
after concilia-
tion fails

123.—(1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the Solicitor General and the other party a written notice referring the dispute to arbitration.

Idem

(2) Subsection (1) applies in addition to any grievance or arbitration procedure provided by the agreement, decision or award.

Composition
of arbitration
board

(3) If the parties agree, the arbitration board shall consist of one person appointed by each party and a chair appointed

by the Solicitor General; otherwise, it shall consist of one person appointed by the Solicitor General.

(4) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time.

Time for arbitration

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration Commission.

Filing of decision

(6) The following rules apply with respect to the costs and expenses of the arbitration:

Costs and expenses

1. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
2. The parties shall share equally the fees of any person appointed by the Solicitor General and the other costs and expenses for matters shared in common.

(7) After the day that is thirty days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the decision, in the prescribed form, in the office of the Registrar of the Supreme Court.

Enforcement

(8) The decision shall be entered in the same way as a judgment of the Supreme Court and may be enforced as such.

Idem

124. The parties may agree to extend any period of time mentioned in this Part.

Extension of time

125. The *Arbitrations Act* does not apply to arbitrations conducted under this Part.

Non-application of R.S.O.1980, c. 25

126. Agreements, decisions and awards made under this Part bind the board and the members of the police force.

Agreements, decisions and awards binding

127.—(1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced.

Duration of agreements, decisions and awards

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the

Longer duration if parties agree

year in which they come into effect and thereafter shall continue in effect until replaced.

Provision for expenditures

128.—(1) If, when the council is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the council shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate.

Coming into effect

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipal council may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made.

Exception

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2).

Arbitration Commission continued

129.—(1) The commission known as the Ontario Police Arbitration Commission is continued.

Composition

(2) The Arbitration Commission shall be composed of the following members, appointed by the Lieutenant Governor in Council,

- (a) two representatives of boards;
- (b) two representatives of members of associations; and
- (c) a chair.

Terms of office

(3) The representatives of boards and members of associations shall hold office for two-year terms and may be reappointed; the chair shall hold office during pleasure.

Staff

(4) Such employees as are necessary for the proper conduct of the Arbitration Commission's work may be appointed under the *Public Service Act*.

R.S.O. 1980, c. 418

Responsibilities of Arbitration Commission

(5) The Arbitration Commission has the following responsibilities,

- (a) maintaining a register of arbitrators who are available for appointment;
- (b) assisting arbitrators by making administrative arrangements in connection with arbitrations;

- (c) fixing the fees of arbitrators appointed by the Solicitor General under section 123;
 - (d) sponsoring the publication and distribution of information about agreements, arbitrations and awards;
 - (e) sponsoring research on the subject of agreements, arbitrations and awards;
 - (f) maintaining a file of agreements, decisions and awards made under this Part.
- (6) Subject to the approval of the Lieutenant Governor in Council, the Arbitration Commission may make regulations, Regulations
- (a) governing the conduct of arbitrations and prescribing procedures for them;
 - (b) prescribing forms and providing for their use.

PART IX

REGULATIONS AND MISCELLANEOUS

130.—(1) This section applies to personal property of all kinds, except firearms and money, that comes into the possession of a police force under either of the following circumstances: Property in possession of police force

1. The property was stolen from its owner or was found abandoned in a public place, and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police force in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

(2) The chief of police may cause the property to be sold and use the proceeds for any purpose that he or she considers in the public interest. Sale

(3) If the property is perishable, it may be sold at any time without notice. Perishable property

(4) If the property is not perishable, the following rules apply to its sale: Non-perishable property

1. The property may be sold when it has been in the possession of the police force for at least three months.
2. The sale shall be by public auction.
3. At least ten days notice of the time and place of the public auction shall be given by publication in a newspaper of general circulation in the municipality.
4. The sale may be adjourned, repeatedly if necessary, until the property is sold.

Claim of
owner of
property

(5) If property has been sold before it has been in the possession of the police force for three months and, if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale.

Register of
property

(6) The chief of police shall ensure that the police force keeps a register of property and that the following rules are followed:

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

Exception
R.S.O. 1980,
c. 198

(7) This section does not apply to a motor vehicle that is impounded under section 192 of the *Highway Traffic Act*.

Money

131.—(1) This section applies to money that comes into the possession of a police force under the circumstances described in paragraph 1 or 2 of subsection 130 (1).

Accounting

(2) The money shall be accounted for according to the prescribed method.

Use of
money

(3) If three months have elapsed after the day the money came into the possession of the police force and the owner has not claimed it, the chief of police may cause it to be used for any purpose that he or she considers in the public interest.

132.—(1) This section applies to firearms that are in the possession of a police force because they have been found, turned in, seized or forfeited on a prosecution. Firearms

(2) The chief of police shall ensure that firearms are securely stored, and that they are returned to their owners if there is a court order or other legal requirement to that effect. Safekeeping, return to owner

(3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement that the firearm be returned to its owner, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies. Destruction

(4) If the chief of police considers the firearm unique, an antique, or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences. Firearm of special interest

(5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there. Idem

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly. Idem

(7) The chief of police may dispose of a firearm to which subsection (6) applies, otherwise than by having it destroyed, if he or she first obtains the Solicitor General's approval of the method of disposal. Disposal otherwise than by destruction

(8) The chief of police shall ensure that the police force keeps a register of firearms and that the following rules are followed: Register of firearms

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the board or of a member of the police force, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.

4. On or before the 31st day of January in each year, a statement shall be filed with the Commission listing the firearms that have come into the possession of the police force during the preceding calendar year, indicating which firearms are still being retained and which have been disposed of, and giving particulars of the disposition.

Regulations

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

1. prescribing standards for police services;
2. prescribing procedures for the inspection and review by the Solicitor General of police forces;
3. requiring municipalities to provide police detention facilities, governing those facilities and providing for their inspection;
4. providing for financial aid to police training schools;
5. prescribing the minimum amount of remuneration to be paid by municipalities to the members of boards who are appointed by the Lieutenant Governor in Council or Solicitor General;
6. prescribing the procedures to be followed by boards and the places at which their meetings shall be held;
7. prescribing the forms of oaths or affirmations of office and secrecy for the purposes of section 32 (members of boards), section 45 (police officers), subsection 52 (5) (auxiliary members of police forces), subsection 53 (7) (special constables) and subsection 54 (6) (First Nations Constables);
8. respecting the government, operation and administration of police forces;
9. governing the qualifications for the appointment of persons to police forces and for their promotion;
10. prescribing groups of persons for the purposes of subsection 48 (1) (employment equity plans);
11. prescribing matters to be contained in employment equity plans;

12. respecting the political activities in which municipal police officers are permitted to engage;
13. establishing the ranks that shall be held by members of municipal police forces;
14. prescribing the minimum salary or other remuneration and allowances to be paid to members of municipal police forces;
15. regulating or prohibiting the use of any equipment by a police force or any of its members;
16. regulating the use of force by members of police forces;
17. prescribing standards of dress for police officers on duty and prescribing requirements respecting police uniforms;
18. prescribing courses of training for members of police forces and prescribing standards in that connection;
19. governing the conduct, duties, suspension and dismissal of members of police forces;
20. describing the circumstances under which members of police forces are permitted and not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
21. prescribing the records, returns, books and accounts to be kept by police forces and their members;
22. prescribing the method of accounting for fees and costs that come into the hands of members of police forces;
23. prescribing a code of offences for the purpose of section 56 (misconduct);
24. providing for the payment of fees and expenses to witnesses at hearings conducted under Part V or VI;
25. prescribing procedures for the investigation of complaints under Part VI;

- 26. assigning further duties to the Police Complaints Commissioner;
- 27. prescribing the method of accounting for money to which section 131 applies;
- 28. prescribing forms and providing for their use;
- 29. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed;
- 30. respecting any matter that is necessary or advisable to implement this Act effectively.

Idem (2) A regulation made under subsection (1) may be general or particular in its application.

PART X

CONSEQUENTIAL AMENDMENTS AND REPEALS

134. Section 66 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Non-application of 1989, c. ...

66.—(1) The *Police Services Act, 1989*, being chapter ..., except section 15 (municipal by-law enforcement officers), does not apply to the District Corporation or to an area municipality.

Non-application of R.S.O. 1980, c. 302, ss. 202, 203

(2) Sections 202 and 203 of the *Municipal Act* do not apply to an area municipality.

135.—(1) Section 174 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

174. In this Part, “Metropolitan Board” means The Municipality of Metropolitan Toronto Police Services Board.

(2) Subsections 175 (1) and (2) of the said Act are repealed.

(3) Subsection 177 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10 and amended by 1988, chapter 12, section 1, is repealed and the following substituted therefor:

Composition of Metropolitan Board

(1) The Metropolitan Council shall be deemed to have applied to the Lieutenant Governor in Council for an increase

in the size of its board under subsection 27 (9) of the *Police Services Act, 1989* and the Lieutenant Governor in Council shall be deemed to have approved the application. 1989, c. ...

(4) Section 178 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, is repealed.

136.—(1) Section 73 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

73. In this Part, “Durham Police Board” means The Regional Municipality of Durham Police Services Board. Definition

(2) Section 74 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 1, is repealed.

(3) Subsection 75 (1) of the said Act is repealed and the following substituted therefor:

(1) The Durham Police Board and the members of the Durham Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

137.—(1) Section 68 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

68. In this Part, “Haldimand-Norfolk Police Board” means The Regional Municipality of Haldimand-Norfolk Police Services Board. Definition

(2) Section 69 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 2, is repealed.

(3) Subsections 70 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) The Haldimand-Norfolk Police Board and the members of the Haldimand-Norfolk Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

(2) Despite subsection 31 (1) of the *Police Services Act, 1989*, the Haldimand-Norfolk Police Board is responsible for providing police services only for those portions of the Regional Area in which a local municipality maintained a police force on the 31st day of March, 1974. Jurisdiction 1989, c. ...

Idem

(3) With the Solicitor General's approval, the Haldimand-Norfolk Police Board may assume responsibility for providing police services for additional portions of the Regional Area.

138.—(1) Section 79 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

79. In this Part, "Halton Police Board" means The Regional Municipality of Halton Police Services Board.

(2) Section 80 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 3, is repealed.

(3) Subsection 81 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Halton Police Board and the members of the Halton Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

139.—(1) Section 90 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

90. In this Part, "Hamilton-Wentworth Police Board" means The Regional Municipality of Hamilton-Wentworth Police Services Board.

(2) Section 91 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 4, is repealed.

(3) Subsection 92 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Hamilton-Wentworth Police Board and the members of the Hamilton-Wentworth Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

140.—(1) Section 116 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

116. In this Part, "Niagara Police Board" means The Regional Municipality of Niagara Police Services Board.

(2) Section 117 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 5, is repealed.

(3) Subsection 118 (1) of the said Act is repealed and the following substituted therefor:

(1) The Niagara Police Board and the members of the Niagara Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

141.—(1) Section 74 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

74. In this Part, "Peel Police Board" means The Regional Municipality of Peel Police Services Board. Definition

(2) Section 75 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 6, is repealed.

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

(1) The Peel Police Board and the members of the Peel Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

142.—(1) Section 38 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

38. In this Part, "Sudbury Police Board" means The Regional Municipality of Sudbury Police Services Board. Definition

(2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 57, section 7, is repealed.

(3) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:

(1) The Sudbury Police Board and the members of the Sudbury Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

143.—(1) Section 109 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of

Ontario, 1980, is repealed and the following substituted therefor:

Definition **109.** In this Part, "Waterloo Police Board" means The Regional Municipality of Waterloo Police Services Board.

(2) Section 110 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 8, is repealed.

(3) Subsection 111 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement (1) The Waterloo Police Board and the members of the Waterloo Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

144.—(1) Section 111 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition **111.** In this Part, "York Police Board" means The Regional Municipality of York Police Services Board.

(2) Section 112 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 9, is repealed.

(3) Subsection 113 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement (1) The York Police Board and the members of the York Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

145.—(1) The following are repealed:

1. The *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, except section 57a, as enacted by the Statutes of Ontario, 1989, chapter 24, section 1.
2. The *Police Amendment Act, 1981*, being chapter 55.
3. The *Police Amendment Act, 1983*, being chapter 57.
4. Section 201 of the *Courts of Justice Act, 1984*, being chapter 11.

5. Section 53 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.
6. The *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63.
7. The *Metropolitan Toronto Police Force Complaints Amendment Act, 1986*, being chapter 31.

(2) The title of the *Police Act* is repealed and the following substituted therefor:

COURT SECURITY ACT

146. This Act binds the Crown in right of Ontario. Crown bound

147. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

148. The short title of this Act is the *Police Services Act, 1989*. Short title





Bill 107

An Act to revise the Police Act and amend the law relating to Police Services

The Hon. S. Offer
Solicitor General

1st Reading December 20th, 1989
2nd Reading May 17th, 1990
3rd Reading
Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill replaces the *Police Act*. The following are some of the proposed changes:

1. A declaration of principles is included (section 1).
2. Every municipality responsible for providing police services is required to establish a police services board to govern the municipal police force (section 27). These boards (formerly boards of commissioners of police) will be supervised by the Ontario Civilian Commission on Police Services (formerly the Ontario Police Commission) (Part II).
3. The minimum educational standard required of candidates for the position of police officer is raised from two to four years of secondary education (section 43).
4. Every police force is required to establish and implement an employment equity plan (section 48).
5. Special constables will be appointed by municipal police services boards and by the Commissioner of the Ontario Provincial Police (section 53).
6. The category of First Nations Constable is created (section 54).
7. Provisions relating to police disciplinary proceedings are revised (Part V).
8. A province-wide mandatory system for dealing with public complaints is introduced, based on the system currently in use in The Municipality of Metropolitan Toronto (Part VI).
9. A special investigations unit of the Ministry of the Solicitor General is established to investigate police conduct and to lay charges where appropriate (Part VII).
10. Bargaining, conciliation and arbitration provisions that apply to municipal police forces are revised (Part VIII).
11. The regulation-making powers of the Lieutenant Governor in Council are expanded to cover subjects such as standards of police services, the administration and operation of police forces, police pursuits and political activities (section 133).
12. Distinctions between municipal police forces and the Ontario Provincial Police are reduced.

Bill 107

1989

An Act to revise the Police Act and amend the law relating to Police Services

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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:

1. Police services shall be provided throughout Ontario in accordance with the following principles:

Declaration of principles

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code, 1981*.
3. The need for co-operation between the providers of police services and the communities they serve.

1981, c. 53

4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multi-racial and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve.

Definitions

2. In this Act,

“association” means an association whose members belong to one police force and whose objects include the improvement of their working conditions and remuneration;

“board” means, except in Part VI, a municipal police services board;

“chief of police” means a municipal chief of police or the Commissioner of the Ontario Provincial Police and includes an acting chief of police;

“Commission” means the Ontario Civilian Commission on Police Services;

“Commissioner” means, except in Part VI, the Commissioner of the Ontario Provincial Police;

“member of a police force” means a police officer, and in the case of a municipal police force includes an employee who is not a police officer;

“municipality” includes district, metropolitan and regional municipalities and the County of Oxford;

“police force” means the Ontario Provincial Police or a municipal police force;

“police officer” means a chief of police or any other police officer, but does not include a special constable, a First Nations Constable, a by-law enforcement officer or an auxiliary member of a police force;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

PART I

RESPONSIBILITY FOR POLICE SERVICES

SOLICITOR GENERAL

3.—(1) This Act, except Part VI, shall be administered by the Solicitor General. Adminis-
tration of
Act

(2) The Solicitor General shall, Duties and
powers of
Solicitor
General

- (a)** monitor police forces to ensure that adequate and effective police services are provided at the municipal and provincial levels;
- (b)** monitor boards and police forces to ensure that they comply with prescribed standards of service;
- (c)** monitor the establishment and implementation of employment equity plans;
- (d)** develop and promote programs to enhance professional police practices, standards and training;
- (e)** conduct a system of inspection and review of police forces across Ontario;
- (f)** assist in the co-ordination of police services;
- (g)** consult with and advise boards, municipal chiefs of police, employers of special constables and associations on matters relating to police and police services;
- (h)** develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters;
- (i)** provide to boards and municipal chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;
- (j)** issue directives and guidelines respecting policy matters;
- (k)** develop and promote programs for community-oriented police services;

(1) operate the Ontario Police College.

Ontario
Police
College
continued

(3) The police college known as the Ontario Police College for the training of members of police forces is continued.

MUNICIPALITIES

Police
services in
municipalities

4.—(1) Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.

Application
of subsection
(1)

(2) Subsection (1) applies to,

(a) cities, towns, villages and townships (other than area municipalities within regional or metropolitan municipalities); and

(b) regional and metropolitan municipalities.

Exception,
Muskoka

(3) Subsection (1) does not apply to The District Municipality of Muskoka or to its area municipalities.

Exception,
Ottawa-
Carleton

(4) Subsection (1) does not apply to The Regional Municipality of Ottawa-Carleton but does apply to its area municipalities.

Exception,
Oxford
County

(5) Subsection (1) does not apply to the County of Oxford but does apply to its area municipalities.

Exemption of
towns of less
than 5,000

(6) The Lieutenant Governor in Council may, on the Solicitor General's recommendation, exempt any town having a population of less than 5,000 according to the last enumeration taken under section 14 of the *Assessment Act* from the application of subsection (1), and the exemption continues in effect until it is revoked.

R.S.O. 1980,
c. 31

Restriction,
villages and
townships

(7) Subsection (1) applies to a village or township only if it has been so designated by the Lieutenant Governor in Council on the Solicitor General's recommendation; the designation may relate to all or part of the village or township.

Methods of
establishing
municipal
police forces

5. A municipality's responsibility for providing police services shall be discharged in one of the following ways:

1. The board may appoint the members of a police force under clause 31 (1) (a), in which case the municipal council shall pay the cost of the police force.

2. The board may enter into an agreement under section 7 (sharing police services).
3. The council may enter into an agreement under section 10 (agreements for provision of police services by O.P.P.).
4. With the Commission's approval, the municipality may adopt a different method of providing police services.

6.—(1) Despite any other Act, two or more municipalities that have police forces may enter into an agreement to amalgamate them. Amalgamation of police forces

(2) The agreement shall deal with, Contents of amalgamation agreement

- (a) the establishment and composition of a board for the amalgamated police forces;
- (b) the amalgamation of the police forces and the appointment or transfer of their members;
- (c) the amalgamated board's use of the assets and its responsibility for the liabilities associated with the police forces;
- (d) the budgeting of the cost for the operation of the amalgamated police force;
- (e) any other matter that is necessary or advisable to effect the amalgamation.

(3) The agreement does not take effect until the Commission has approved the organization of the amalgamated police force. Commission's approval

(4) Appointments to a board for amalgamated police forces may be made before the agreement takes effect. Exception, board appointments

7. Two boards may agree that one board will provide police services to the other, on the conditions set out in the agreement. Municipal agreements for sharing police services

8.—(1) A municipality to which subsection 4 (1) (obligation to provide police services) does not apply may, with the Commission's approval, establish and maintain a police force. Additional municipal police forces

(2) An approval given or deemed to have been given under section 19 of the *Police Act* in respect of a police force that Transition
R.S.O. 1980,
c. 381

was being maintained on the day before this Act comes into force shall be deemed to have been given under this section.

Revocation (3) The Commission may revoke an approval given or deemed to have been given under this section.

Failure to provide police services **9.**—(1) If the Commission finds that a municipality to which subsection 4 (1) applies is not providing police services, it may request that the Commissioner have the Ontario Provincial Police give assistance.

Inadequate police services (2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.

Idem (3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.

Crown Attorney's request (4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.

Board's request (5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.

Request of chief of police in emergency (6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.

Chief of police to advise board (7) A chief of police who makes a request under subsection (6) shall advise the chair of the board of the fact as soon as possible.

Assistance of O.P.P. (8) When a request is made under this section, the Commissioner shall have the Ontario Provincial Police give such assistance as he or she considers necessary.

Cost of services (9) The Commissioner shall certify the cost of the services provided under this section by the Ontario Provincial Police and, unless the Solicitor General directs otherwise, the municipality shall pay that amount to the Treasurer of Ontario.

Idem (10) The amount may be deducted from any grant payable to the municipality out of provincial funds or may be

recovered by a court action, with costs, as a debt due to Her Majesty.

10.—(1) The Solicitor General may enter into an agreement with the council of a municipality for the provision of police services for the municipality by the Ontario Provincial Police.

Municipal agreements for provision of police services by O.P.P.

(2) The agreement requires the board's consent.

Board's consent

(3) No agreement shall be entered into under this section if, in the Solicitor General's opinion, the council seeks the agreement for the purpose of defeating the collective bargaining provisions of this Act.

Collective bargaining

(4) When the agreement comes into effect, the members of the Ontario Provincial Police assigned to the municipality shall provide police services, including by-law enforcement, for the municipality, and shall perform any other duties that are specified in the agreement.

Duties of O.P.P.

(5) The amounts received from the municipality under the agreement shall be paid into the Consolidated Revenue Fund.

Payment into Consolidated Revenue Fund

(6) If the municipality has an agreement under this section, section 31 (responsibilities of board), section 38 (municipal police force) and clause 39 (2) (a) (estimates respecting police force) do not apply; however, the board shall advise the Solicitor General and the senior officer of the Ontario Provincial Police in the municipality with respect to police services in the municipality, and may generally determine priorities in the municipality with respect to police services, in accordance with the agreement and with provincial policies affecting the Ontario Provincial Police.

Role of board

11.—(1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police force.

Fines

(2) If the municipality does not have its own police force because of an agreement under section 7 or 10, the police officers who are assigned to the municipality under the agreement shall, for the purposes of determining entitlement to fines, be deemed to be police officers of the municipal police force.

Idem

12.—(1) With the Commission's approval, the costs incurred by a municipality in providing police services may be paid by levying different rates for different areas defined by the municipal council or by levying rates in some but not all areas.

Rates for cost of police services

Exemption
for farm
lands and
buildings

(2) With the Commission's approval, the municipal council may grant a total or partial exemption from a rate or rates levied under subsection (1) to lands and buildings used exclusively for farming purposes.

Special areas

13.—(1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Solicitor General's opinion, to impose the responsibility for police services on a municipality or on the Province, the Lieutenant Governor in Council may designate the area as a special area.

Agreement
for provision
of police
services by
O.P.P.

(2) The person who operates the business or owns the special area shall enter into an agreement with the Solicitor General for the provision of police services by the Ontario Provincial Police for the special area.

Duties of
O.P.P.,
payment

(3) Subsections 10 (4) and (5) apply to the agreement with necessary modifications.

Failure to
enter into
agreement

(4) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Ontario Provincial Police shall provide police services for the area.

Cost of
services

(5) The costs of the services may be recovered from the person by a court action, with costs, as a debt due to Her Majesty.

Police
services
outside
municipality

14. A municipality that has an interest in land outside the territory of the municipality may agree to pay all or part of the cost of providing police services for the land.

Municipal by-
law
enforcement
officers

15.—(1) A municipal council may appoint persons to enforce the by-laws of the municipality.

Peace officers

(2) Municipal by-law enforcement officers are peace officers for the purpose of enforcing municipal by-laws.

Aid to
survivors

16. A municipal council may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police force who die from injuries received or illnesses contracted in the discharge of their duties.

ONTARIO PROVINCIAL POLICE

Commis-
sioner

17.—(1) There shall be a Commissioner of the Ontario Provincial Police who shall be appointed by the Lieutenant Governor in Council.

(2) Subject to the Solicitor General's direction, the Commissioner has the general control and administration of the Ontario Provincial Police and the employees connected with it. Functions

(3) The Commissioner shall prepare and implement an employment equity plan in accordance with section 48 and the regulations. Employment equity plans

(4) After the end of each calendar year, the Commissioner shall file with the Solicitor General an annual report on the affairs of the Ontario Provincial Police. Annual report

18.—(1) The Ontario Provincial Police shall consist of the Commissioner and other police officers appointed under the *Public Service Act*. Composition of O.P.P.
R.S.O. 1980,
c. 418

(2) The Commissioner shall establish the ranks within the Ontario Provincial Police and shall determine the rank of each police officer. Ranks

(3) The Lieutenant Governor in Council may name police officers of the Ontario Provincial Police to the rank of commissioned officers and may authorize the issue of commissions to them under the Great Seal. Commissioned officers

(4) The Commissioner may appoint such other employees as are required in connection with the Ontario Provincial Police. Employees

19.—(1) The Ontario Provincial Police have the following responsibilities: Responsibilities of O.P.P.

1. Providing police services in respect of the parts of Ontario that do not have municipal police forces other than by-law enforcement officers.
2. Providing police services in respect of all navigable bodies and courses of water in Ontario, except those that lie within municipalities designated by the Solicitor General.
3. Maintaining a traffic patrol on the King's Highway, except the parts designated by the Solicitor General.
4. Maintaining a traffic patrol on the connecting links within the meaning of section 21 of the *Public Transportation and Highway Improvement Act* that are designated by the Solicitor General. R.S.O. 1980,
c. 421

5. Maintaining investigative services to assist municipal police forces on the Solicitor General's direction or at the Crown Attorney's request.

Municipal by-laws (2) The Ontario Provincial Police have no responsibilities in connection with municipal by-laws, except under agreements made in accordance with section 10.

Aid to survivors **20.** The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties.

PART II

ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

Commission continued **21.**—(1) The commission known as the Ontario Police Commission is continued under the name of "Ontario Civilian Commission on Police Services".

Composition (2) The Commission shall consist of not fewer than three and not more than nine members who shall be appointed by the Lieutenant Governor in Council.

Chair (3) The Lieutenant Governor in Council may designate one of the members of the Commission to be the chair.

Delegation (4) The chair may authorize a member of the Commission to exercise the Commission's powers and perform its duties with respect to a particular matter, but the authority conferred on the Commission by sections 23 and 24 may not be delegated.

Quorum (5) Two members of the Commission constitute a quorum.

Proceedings open to the public (6) Meetings, hearings, investigations and inquiries conducted by the Commission shall be open to the public, subject to subsection (7), and notice of them shall be published in the manner that the Commission determines.

Exception (7) The Commission may exclude the public from all or part of a meeting, hearing, investigation or inquiry if it is of the opinion that,

- (a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public

interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. ▲

(8) A document purporting to be issued by the Commission and signed by one of its members is admissible in evidence without proof of the signature or authority of the person signing.

Admissibility
of documents

(9) After the end of each calendar year, the Commission shall file with the Solicitor General an annual report on its affairs.

Annual
report

(10) The money required for the Commission's purposes shall be paid out of the amounts appropriated by the Legislature for that purpose.

Expenses

22.—(1) The Commission's powers and duties include,

Powers and
duties of
Commission

(a) if the Solicitor General advises the Commission that a board or municipal police force is not complying with prescribed standards of police services,

(i) directing the board or police force to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (1);

(b) if the Solicitor General advises the Commission that a board or municipal chief of police is not complying with the requirements of this Act and the regulations respecting employment equity plans,

(i) directing the board or chief of police to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (2);

- (c) conducting investigations with respect to municipal police matters under section 25;
- (d) conducting inquiries into matters relating to crime and law enforcement under section 26;
- (e) inquiring into any matter regarding the designation of a municipality under subsection 4 (7) (police services in villages and townships) and, after a hearing, making recommendations to the Solicitor General;
- (f) hearing and disposing of appeals by members of police forces in accordance with Part V.

Powers of Commission in hearings, investigations and inquiries R.S.O. 1980, c. 411
Counsel

(2) When the Commission conducts a hearing, investigation or inquiry, it has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the proceeding as if it were an inquiry under that Act.

(3) At the Commission's request, the Solicitor General may appoint counsel to assist the Commission in a hearing, investigation or inquiry.

Sanctions for failure to comply with prescribed standards of police services

23.—(1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services, the Commission may take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality.
4. Appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period.

Sanctions for failure to comply with requirements respecting employment equity plans

(2) If the Commission is of the opinion, after holding a hearing, that a board or municipal chief of police has failed to comply with the requirements of this Act and the regulations respecting employment equity plans, the Commission may

take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Appointing an administrator to perform specified functions with respect to employment equity, recruitment and promotion in the police force for a specified period.

(2a) If the Commission suspends the chief of police or members of the board who are entitled to remuneration under subsection 27 (12), it shall specify whether the suspension is with or without pay.

Suspension
with or
without pay

(3) The Commission shall not take measures under subsection (2) with respect to the failure of a chief of police to meet specific goals or timetables contained in the employment equity plan if the Commission finds that the chief of police has made all reasonable efforts to meet them.

Defence

(4) An administrator appointed under paragraph 4 of subsection (1) or paragraph 3 of subsection (2) has all the powers necessary for the performance of his or her functions.

Powers of
administrator

(5) If the Commission suspends or removes the chief of police, it may appoint a person to replace him or her.

Replacement
of chief of
police

(6) The parties to the hearing are the chief of police, the board, any member of the board that the Commission designates and, if the Commission so directs, the association or associations representing members of the police force.

Parties

(7) The Commission may add parties at any stage of the hearing on the conditions it considers proper.

Idem

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(9) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Conse-
quences of
removal and
suspension

- Appeal to Divisional Court (10) A party may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.
- Grounds for appeal (11) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.
- Idem (12) An appeal may also be made from a finding that a chief of police has made all reasonable efforts to meet the specific goals and timetables contained in an employment equity plan.
- Appeal by non-parties (13) If the consent of the Attorney General is sought within thirty days of the Commission's decision and is given, a person who is not a party may appeal under subsection (12) as if he or she were a party.
- Emergency, interim order **24.**—(1) The Commission may make an interim order under subsection 23 (1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.
- Restriction (2) The Commission shall not remove a person from office or disband a police force by means of an interim order.
- Investigations **25.**—(1) The Commission may, at the Solicitor General's request, at a municipal council's request or of its own motion, investigate, inquire into and report on,
 - (a) the conduct or the performance of duties of a municipal chief of police or other municipal police officer, an auxiliary member of a municipal police force, a special constable, a by-law enforcement officer or a member of a board;
 - (b) the administration of a municipal police force;
 - (c) the manner in which police services are provided for a municipality;
 - (d) the police needs of a municipality.
- Cost of investigation (2) The cost of an investigation conducted at a council's request shall be paid by the municipality, unless the Solicitor General directs otherwise.
- Report (3) The Commission shall communicate its report of an investigation under subsection (1) to the Solicitor General at his or her request and to the board or council at its request, and may communicate the report to any other person as the Commission considers advisable.

(4) If the Commission concludes after a hearing that a member of a police force is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that the member be,

Penalties,
member of
police force

- (a) demoted as the Commission specifies, permanently or for a specified period;
- (b) dismissed; or
- (c) retired, if the member is entitled to retire.

(5) If the Commission concludes, after a hearing, that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member.

Penalties,
member of
board

(6) A member of a police force or of a board on whom a penalty is imposed under subsection (4) or (5) may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.

Appeal to
Divisional
Court

(7) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Grounds for
appeal

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(9) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Conse-
quences of
removal and
suspension

26.—(1) The Lieutenant Governor in Council may direct the Commission to inquire into and report to the Lieutenant Governor in Council on any matter relating to crime or law enforcement, and shall define the scope of the inquiry in the direction.

Inquiries

(2) Section 6 (stated case) of the *Public Inquiries Act* applies to inquiries conducted under this section.

Application
of R.S.O.
1980, c. 411,
s. 6

(3) Witnesses at inquiries conducted under this section have the right to retain and instruct counsel and all the other rights of witnesses in civil courts.

Rights of
witnesses

Offence

(4) Any person who knowingly discloses, without the Commission's consent, evidence taken in private at an inquiry conducted under this section or information likely to identify the witness is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

PART III

MUNICIPAL POLICE SERVICES BOARDS

Police services boards

27.—(1) There shall be a police services board for every municipality that maintains a police force.

Boards of commissioners of police continued as police services boards

(2) Every board of commissioners of police constituted or continued under the *Police Act* or any other Act and in existence on the day this Act comes into force is continued as a police services board.

R.S.O. 1980, c. 381

Name

(3) A board shall be known as “(insert name of municipality) Police Services Board”.

Three-member boards in smaller municipalities
R.S.O. 1980, c. 31

(4) The board of a municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* does not exceed 25,000 shall consist of,

- (a) the head of the municipal council, or another council member appointed by resolution of the council; and
- (b) two persons appointed by the Lieutenant Governor in Council.

Five-member boards in larger municipalities

(5) The board of a municipality, other than a regional or metropolitan municipality, whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 25,000 shall consist of,

- (a) the head of the municipal council, or another council member appointed by resolution of the council; and
- (b) one person appointed by resolution of the council; and
- (c) three persons appointed by the Lieutenant Governor in Council.

(6) The council of a municipality to which subsection (4) would otherwise apply may determine, by resolution, that the composition of its board shall be as described in subsection (5).

Smaller municipalities, option to expand board

(7) A resolution passed under clause 8 (2a) (b) of the *Police Act* before the day this Act comes into force shall be deemed to have been passed under subsection (6).

Transition
R.S.O. 1980,
c. 381

(8) The board of a regional or metropolitan municipality shall consist of,

Regional and metropolitan municipalities

(a) two council members appointed by resolution of the municipal council; and

(b) three persons appointed by the Lieutenant Governor in Council.

(9) The council of a regional or metropolitan municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

Seven-member boards in certain circumstances
R.S.O. 1980,
c. 31

(a) the head of the council, or another council member appointed by resolution of the council;

(b) two council members appointed by resolution of the council; and

(c) four persons appointed by the Lieutenant Governor in Council.

(10) If the position of a member appointed by the Lieutenant Governor in Council becomes vacant, the Solicitor General may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment.

Vacancies

(11) If the position of a member who is appointed by a municipal council or holds office by virtue of being the head of a municipal council becomes vacant, the board shall notify the council, which shall forthwith appoint a replacement.

Idem

(12) The council shall pay the members of the board who are appointed by the Lieutenant Governor in Council or Solicitor General remuneration that is at least equal to the prescribed amount.

Remuneration

Judges and justices of the peace ineligible

(13) No judge or justice of the peace shall be appointed as a member of a board.

Transition, judges and justices of the peace

(14) A judge or justice of the peace who is a member of a board on the day this Act comes into force may continue to be a member until the third anniversary of that day.

Transition, municipalities without boards

(15) In the case of a municipality that is required by subsection (1) to have a police services board and that does not, on the day this Act comes into force, have a board of commissioners of police, the following rules apply:

1. Subsection (1) does not apply to the municipality until the first anniversary of the coming into force of this Act.
2. Until subsection (1) applies to the municipality, the council shall perform the duties and may exercise the powers that this Act imposes and confers on police services boards.



Election of chair

28. The members of a board shall elect a chair at the board's first meeting in each year. ▲

Protection from personal liability

29.—(1) No action or other proceeding for damages shall be instituted against a member of a board for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Board's liability

(2) Subsection (1) does not relieve a board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee.

Board may contract, sue and be sued

30.—(1) A board may contract, sue and be sued in its own name.

Members not liable for board's contracts

(2) The members of a board are not personally liable for the board's contracts.

Responsibilities of boards

31.—(1) A board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall,

- (a) appoint the members of the municipal police force;
- (b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;

- (c) establish policies for the effective management of the police force;
- (d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;
- (e) direct the chief of police and monitor his or her performance;
- (f) establish an employment equity plan in accordance with section 48 and the regulations, review its implementation by the chief of police and receive regular reports from him or her on that subject;
- (g) receive regular reports from the chief of police on disclosures and decisions made under section 48a (secondary activities);
- (h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;
- (i) establish guidelines for the administration by the chief of police of the public complaints system under Part VI;
- (j) review the administration by the chief of police of the public complaints system and receive regular reports from him or her on that subject.

(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.

Members of police force under board's jurisdiction

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

Restriction

(3a) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

Idem

(4) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.

Training of board members

(5) The board may, by by-law, make rules for the effective management of the police force.

Rules re management of police force

Guidelines re
secondary
activities

(6) The board may establish guidelines consistent with section 48a for police officers' disclosure of secondary activities to the chief of police and for the decisions of the chief of police under subsection 48a (4).

Oath of
office

32. Before entering on the duties of office, a member of a board shall take an oath or affirmation of office in the prescribed form.

Agreement
to constitute
joint board
R.S.O. 1980,
c. 31

33.—(1) Despite any special Act, two or more municipalities whose combined population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 5,000 may enter into an agreement to constitute a joint board.

Idem

(2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the consent of their boards.

Composition
of board

(3) The joint board shall consist of,

- (a) the heads of the councils of the participating municipalities; and
- (b) other members appointed by the Lieutenant Governor in Council.

Application
of Act to
joint boards

(4) The provisions of this Act that apply to boards also apply with necessary modifications to joint boards.

Delegation

34. A board may delegate to two or more of its members any authority conferred on it by this Act, except,

- (a) the authority to hear the appeals of police officers found guilty of misconduct under Part V, which must be exercised by a quorum; and
- (b) the authority to bargain under Part VIII, which the board may delegate to one or more members.

Meetings

35.—(1) The board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Proceedings
open to the
public

(3) Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

(4) The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that, Exception

- (a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or
- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. ▲

36. A document purporting to be a by-law of the board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing. Admissibility of documents

37. A board has the same power to summon witnesses, enforce their attendance, examine them on oath and compel them to give evidence, in connection with the board's functions, as a court of law has in civil cases. Power to summon witnesses

38. A municipal police force shall consist of a chief of police and such other police officers and other employees as the board considers adequate, and shall be provided with the equipment and facilities that the board considers adequate. Municipal police force

39.—(1) Each year, the board shall submit to the municipal council or to each council responsible for maintaining the police force, as the case may be, its estimates for the year. Estimates

(1a) The estimates shall be submitted at least one month before the beginning of the fiscal year of the municipality or municipalities, as the case may be; if they are to be submitted to municipalities whose fiscal years begin on different dates, they shall be submitted to all the councils at least one month before the earliest date. Time ▲

(2) The estimates shall show, separately, the amounts that will be required, Idem

- (a) to maintain the police force and provide it with equipment and facilities; and

- (b) to pay the expenses of the board's operation other than the remuneration of board members.

Commission hearing in case of disagreement

(3) If the council does not approve the board's estimates or disagrees with the board on the number of members of the police force that is adequate or the equipment and facilities that are adequate, the Commission shall determine the question after a hearing.

Reduction or abolition of police force

40.—(1) A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act.

Criteria for Commission's consent

(2) The Commission shall consent to the termination of the employment of a member of the police force under subsection (1) only if the member and the board have made an agreement dealing with severance pay or agreed to submit the matter to arbitration.

Arbitration

(3) Section 123 applies to the arbitration with necessary modifications.

PART IV

POLICE OFFICERS AND OTHER POLICE STAFF

CHIEF OF POLICE

Duties of chief of police

41.—(1) The duties of a chief of police include,

- (a) in the case of a municipal police force, administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the board under subsection 31 (1);
- (b) ensuring that members of the police force carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community, and that discipline is maintained in the police force;
- (c) ensuring that the police force provides community-oriented police services;
- (d) administering discipline in accordance with Part V;
- (e) administering the public complaints system under Part VI;

- (f) implementing the employment equity plan established under section 48 and the regulations;
- (g) in the case of a municipal police force, reporting to the board at regular intervals on public complaints and on the implementation of the employment equity plan.

(2) The chief of police reports to the board and shall obey its lawful orders and directions.

Chief of police reports to board

POLICE OFFICERS

42.—(1) The duties of a police officer include,

Duties of police officer

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;
- (h) in the case of a municipal police force and in the case of an agreement under section 10 (agreement for provision of police services by O.P.P.), enforcing municipal by-laws;
- (i) completing the prescribed training.

(2) A police officer has authority to act as such throughout Ontario.

Power to act throughout Ontario

(3) A police officer has the powers and duties ascribed to a constable at common law.

Powers and duties of common law constable

43.—(1) No person shall be appointed as a police officer unless he or she,

Criteria for hiring

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least eighteen years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (d) is of good moral character and habits; and
- (e) has successfully completed at least four years of secondary school education or its equivalent.

Idem

(2) A candidate for appointment as a police officer shall provide any relevant information or material that is lawfully requested in connection with his or her application.

Probationary period

44.—(1) A municipal police officer's probationary period begins on the day he or she is appointed and ends on the later of,

- (a) the first anniversary of the day of appointment;
- (b) the first anniversary of the day the police officer completes an initial period of training at the Ontario Police College.

Time for completing initial training

(1a) The police officer shall complete the initial period of training within six months of the day of appointment.

Termination of employment during probationary period

(2) A board may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the board may determine.

Only one probationary period

(3) Subsections (1), (1a) and (2) do not apply to a police officer who has completed a probationary period with another municipal police force.

Oaths of office and secrecy

45. A person appointed to be a police officer shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

Political activity

45a. No municipal police officer shall engage in political activity, except as the regulations permit.

47.—(1) Subject to subsection (2), if a municipal police officer becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the board shall accommodate his or her needs in accordance with the *Human Rights Code, 1981*.

Accommodation of disabled police officer's needs

1981, c. 53

(2) If the police officer's needs cannot be accommodated without undue hardship on the board, it may discharge the police officer, or retire the police officer if entitled to retire, after holding a hearing and receiving the evidence of two legally qualified medical practitioners respecting the police officer's incapacity.

Undue hardship

(3) Subject to subsection (4), if a member of the Ontario Provincial Police becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the Commissioner shall accommodate the member's needs in accordance with the *Human Rights Code, 1981*.

Idem.
O.P.P.

(4) If the member's needs cannot be accommodated without undue hardship on the Crown in right of Ontario, he or she may be discharged, or retired if entitled to retire, after the Commissioner has held a hearing and received the evidence of two legally qualified medical practitioners respecting the member's incapacity.

Idem

(5) A member of a police force who is discharged or retired under subsection (2) or (4) may appeal to the Commission by serving a written notice on the Commission and on the board or the Commissioner, as the case may be, within thirty days of receiving notice of the decision.

Appeal

(6) The Commission may confirm, alter or revoke the decision or may require the board or Commissioner, as the case may be, to rehear the matter.

Powers of Commission

(7) The Commission shall promptly give written notice of its decision, with reasons, to the appellant and to the board or Commissioner, as the case may be.

Decision

(8) No member of the Commission shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the consent of the appellant, no decision of the Commission shall be given unless all members who were present throughout the hearing participate in the decision.

Participation of members of Commission

MEMBERS OF POLICE FORCES

Employment
equity plans

48.—(1) Every police force shall have an employment equity plan prepared in accordance with this section and the regulations.

Contents of
plan

(2) An employment equity plan shall provide for,

- (a) the elimination of systemic barriers to the recruitment and promotion of persons who are members of prescribed groups;
- (b) the implementation of positive measures with respect to the recruitment and promotion of those persons, so as to make the police force more representative of the community or communities it serves; and
- (c) specific goals and timetables with respect to the elimination of systemic barriers, the implementation of positive measures and the composition of the police force.

Board to
prepare plan
for municipal
police force

(3) In the case of a municipal police force, the board shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Commis-
sioner to
prepare plan
for O.P.P.

(4) In the case of the Ontario Provincial Police, the Commissioner shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Solicitor
General

(5) Before approving the employment equity plan, the Solicitor General may require that changes be made to it.

Restrictions
on secondary
activities

48a.—(1) A member of a police force shall not engage in any activity,

- (a) that interferes with or influences adversely the performance of his or her duties as a member of a police force, or is likely to do so;
- (b) that places him or her in a position of conflict of interest, or is likely to do so;
- (c) that would otherwise constitute full-time employment for another person; or
- (d) in which he or she has an advantage derived from employment as a member of a police force.

(2) Clause (1) (d) does not prohibit a member of a police force from performing, in a private capacity, services that have been arranged through the police force.

Exception,
paid duty

(3) A member of a police force who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police.

Disclosure to
chief of
police

(4) The chief of police shall decide whether the member is permitted to engage in the activity and the member shall comply with that decision.

Decision of
chief of
police

50.—(1) The board or the Crown in right of Ontario, as the case may be, is liable in respect of torts committed by members of the police force in the course of their employment.

Liability for
torts

(2) The board may, in accordance with the guidelines established under clause 31 (1) (h), indemnify a member of the police force for reasonable legal costs incurred,

Indemnifica-
tion of
member of
municipal
police force

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of a proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

(3) The council is responsible for the liabilities incurred by the board under subsections (1) and (2).

Council
responsible
for board's
liabilities

(4) The Treasurer of Ontario may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

Indemnifi-
cation of
member of
O.P.P.

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of a proceeding in which the member's manner of execution of the duties of his or her

employment was an issue, if the member is found to have acted in good faith.

Police cadets **51.**—(1) With the board's approval, a municipal chief of police may appoint persons as police cadets to undergo training.

Idem (2) A police cadet is a member of the municipal police force.

Auxiliary members of municipal police force **52.**—(1) With the Commission's approval, a board may appoint auxiliary members of the police force.

Notice of suspension or termination (2) If the board suspends or terminates the appointment of an auxiliary member of the police force, it shall promptly give the Commission written notice of the suspension or termination.

Auxiliary members of O.P.P. (3) The Commissioner may appoint auxiliary members of the Ontario Provincial Police.

Authority of auxiliary members of police force (4) An auxiliary member of a police force has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the chief of police.

Restriction (4a) The chief of police may authorize an auxiliary member of the police force to perform police duties only in special circumstances, including an emergency, that the police officers of the police force are not sufficiently numerous to deal with.

Oaths of office and secrecy (5) A person appointed to be an auxiliary member of a police force shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

SPECIAL CONSTABLES

Special constables appointed by board **53.**—(1) With the Commission's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient.

Special constables appointed by Commissioner (2) With the Commission's approval, the Commissioner may appoint a special constable to act for the period, area and purpose that the Commissioner considers expedient.

Powers of police officer (3) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment.

- (3a) A special constable shall not be employed by a police force to perform, on a full-time and permanent basis, all the usual duties of a police officer.
- (4) The power to appoint a special constable includes the power to suspend or terminate the appointment, but if a board or the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.
- (5) The Commission also has power to suspend or terminate the appointment of a special constable.
- (6) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the board, Commissioner or Commission, as the case may be, may determine.
- (7) A person appointed to be a special constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

FIRST NATIONS CONSTABLES

- 54.—(1)** With the Commission's approval and with the approval of the police governing authority or band council of a reserve as defined in the *Indian Act* (Canada), the Commissioner may appoint a First Nations Constable to perform specified duties in connection with the reserve.
- (2) The appointment of a First Nations Constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment.
- (3) The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment, but if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.
- (4) The Commission also has power to suspend or terminate the appointment of a First Nations Constable.
- (5) Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commission, as the case may be, may determine.

Oaths of office and secrecy

(6) A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

EMERGENCIES

Emergencies

55.—(1) In an emergency, the Solicitor General may make an agreement with the Crown in right of Canada or of another province or with any of its agencies for the provision of police services.

Authority to act as police officers

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates.

Application of R.S.O. 1980, c. 539

(3) For the purpose of the *Workers' Compensation Act*, the relationship between a member of a police force and the body that employs him or her continues as if an agreement had not been made under this section.

Expense of calling out Canadian Forces

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses.

Resignation during emergency prohibited
R.S.C. 1985, c. N-5

(5) Subject to sections 33 and 34 of the *National Defence Act* (Canada), while an agreement made under this section is in force, no member of a police force that has jurisdiction in the area to which the agreement relates shall resign without the consent of the chief of police.

PART V

DISCIPLINARY PROCEEDINGS

Misconduct

56. A police officer is guilty of misconduct if he or she,

- (a) commits an offence described in a prescribed code of conduct;
- (b) contravenes section 45a (political activity);
- (c) engages in an activity that contravenes subsection 48a (1) (secondary activities) without the permission of his or her chief of police, being aware that the activity may contravene that subsection;
- (d) contravenes subsection 55 (5) (resignation during emergency);

- (e) contravenes section 57 (inducing misconduct, withholding services);
- (f) contravenes subsection 95 (4) (photography at hearing);
- (g) contravenes subsection 99 (6) (obstructing Police Complaints Commissioner);
- (h) contravenes subsection 107 (1) (confidentiality);
- (i) contravenes section 116 (trade union membership);
- (j) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 130;
- (k) deals with money in a manner that is not consistent with section 131;
- (l) deals with a firearm in a manner that is not consistent with section 132;
- (m) contravenes a regulation made under paragraph 15 (equipment), 16 (use of force), 17 (standards of dress, police uniforms) 20 (police pursuits) or 21 (records) of subsection 133 (1).

57.—(1) No person, including a member of a police force, shall, Inducing misconduct

- (a) induce or attempt to induce a member of a police force to withhold his or her services; or
- (b) induce or attempt to induce a police officer to commit misconduct.

(2) No member of a police force shall withhold his or her services. Withholding services

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Offence

(4) No prosecution shall be instituted under this section without the consent of the Solicitor General. Consent of Solicitor General

58.—(1) Any apparent or alleged misconduct by a police officer shall be investigated by his or her chief of police. Chief to investigate misconduct

Idem

(2) The chief of police may investigate the matter by means of a hearing under section 60 or may investigate it without holding a hearing.

Effect of complaint

(3) When a complaint is made under Part VI with respect to apparent or alleged misconduct by a police officer, the following rules apply:

1. The complaint shall be dealt with in accordance with Part VI, and recourse shall be had to this Part only as Part VI permits.
2. Any investigation of the matter under this Part, including a hearing under section 60, is suspended as soon as the chief of police becomes aware that a complaint has been made.

Procedure if no hearing held

59.—(1) If the chief of police investigates apparent or alleged misconduct without holding a hearing and concludes that the police officer is guilty of misconduct, the following rules apply:

1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.
2. The chief of police may then admonish the police officer and may cause particulars of the matter, of the action taken and of the police officer's reply to be recorded in his or her employment record.
3. If the police officer refuses to accept the admonition, the chief of police shall not cause particulars to be recorded without first holding a hearing.

Expungement

(2) Particulars entered in the police officer's employment record under paragraph 2 of subsection (1) shall be expunged from the record two years after being entered if during that time no other entries concerning misconduct have been made in the record under this Part or Part VI.

Agreement

(3) Nothing in this section affects agreements between boards and police officers or associations that permit other penalties than admonition to be administered, if the police officer in question consents, without a hearing under section 60.

60.—(1) A chief of police may hold a hearing to determine whether a police officer belonging to his or her police force is guilty of misconduct. Hearing

(2) The chief of police shall designate to be prosecutor at the hearing, Prosecutor

(a) a police officer of the rank of sergeant or higher;

(b) if there is none of that rank, a police officer of a rank equal to or higher than that of the police officer who is the subject of the hearing; or

(c) a legal counsel. ▲

(3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario. Recording of evidence

(4) Before the hearing, the police officer shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence. Examination of evidence

(5) If the hearing is being conducted as a result of a complaint made under Part VI, the complainant shall likewise be given an opportunity to examine evidence and reports before the hearing. Idem

(6) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing. Police officer not required to give evidence
R.S.O. 1980,
c. 484

(7) In the case of a hearing that is being conducted as a result of a complaint made under Part VI, no statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement. Limited admissibility of certain statements

(8) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them. Release of exhibits

(9) If the police officer is charged with an offence under a law of Canada or of a province, the hearing shall continue unless the chief of police, after consulting with the Crown Stay

Attorney, is of the opinion that it should be stayed until the conclusion of the court proceedings.

Six-month
limitation
period

(10) If six months have elapsed since the facts on which an allegation of misconduct is based first came to the attention of the chief of police, no notice of hearing shall be served without leave of the board.

Penalties

61.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may,

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days or 240 hours, as the case may be;
- (e) direct that the police officer forfeit not more than five days' or forty hours' pay, as the case may be; or
- (f) direct that the police officer forfeit not more than twenty days or 160 hours off, as the case may be.

Calculation

(1a) Penalties imposed under clauses (1) (d), (e) and (f) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day. ▲

Idem

(2) Instead of or in addition to a penalty described in subsection (1), the chief of police may reprimand the police officer.

Dismissal and
demotion

(3) The chief of police shall not impose the penalties of dismissal or demotion unless the notice of hearing or a subsequent notice served on the police officer indicated that they might be imposed if the misconduct were proved on clear and convincing evidence.

Notice of
decision

(4) The chief of police shall promptly give written notice of the decision, with reasons, to the police officer and, in the case of a municipal police force, to the board.

Idem

(5) If the hearing was conducted as a result of a complaint made under Part VI, the chief of police shall also give notice

of the decision, with reasons, to the complainant and to the Police Complaints Commissioner.

(6) Unless misconduct is proved on clear and convincing evidence, no reference to the allegations or the hearing shall be placed in the police officer's employment record and the matter shall not be taken into account for any purpose related to his or her employment.

Police officer's employment record

62.—(1) A board may hold a hearing to determine whether the chief of police is guilty of misconduct, and this Part applies with necessary modifications.

Misconduct by municipal chief of police

(2) The chief of police may, by serving a notice to that effect on the board and the Commission, require that the Commission hold the hearing instead of the board.

Commission hearing

63.—(1) A municipal police officer on whom a penalty is imposed under section 61 may appeal to the board by serving a notice of appeal on the board and the chief of police within fifteen days of receiving notice of the decision.

Appeal to board

(2) The board shall hear the appeal on the record, but may receive new or additional evidence as it considers just.

Hearing

(3) The board may confirm, alter or revoke the decision or may require the chief of police to rehear the matter.

Powers of board

(4) The board shall promptly give written notice of its decision, with reasons, to the chief of police and the police officer.

Board's decision

(5) No member of the board shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the police officer's consent, no decision of the board shall be given unless all members who were present throughout the hearing participate in the decision.

Participation of members

(5a) The members of the board who participate in the decision shall not communicate directly or indirectly in relation to the subject-matter of the appeal with any person or person's counsel or representative, unless the police officer and the chief of police receive notice and have an opportunity to participate.

Members not to communicate in relation to subject-matter of appeal

(5b) However, the board may seek legal advice from an adviser independent of the police officer and the chief of police, and in that case the nature of the advice shall be communicated to them so that they may make submissions as to the law.

Exception

Further
appeal to
Commission

(6) The police officer may appeal to the Commission from the board's decision by serving a notice of appeal on the Commission, the board and the chief of police within thirty days of receiving notice of the decision.

O.P.P.,
appeal to
Commission
from
Commissioner's
decision

64. A member of the Ontario Provincial Police on whom a penalty is imposed under section 61 may appeal to the Commission by serving a written notice on the Commission and the Commissioner within thirty days of receiving notice of the decision.

Exception in
case of
public
complaint

65. If the hearing was conducted as a result of a complaint made under Part VI, sections 63 and 64 do not apply and the police officer may only appeal in accordance with that Part.

Appeals to
Commission

66. Subsections 63 (2) to (5b) apply to appeals heard by the Commission as if references to the board were references to the Commission and, in the case of an appeal from a board's decision, as if references to the chief of police were references to the board.

Extension of
time for
appeals

67. The board or Commission may grant an extension of the time provided for giving it a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Delegation

68. A chief of police may authorize any member of the police force to exercise any power or perform any duty of the chief of police referred to in this Part, subject to the following rules:

1. A hearing under section 60 shall be conducted by a police officer of the rank of inspector or higher.
2. A police officer from another police force who meets the requirements of paragraph 1 may conduct the hearing, with the approval of his or her chief of police.
3. The measures referred to in subsection 59 (1) (procedure if no hearing is held) shall be taken by a police officer of the rank of inspector or higher.

Notice

69.—(1) A notice required to be given under this Part is sufficiently given if delivered personally or sent by prepaid registered mail addressed to the person.

Notice by
mail

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, act-

ing in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date.

70.—(1) If a police officer is suspected of or charged with an offence under a law of Canada or of a province or is suspected of misconduct, the chief of police may suspend him or her from duty with pay. Suspension

(2) The chief of police may revoke the suspension and later reimpose it, repeatedly if necessary, as he or she considers appropriate. Revocation and reimposition of suspension

(3) Unless the chief of police revokes the suspension, it shall continue until the final disposition of the proceeding in which the police officer's conduct is at issue. Duration of suspension

(4) While suspended, the police officer shall not exercise any of the powers vested in him or her as a police officer or wear or use clothing or equipment that was issued to him or her in that capacity. Conditions of suspension

(5) If a police officer is convicted of an offence and sentenced to a term of imprisonment, the chief of police may suspend him or her without pay, even if the conviction or sentence is under appeal. Suspension without pay

71.—(1) A police officer who is suspended under section 70 or under clause 61 (1) (d) or 96 (1) (d) (penalties) may engage in other employment during the period of suspension, and sections 46 (secondary activities) and 116 (trade union membership prohibited) do not apply. Other employment during period of suspension

(2) If the police officer is suspended with pay, the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period. Earnings from other employment

PART VI

PUBLIC COMPLAINTS

72.—(1) In this Part, Definitions

“bureau” means the public complaints investigation bureau of a police force;

“Commissioner” means the Police Complaints Commissioner appointed under section 98.

- Police officer (2) In this Part, unless the context indicates otherwise, a reference to a police officer is a reference to the police officer who is the subject of a complaint.
- Attorney General **73.** This Part shall be administered by the Attorney General.
- Application of Part **74.** Complaints by members of the public about the conduct of police officers shall be dealt with in accordance with this Part.
- Bureau **75.—(1)** Every chief of police shall establish and maintain a public complaints investigation bureau.
- Staff (2) The chief of police shall ensure that the bureau is supplied with sufficient staff to perform its duties effectively.
- Small police forces (3) If the police force has fewer than twenty police officers, the bureau of another police force may, under an agreement made in accordance with section 7 (municipal agreements for sharing police services) or 10 (municipal agreements for provision of police services by O.P.P.), act as the first-named police force's bureau as well; in that case, subsections (1) and (2) do not apply.

INITIAL HANDLING OF COMPLAINT

- Complaint by member of public **76.—(1)** A member of the public may make a complaint about the conduct of a police officer, orally or in writing,
- (a) at the bureau of the police force to which the complaint relates, or at a station or detachment of that police force; or
 - (b) at an office of the Commissioner; or
 - (c) at any bureau, police station or detachment.
- Recording of complaint (2) The person who receives the complaint shall record it on a form provided by the Commissioner and shall give the person who makes the complaint a copy of the complaint as recorded.
- Information (3) The person who makes the complaint shall also be given a statement, in a form provided by the Commissioner, that sets out the procedures followed in dealing with a complaint and describes the rights of a complainant.
- Preservation of evidence, preliminary investigation (4) The person on duty who is in charge of a place when a complaint is received shall,

- (a) take all reasonable steps to ensure that evidence that might otherwise be lost is secured immediately;
 - (b) if he or she considers it appropriate, ensure that a preliminary investigation is conducted immediately; and
 - (c) ensure that a report on the evidence and on the preliminary investigation, if any, is forthwith prepared and attached to the complaint. ▲
- (5) The person who records the complaint shall forthwith send copies of it, Copies of complaint

- (a) to the bureau, the chief of police and the Commissioner, in the case of a complaint made at a station or detachment of the police force to which it relates;
- (b) to the chief of police and the Commissioner, in the case of a complaint made at the bureau of the police force to which it relates;
- (c) to the bureau and the chief of police of the police force to which it relates, in the case of a complaint made at an office of the Commissioner;
- (d) to the Commissioner, in the case of a complaint made at a bureau, station or detachment of a different police force than the one to which it relates.

(6) If a complaint was made at a bureau, station or detachment of a different police force than the one to which it relates, the Commissioner shall forthwith send copies of the complaint and of any report prepared under subsection (4) to the appropriate bureau. Complaint made to another police force

(7) A complaint that is made more than six months after the incident to which it relates shall be further dealt with under this Part only if the Commissioner so directs. Complaint made more than six months after incident

77.—(1) In exceptional circumstances, the Attorney General may direct the Commissioner to make a complaint about the conduct of a police officer. Complaint by Commissioner

(2) The Commissioner shall cause the complaint to be recorded and shall send copies to the bureau and the chief of police of the force to which it relates. Recording of complaint, copies

- Complainant (3) The Commissioner is the complainant in the case of a complaint made under this section.
- Non-application of certain provisions (4) Subsection 76 (7) and sections 79 (notice to potential complainant), 80 (classification of complaint), 81 (reclassification), 82 (informal resolution) and 84 (decision by chief of police re no further action) do not apply to complaints made under this section.
- Notice to police officer **78.**—(1) When the bureau receives a complaint, the person in charge shall forthwith give the police officer notice of the substance of the complaint, unless in the person's opinion to do so might prejudice the investigation.
- Form (2) The notice shall be written on a form provided by the Commissioner.
- Notice to potential complainant **79.**—(1) If the complaint is made by a person who was not directly affected by the incident and did not observe it, the Commissioner shall, as soon as possible after receiving the complaint, attempt to find the person who was directly affected by the incident or who observed it and send him or her a notice.
- Idem (2) The notice shall indicate that a complaint has been made, that the person is entitled to be the complainant in the matter and that the complaint will not be dealt with further unless he or she is the complainant.
- Idem (3) The notice shall also include information about the procedures followed in dealing with a complaint and the rights of a complainant.
- No further action (4) The complaint shall not be further dealt with under this Part if,
- (a) no person who was directly affected by the incident or who observed it can be found; or
 - (b) the person to whom the Commissioner sends the notice does not, within thirty days of the date on which it is sent, file with the Commissioner a request to be the complainant in the matter.
- Disciplinary proceeding (5) However, if a disciplinary proceeding is commenced against the police officer in respect of the complaint, the chief of police shall notify the Commissioner of the proceeding and of its result, and the Commissioner shall then notify the person who made the complaint.

(6) If the person to whom the Commissioner sends the notice files a request to be the complainant in the matter after the thirty-day period referred to in subsection (4), the Commissioner may cause the matter to be reopened despite the late filing if he or she considers it advisable to do so.

Reopening of matter

80.—(1) When the bureau receives a complaint, the person in charge shall consider whether it relates to possible misconduct under section 56, to other matters or to both.

Classification of complaint

(2) If the person in charge is of the opinion that all or part of the complaint relates only to other matters than possible misconduct, he or she may, with the Commissioner's consent, classify the complaint or part as an inquiry.

Idem

(3) When all or part of a complaint has been classified as an inquiry, the person in charge shall forthwith notify the complainant and the police officer of the fact and may cause the inquiry to be investigated.

Notice and investigation

(4) Not more than sixty days after the bureau receives the original complaint, the person in charge shall send the complainant a written response to the inquiry and shall also send the Commissioner a copy of the response, together with a summary of the results of any investigation.

Response to complainant

(5) A complaint or part of a complaint that is classified as an inquiry and not reclassified as a complaint and that is the subject of a response under this section need not be dealt with further under this Part.

Effect

81.—(1) During the course of the investigation of an inquiry, if the person in charge concludes that all or part of it relates to possible misconduct, he or she may reclassify the inquiry or part as a complaint.

Reclassification

(2) After receiving a summary of the results of the investigation of an inquiry, the Commissioner may direct the person in charge to reclassify all or part of it as a complaint.

Idem

(3) The person in charge shall forthwith notify the complainant and the police officer of the reclassification, and shall also notify the Commissioner in the case of a reclassification under subsection (1).

Notice

(4) An inquiry or part of an inquiry that is reclassified as a complaint shall be dealt with as such under this Part.

Effect

INFORMAL RESOLUTION, WITHDRAWAL

Informal resolution by person in charge of bureau

82.—(1) If the complainant and the police officer consent, the complaint may be resolved informally by the person in charge of the bureau, before the chief of police gives notice of a decision under section 89, or by the Commissioner after that time.

Board's consent

(2) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, its consent is also required for an informal resolution.

Record

(3) When a complaint is resolved informally, the resolution shall be recorded on a form provided by the Commissioner and signed by the complainant and police officer.

Copies

(4) Copies of the record shall be provided to the complainant and the police officer, and to the Commissioner if the complaint was resolved by the person in charge of the bureau.

Commissioner's decision that complaint to continue

(5) If the Commissioner is of the opinion that the informal resolution is the result of a misunderstanding or a threat or other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the informal resolution.

Notice

(6) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

Withdrawal of complaint

83.—(1) The complainant may withdraw the complaint by giving a notice of withdrawal to the person in charge of the bureau, before the chief of police gives notice of a decision under section 89, or to the Commissioner after that time.

Idem. complaint made by Commissioner

(2) If the complaint was made under section 77, the Commissioner may withdraw it by giving a notice of withdrawal to the chief of police and a copy to the police officer; subsection (3) applies to the withdrawal but subsections (4) to (7) do not.

Board's consent

(3) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, it shall not be withdrawn without the board's consent.

Copies

(4) A copy of the notice of withdrawal shall be provided to the police officer, and to the Commissioner if the person in charge of the bureau received the notice.

Form

(5) The notice of withdrawal shall be written on a form provided by the Commissioner.

(6) If the Commissioner is of the opinion that the withdrawal is the result of a misunderstanding or a threat or other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the withdrawal.

Commissioner's decision that complaint to continue

(7) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

Notice

POWERS OF CHIEF OF POLICE

84.—(1) At any time before making a decision under section 89, the chief of police may decide that the complaint or part of it shall not be further dealt with under this Part, if he or she is of the opinion that the complaint or part is frivolous or vexatious or was made in bad faith.

Decision re no further action

(2) The chief of police shall give the Commissioner, the complainant and the police officer notice of the decision.

Notice

85.—(1) The chief of police may commence or continue a disciplinary proceeding against a police officer under Part V even if,

Power to commence or continue disciplinary proceeding

(a) the complaint is withdrawn or is resolved informally; or

(b) the complaint is not to be further dealt with under this Part because of subsection 76 (7) (complaint filed more than six months after incident) or section 79 (complaint made by person not directly affected), or because of a decision by the chief of police under section 84.

(2) The chief of police shall give the Commissioner and the complainant notice of a decision to commence or continue a disciplinary proceeding in the circumstances described in subsection (1), and shall also give them notice of the results of the proceeding.

Notice to Commissioner and complainant

INVESTIGATION OF COMPLAINT

86.—(1) The person in charge of the bureau shall cause an investigation to be conducted into the complaint in accordance with the prescribed procedures.

Investigation

(2) During the course of the investigation, the person in charge shall send the Commissioner, the complainant and the

Interim reports

police officer interim reports on the investigation at monthly intervals.

Idem (3) The first interim report shall be sent not more than thirty days after the bureau receives the complaint.

Exception (4) If there are no new matters to report, the person in charge may send the Commissioner, the complainant and the police officer a notice to that effect instead of an interim report.

Idem (5) The person in charge may withhold an interim report from the complainant or the police officer if, in his or her opinion, it is desirable to do so in order to avoid prejudicing the investigation, but in that case shall forthwith notify the Commissioner of the decision and the reasons for it.

Final report (6) When the investigation has been completed, the person in charge shall cause a final report to be prepared and shall send copies of it to the Commissioner, the chief of police, the complainant and the police officer.

Contents (7) The final report shall contain,

- (a) a summary of the complaint, including a description of the police officer's alleged misconduct;
- (b) a summary of the investigation, including summaries of the information obtained from the complainant, the police officer and any witnesses; and
- (c) a description and analysis of any physical evidence obtained.

Further investigation (8) After receiving a final report, the Commissioner may require the chief of police to have the complaint investigated further.

Idem (9) A summary of the results of any further investigation shall be sent to the persons who received the final report.

Forms (10) The interim reports and final report shall be written on forms provided by the Commissioner.

Investigation by Commissioner **87.—**(1) The Commissioner may conduct the investigation into the complaint, instead of the bureau,

- (a) for any reason, after receiving the first interim report or after the thirty-day period referred to in subsection 86 (3) has expired;

(aa) if the complainant has commenced a court proceeding against the police officer, the police force or the chief of police, the police services board or the municipality (in the case of a municipal police force) or the Crown in right of Ontario (in the case of the Ontario Provincial Police) in connection with the incident to which the complaint relates; ▲

(b) if the Commissioner has reasonable grounds to believe that undue delay or other unusual circumstances have affected the bureau's investigation or the preparation of its final report; or

(c) if the chief of police requests that the Commissioner conduct the investigation.

(2) The chief of police, if he or she becomes aware that the complainant has commenced a court proceeding of the kind described in clause (1) (aa), shall forthwith notify the Commissioner of the fact. ▲

Duty of chief of police

(3) If the complaint concerns more than one police force, the Commissioner shall conduct the investigation.

Complaints concerning more than one police force

(4) When the Commissioner decides to conduct the investigation, he or she shall forthwith notify the chief of police, giving reasons in the case of a decision under clause (1) (a) or (b).

Notice

(5) When the Commissioner notifies the chief of police of a decision to conduct the investigation, the person in charge of the bureau shall forthwith end any investigation begun by the bureau and send to the Commissioner the evidence that has been gathered and the documents relating to the complaint.

Effect on bureau

(6) Section 86 applies to the Commissioner's investigation, with necessary modifications, except that the Commissioner shall send the first interim report not more than thirty days after giving notice of the decision to conduct the investigation.

Manner of conducting investigation

88.—(1) If the complaint was made under section 77, the Commissioner shall conduct the investigation in accordance with the prescribed procedures, and section 86 does not apply.

Investigation of complaint made by Commissioner

(2) The Commissioner shall send the police officer and the chief of police interim reports on the investigation at monthly intervals.

Interim reports

- Idem (3) The first interim report shall be sent not more than thirty days after the Commissioner makes the complaint.
- Exception (4) If there are no new matters to report, the Commissioner may send the police officer and the chief of police a notice to that effect instead of an interim report.
- Idem (5) The Commissioner may withhold an interim report from the police officer if, in his or her opinion, it is desirable to do so to avoid prejudicing the investigation, but in that case shall forthwith notify the chief of police of the decision and the reasons for it.
- Final report (6) When the investigation has been completed, the Commissioner shall cause a final report to be prepared and shall send copies of it to the chief of police and the police officer.
- Contents (7) The final report shall contain,
- (a) a summary of the complaint, including a description of the police officer's alleged misconduct;
 - (b) a summary of the investigation, including summaries of the information obtained from the police officer and any witnesses; and
 - (c) a description and analysis of any physical evidence obtained.

DECISION BY CHIEF OF POLICE

- Review of final report **89.**—(1) The chief of police shall review the final report of the investigation of a complaint and may order further investigation if he or she considers it advisable.
- Results of further investigation (2) A summary of the results of any further investigation shall be sent to the persons who received the final report, and to the Commissioner if he or she conducted the original investigation.
- Decision (3) After reviewing the final report and the results of any further investigation, the chief of police shall,
- (a) decide that no further action is necessary;
 - (b) admonish the police officer regarding the matter in accordance with subsection 59 (1);
 - (c) hold a disciplinary hearing under section 60;

(d) order that all or part of the complaint be the subject of a hearing by a board of inquiry; or

(e) cause an information to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.

(4) If the chief of police decides to hold a disciplinary hearing under section 60 or orders a hearing by a board of inquiry, he or she may at the same time cause an information to be laid against the police officer. Idem

(5) The chief of police shall give written notice of the decision to the Commissioner, the complainant and the police officer, with reasons in the case of a decision that no further action is necessary or a decision to admonish the police officer. Notice

(5a) If the chief of police orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 102 (9). Idem

(6) The chief of police shall give notice of the decision within six months of receiving the final report, unless the Commissioner grants an extension. Six-month time limit

(7) If the chief of police does not give notice of the decision within the six-month period and is not granted an extension, he or she shall be deemed to have decided that no further action is necessary. Deemed decision

REVIEW BY COMMISSIONER

90.—(1) The Commissioner shall review the decision of the chief of police, Review by Commissioner

(a) at the complainant's or police officer's request, in the case of a decision under section 89 to admonish the police officer;

(b) at the complainant's request, in the case of a decision under section 89 that no further action is necessary;

(c) at the complainant's request, in the case of a decision under section 84 that the complaint or part of it not be further dealt with under this Part.

Idem

(2) The Commissioner shall, at the complainant's request, review the decision made in a disciplinary hearing under section 60 arising out of a complaint.

Thirty-day limit

(3) The complainant or police officer may request a review by the Commissioner only within thirty days of receiving notice of the decision, unless the Commissioner grants an extension.

Complaint made by Commissioner

(4) In the case of a complaint made under section 77, the Commissioner may review,

- (a) a decision by the chief of police to admonish the police officer;
- (b) a decision by the chief of police that no further action is necessary;
- (c) the decision made in a disciplinary hearing under section 60 arising out of the complaint.

Commissioner's decision

(5) After conducting the review, the Commissioner may decide to take no further action, or may order a hearing by a board of inquiry if he or she believes it to be necessary in the public interest.

Notice

(6) The Commissioner shall forthwith give written notice of his or her decision, with reasons in the case of a decision to take no further action, to the chief of police, the complainant and the police officer.

Idem

(7) If the Commissioner orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 102 (9).

HEARING BY BOARD OF INQUIRY

Police officer's appeal to board

91.—(1) If a penalty is imposed on a police officer after a disciplinary hearing under section 60 that was conducted as a result of the complaint, he or she may appeal to a board of inquiry by serving a notice of appeal on the Commissioner, the chair of the panel and the chief of police within fifteen days of receiving notice of the decision.

Notice to complainant

(2) The Commissioner shall forthwith notify the complainant of the appeal.

Extension of time for appeal

(3) A member of the panel who was appointed on a recommendation made under subsection 102 (2) may grant an extension of the time provided for serving a notice of appeal,

before or after the expiry of the time, and may give directions in connection with the extension.

(4) The hearing of the police officer's appeal and any hearing ordered by the Commissioner under section 90 shall be combined.

Appeal to be combined with other hearing

92.—(1) A board of inquiry shall be constituted,

Constitution of board

- (a) when the chief of police orders under section 89 that a matter be heard by a board of inquiry;
- (b) when the Commissioner orders a hearing under section 90; and
- (c) when a police officer appeals under section 91.

(2) The chair of the panel shall assign the following members of the panel to the board of inquiry, choosing members from the area where the complaint arose if possible:

Assignment of members to board

1. As presiding officer, a member who was appointed on a recommendation made under subsection 102 (2).
2. A member who was appointed on a recommendation made under subsection 102 (3).
3. A member who was appointed on a recommendation made under subsection 102 (4).

(3) In the case of a complaint against a chief of police, the board of inquiry shall include, instead of a member of the panel who was appointed on a recommendation made under subsection 102 (3), a person, other than a police officer or a member of the Law Society of Upper Canada, appointed to the board of inquiry by the chair of the panel on the recommendation of the Ontario Association of Chiefs of Police.

Complaint against chief of police

93.—(1) The hearing before the board of inquiry shall be a new hearing, unless it follows a disciplinary hearing under section 60; in that case it shall be on the record, but the board may receive new or additional evidence as it considers just.

New hearing, exception

(2) If a board is constituted following a disciplinary hearing, the chief of police shall cause a record of the hearing to be prepared, at the Commissioner's expense if the Commissioner ordered the hearing before the board.

Record of disciplinary hearing

Idem (3) The record shall include a transcript and shall be accompanied by the documents, physical evidence and exhibits considered at the disciplinary hearing.

Parties **94.**—(1) The parties to a hearing are,

- (a) the complainant;
- (b) the police officer;
- (c) the Commissioner; and
- (d) the chief of police, in the case of an appeal by the police officer.

Idem (2) The board of inquiry may add parties at any stage of the hearing on the conditions it considers proper.

Carriage (3) In the case of a hearing ordered by the chief of police or by the Commissioner, the Commissioner has carriage of the matter and, in the case of an appeal by the police officer, the police officer has carriage.

Statement of alleged misconduct (4) In the case of a hearing ordered by the chief of police or by the Commissioner, the chief of police or the Commissioner, as the case may be, shall provide the parties with a concise statement of the allegations of misconduct to be heard.

Notice of hearing **95.**—(1) The board of inquiry shall appoint a time for the hearing and notify the parties.

Examination of evidence (2) Before the hearing, the police officer and the complainant shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence at the hearing.

Recording of evidence (3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.

Application of 1984, c. 11, s. 146 (4) Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to the hearing.

Police officer not required to give evidence R.S.O. 1980, c. 484 (5) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.

(6) No statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.

Limited
admissibility
of certain
statements

(7) The board of inquiry shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or party or party's counsel or representative, unless all parties receive notice and have an opportunity to participate.

Board not to
communicate
in relation to
subject-
matter of
hearing

(8) However, the board may seek legal advice from an adviser independent of the parties, and in that case the nature of the advice shall be communicated to the parties so that they may make submissions as to the law.

Exception

(9) If it appears to be in the interests of justice, the board may direct that the board, the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Adjournment
for view

(10) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them.

Release of
exhibits

(11) If the police officer is charged with an offence under a law of Canada or of a province, the hearing shall continue unless the presiding officer, after consulting with the Crown Attorney, is of the opinion that it should be stayed until the conclusion of the court proceedings.

Hearing not
stayed

(12) No member of the board shall participate in a decision unless he or she was present throughout the hearing and heard the parties' evidence and argument; except with the parties' consent, no decision shall be given unless all the members so present participate in it.

Only
members at
hearing to
participate in
decision

(13) The decision of a majority of the members of the board is the board's decision.

Decision

96.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may make submissions as to penalty and the board of inquiry may,

Penalties

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;

- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days or 240 hours, as the case may be;
- (e) direct that the police officer forfeit not more than five days' or forty hours' pay, as the case may be; or
- (f) direct that the police officer forfeit not more than twenty days or 160 hours off, as the case may be.

Calculation

(1a) Penalties imposed under clauses (1) (d), (e) and (f) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day. ▲

Idem

(2) Instead of or in addition to a penalty described in subsection (1), the board may reprimand the police officer.

Notice of decision

(3) The board shall promptly give written notice of the decision, with reasons, to the parties and the Attorney General.

Appeal to Divisional Court

97.—(1) A party to a hearing before a board of inquiry may appeal to the Divisional Court within thirty days of receiving notice of the board's decision.

Grounds for appeal

(2) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Attorney General

(3) The Attorney General is entitled to be heard, by counsel or otherwise, on the argument of the appeal.

POLICE COMPLAINTS COMMISSIONER

Appointment of Commissioner

98.—(1) The Lieutenant Governor in Council shall appoint a Police Complaints Commissioner, to hold office for a term not exceeding five years.

Reappointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding five years in each case.

Staff

R.S.O. 1980, c. 418

(3) Such employees as are considered necessary for the purposes of this Part may be appointed under the *Public Service Act*.

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

(5) The Commissioner shall maintain copies of all records, reports and other materials received under this Part. Records

(6) The Commissioner shall monitor the handling of complaints by bureaus and chiefs of police. Monitoring handling of complaints

(7) The Commissioner may establish local offices. Local offices

(8) Anything that is given to or served upon the Commissioner under this Part may be given or served at one of the local offices. Idem

(9) The Commissioner shall report annually to the Attorney General. Annual report

(10) The Commissioner's accounts shall be audited annually by the Provincial Auditor. Audit

99.—(1) For the purposes of an investigation under section 87 or 88 or a review under section 90, the Commissioner may, if he or she has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, enter a police station after informing the chief of police and examine there documents and things related to the complaint. Powers on investigation or review

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation or review as if it were an inquiry under that Act. Powers on inquiry
R.S.O. 1980, c. 411

(3) The Commissioner may, in writing, appoint a person to make any investigation or review the Commissioner is authorized to make and the person has all the powers and duties of the Commissioner relating to the investigation and the review. Appointment of person to make investigation or review

(4) The person shall be provided with a certificate of appointment containing his or her photograph, and while exercising any powers or performing any duties in respect of the investigation or review shall produce the certificate of appointment upon request. Identification

(5) The person shall report the results of the investigation or review to the Commissioner. Report

Obstruction (6) No person shall obstruct the Commissioner or a person appointed under subsection (3) or withhold from the Commissioner or person or conceal or destroy any documents or things related to the investigation or review.

Search warrant (7) If a justice of the peace is satisfied, on an application made without notice by the Commissioner or a person appointed under subsection (3), that there are reasonable grounds to believe that there are in any place documents or things relating to an investigation or review, the justice of the peace may make an order authorizing the applicant, together with such persons as he or she calls on for assistance, to enter the place, by force if necessary, search for the documents or things and examine them.

Entry and search at night restricted (8) The entry and search shall not be made between the hours of 9 p.m. and 6 a.m. unless the order so authorizes.

Removal of books, etc. (9) The Commissioner may, upon giving a receipt, remove any documents or things examined under subsection (1) or (7) relating to the investigation or review, shall cause them to be copied with reasonable dispatch and shall then return them promptly to the person from whom they were removed.

Admissibility of copies (10) A copy made as provided in subsection (9) and certified to be a true copy by the Commissioner is admissible in evidence in any proceeding and is proof, in the absence of evidence to the contrary, of the original document and its contents.

Appointment of expert (11) The Commissioner may appoint an expert to examine documents or things examined under subsection (1) or (7).

Recommendations concerning police practices or procedures **100.—**(1) The Commissioner may make recommendations with respect to the practices or procedures of a police force by sending the recommendations, with any supporting documents, to,

- (a) the Attorney General;
- (b) the Solicitor General;
- (c) the chief of police;
- (d) the association, if any; and
- (e) the police services board, in the case of a municipal police force.

(2) Within ninety days of receiving the recommendations, the chief of police, association and police services board shall send their comments to the Attorney General, the Solicitor General and the Commissioner. Comments

101. The Commissioner's decisions under subsection 82 (5) (complaint to continue to be dealt with despite informal resolution), subsection 83 (6) (complaint to continue to be dealt with despite withdrawal) and clause 87 (1) (b) (decision to conduct investigation because of undue delay) shall be deemed to be made in the exercise of a statutory power of decision. Judicial review of Commissioner's decisions

BOARDS OF INQUIRY

102.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry to conduct hearings in connection with complaints. Panel for boards of inquiry

(2) One-third of the members of the panel shall be members of the Law Society of Upper Canada who are recommended for appointment by the Attorney General. Recommendations for appointment

(3) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Police Association of Ontario. Idem

(4) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Association of Municipalities of Ontario. Recommendations for appointment

(5) The Attorney General may make the recommendations under subsection (3) or (4) if the Police Association of Ontario or the Association of Municipalities of Ontario, as the case may be, do not submit written recommendations to the Attorney General within the time that he or she specifies. Failure to make recommendations

(6) Appointments to the panel shall be for a term not exceeding three years and a member may be reappointed for a further term or terms. Term

(7) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board to which he or she was assigned before the expiration of the term. Continuance in office for uncompleted assignments

- Remuneration (8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.
- Chair (9) The Lieutenant Governor in Council shall appoint a person to be the chair of the panel.
- Annual summary of decisions (10) The chair shall cause to be prepared and published an annual summary of the decisions of boards, with reasons.

GENERAL MATTERS

Police officer's employment record

103. No reference to a complaint, a hearing held under this Part or a disciplinary hearing conducted under section 60 as a result of the complaint shall be made in the police officer's employment record, and the matter shall not be taken into account for any purpose related to his or her employment, unless,

- (a) the police officer is convicted of an offence in connection with the incident;
- (b) misconduct is proved on clear and convincing evidence at a hearing held under this Part or at a disciplinary hearing;
- (c) the chief of police admonishes the police officer in connection with the incident, in accordance with subsection 59 (1);
- (d) the police officer admits misconduct in the course of attempts to resolve the complaint informally; or
- (e) the police officer resigns before the complaint is finally disposed of.

Resignation after hearing ordered

104.—(1) This section applies to a police officer who resigns from the police force after a hearing is ordered under section 89 or 90.

Idem

(2) If the police officer resigns before a board of inquiry is constituted under section 92, the following rules apply:

1. No board of inquiry shall be constituted unless the police officer, within six months of the resignation, applies for employment with a police force or is employed by a police force.
2. In that case, the board acquires jurisdiction over the police officer despite the earlier resignation.

(3) If the police officer resigns after a board of inquiry is constituted, the following rules apply: Idem

1. The board of inquiry loses jurisdiction over the police officer.
2. If the police officer, within six months of the resignation, applies for employment with a police force or is employed by a police force, the board's jurisdiction is revived.

105.—(1) A notice or other document required to be given or sent under this Part is sufficiently given if delivered personally or sent by prepaid registered mail addressed to the person. Notice

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date. Notice by mail

106.—(1) The chief of police may authorize any police officer of the rank of inspector or higher (from another police force if there is none in the chief's own police force) to exercise any power or perform any duty of the chief of police referred to in this Part. Delegation by chief of police

(2) The Commissioner may authorize any member of his or her staff to exercise any power or perform any duty of the Commissioner referred to in this Part. Delegation by Commissioner

107.—(1) Every person engaged in the administration of this Part, including a member of a police force, shall preserve secrecy in respect of all matters that come to his or her knowledge in the course of his or her duties, and shall not communicate any such matter to any other person except, Confidentiality

- (a) as this Act or the regulations require;
- (b) as may be required for law enforcement purposes;
- (c) to his or her counsel; or
- (d) with the consent of the person to whom the matter relates.

(2) No person to whom subsection (1) applies shall be required to testify in a civil proceeding with regard to inform- Testimony

ation obtained in the course of his or her duties, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Inadmissibility

(3) No document prepared under this Part as the result of a complaint and no statement referred to in subsection 95 (6) (statements made during attempt at informal resolution) is admissible in a civil proceeding, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Non-application of R.S.O. 1980, c. 325

108. The *Ombudsman Act* does not apply to anything done under this Part.

Agreement for contributions

109. The Attorney General may, with the approval of the Lieutenant Governor in Council, enter into an agreement with a municipality providing for its payment to the Treasurer of Ontario, on such conditions as may be agreed upon, of contributions in respect of the amounts required for the purposes of this Part.

Offence

110. A person who contravenes subsection 95 (4) (photography at hearing), 99 (6) (obstructing Commissioner) or 107 (1) (confidentiality) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Definition 1984, c. 63

111.—(1) In subsection (2), “former Act” means the *Metropolitan Toronto Police Force Complaints Act, 1984*.

Transition, complaints under former Act

(2) Despite the repeal of the former Act by subsection 145 (1), complaints made under the former Act before the day this Act comes into force shall be dealt with in accordance with the former Act, except that hearings before boards of inquiry that are constituted after the day this Act comes into force shall be conducted in accordance with this Part.

PART VII

SPECIAL INVESTIGATIONS

Special investigations unit

112.—(1) There shall be a special investigations unit of the Ministry of the Solicitor General.

Composition

(2) The unit shall consist of a director appointed by the Lieutenant Governor in Council on the recommendation of the Solicitor General and investigators appointed under the *Public Service Act*.

R.S.O. 1980, c. 418

Idem

(2a) A person who is a police officer or former police officer shall not be appointed as director, and persons who are police officers shall not be appointed as investigators. ▲

- (3) The director and investigators are peace officers. Peace officers
- (4) The director may, on his or her own initiative, and shall, at the request of the Solicitor General or Attorney General, cause investigations to be conducted into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. Investigations
- (4a) An investigator shall not participate in an investigation that relates to members of a police force of which he or she was a member. Restriction
- (5) The director shall lay charges against police officers in connection with the matters investigated if, in his or her opinion, there are reasonable and probable grounds to do so. Charges
- (6) The director shall report the results of investigations to the Attorney General. Report
- (7) Members of police forces shall co-operate fully with the members of the unit in the conduct of investigations. Co-operation of police forces

PART VIII

LABOUR RELATIONS

113. In this Part,

Definitions

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 129 (1);

“senior officer” means a member of a police officer who has the rank of inspector or higher or is employed in a supervisory or confidential capacity.

114.—(1) This Part, except section 115 and the definition of “senior officer” in section 113, does not apply to the Ontario Provincial Police. Exclusion of O. P. P.

(2) The working conditions and remuneration of the chief of police and deputy chief of police of a police force shall be determined under clause 31 (1) (d) (responsibilities of board) and not under this Part. Exclusion of chief of police and deputy

115.—(1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter. Hearing re person's status

(2) The Commission's decision is final.

Decision final

Membership
in trade
union
prohibited,
exception

116. A member of a police force shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities that do not contravene section 46 and the chief of police consents.

Categories

117.—(1) If a majority of the members of a police force, or an association that is entitled to give notices of desire to bargain, assigns the members of the police force to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police force.

Senior
officers

(2) If at least 50 per cent of the senior officers of a police force belong to an association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police force.

Restriction

(3) Bargaining, conciliation and arbitration may be carried on with more than two categories within a police force (apart from senior officers) only if the Commission has approved the creation of the categories.

Notice of
desire to
bargain

118.—(1) If no agreement exists or at any time after ninety days before an agreement would expire but for subsection 127 (1) or (2), a majority of the members of a police force may give the board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement.

Bargaining

(2) Within fifteen days after the notice of desire to bargain is given or within the longer period that the parties agree upon, the board shall meet with a bargaining committee of the members of the police force.

Idem

(3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with remuneration, pensions, sick leave credit gratuities, grievance procedures and working conditions (except those governed by this Act or the regulations) of the members of the police force.

Filing of
agreement

(4) The board shall promptly file a copy of any agreement with the Arbitration Commission.

Association

(5) If at least 50 per cent of the members of the police force belong to an association, it shall give the notice of desire to bargain.

(6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the *Municipal Act*, it shall also be given to the Minister of Municipal Affairs, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan.

Pension plans under R.S.O. 1980, c. 302

119.—(1) The members of the bargaining committee shall be members of the police force.

Bargaining committee

(1a) One legal counsel and one other advisor for each of the bargaining committee and the board may participate in the bargaining sessions.

Counsel and advisors

(2) If the notice of desire to bargain is given by an association that is affiliated with a police organization, or if at least 50 per cent of the members of the police force belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

Police organization

(4) The chief of police or, if the parties consent, another person designated by the chief of police may also attend the parties' bargaining sessions in an advisory capacity.

Chief of police

120.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a notice of desire to bargain has been given.

Appointment of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Duty of conciliation officer

(4) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

Extension of time

(5) When the conciliation officer reports to the Solicitor General that an agreement has been reached or that an agreement cannot be reached, the Solicitor General shall promptly inform the parties of the report.

Report

(6) Neither party shall give a notice requiring matters in dispute to be referred for arbitration under section 121 until the Solicitor General has informed the parties of the conciliation officer's report or informed them that he or she does not consider the case appropriate for the appointment of a conciliation officer.

No arbitration during conciliation

Arbitration

121.—(1) If matters remain in dispute after bargaining under section 118 and conciliation, if any, under section 120, a party may give the Solicitor General and the other party a written notice referring the matters to arbitration.

Composition
of arbitration
board

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General.

Time for
arbitration

(3) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver its decision or award within sixty days after commencing the arbitration.

Represent-
ations by
council

(4) The municipal council may make representations before the arbitration board if it is authorized to do so by a resolution.

Criteria

(5) In making an award, the arbitration board shall take into account the interest and welfare of the community served by the police force as well as any local factors affecting the community.

Filing of
award

(6) The arbitration board shall promptly file a copy of its decision or award with the Arbitration Commission.

Costs and
expenses

(7) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.

- 2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
- 3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board. ▲

122.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

Dispute, appointment of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Duty of conciliation officer

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

Extension of time

(4) When the conciliation officer reports to the Solicitor General that the dispute has been resolved or that it cannot be resolved by conciliation, the Solicitor General shall promptly inform the parties of the report.

Report

(5) Neither party shall give a notice referring the dispute for arbitration until the Solicitor General has informed the parties of the conciliation officer's report.

No arbitration during conciliation

123.—(1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the Solicitor General and the other party a written notice referring the dispute to arbitration. ▼

Arbitration after conciliation fails

(2) The procedure provided by subsection (1) is available in addition to any grievance or arbitration procedure provided by the agreement, decision or award.

Idem

(3) The following rules apply to the composition of the arbitration board:

Composition of arbitration board

- 1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, the arbitration board shall consist of one person.

2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General. ▲

Time for
arbitration

(4) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time.

Filing of
decision

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration Commission. ▼

Costs and
expenses

(6) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board. ▲

Enforcement

(7) After the day that is thirty days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the decision, in the prescribed form, in the office of the Registrar of the Supreme Court.

Idem

(8) The decision shall be entered in the same way as a judgment of the Supreme Court and may be enforced as such.

Extension of
time

124. The parties may agree to extend any period of time mentioned in this Part.

125. The *Arbitrations Act* does not apply to arbitrations conducted under this Part.

Non-application of R.S.O. 1980, c. 25

126. Agreements, decisions and awards made under this Part bind the board and the members of the police force.

Agreements, decisions and awards binding

127.—(1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced.

Duration of agreements, decisions and awards

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the year in which they come into effect and thereafter shall continue in effect until replaced.

Longer duration if parties agree

128.—(1) If, when the council is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the council shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate.

Provision for expenditures

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipal council may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made.

Coming into effect

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2).

Exception

129.—(1) The commission known as the Ontario Police Arbitration Commission is continued.

Arbitration Commission continued

(2) The Arbitration Commission shall be composed of the following members, appointed by the Lieutenant Governor in Council:

Composition

- 1. Two representatives of boards, recommended for appointment by the Municipal Police Authorities.
- 2. Two representatives of members of associations, recommended for appointment by the Police Association of Ontario.
- 3. A chair.

Terms of
office

(3) The representatives of boards and members of associations shall hold office for two-year terms and may be re-appointed; the chair shall hold office during pleasure.

Staff

(4) Such employees as are necessary for the proper conduct of the Arbitration Commission's work may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

Responsi-
bilities of
Arbitration
Commission

(5) The Arbitration Commission has the following responsibilities:

1. Maintaining a register of arbitrators who are available for appointment.
2. Assisting arbitrators by making administrative arrangements in connection with arbitrations.
3. Fixing the fees of arbitrators appointed by the Solicitor General under section 123.
4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards.
5. Sponsoring research on the subject of agreements, arbitrations and awards.
6. Maintaining a file of agreements, decisions and awards made under this Part.

Regulations

(6) Subject to the approval of the Lieutenant Governor in Council, the Arbitration Commission may make regulations,

- (a) governing the conduct of arbitrations and prescribing procedures for them;
- (b) prescribing forms and providing for their use.

Transition

(7) The persons who are members of the Arbitration Commission on the day this Act comes into force shall continue to hold office until their terms expire, and may be reappointed in accordance with subsection (2).

PART IX

REGULATIONS AND MISCELLANEOUS

Property in
possession of
police force

130.—(1) This section applies to personal property of all kinds, except firearms and money, that comes into the posses-

sion of a police force under either of the following circumstances:

1. The property was stolen from its owner or was found abandoned in a public place, and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police force in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

➡ (2) The chief of police may cause the property to be sold, and the board may use the proceeds for any purpose that it considers in the public interest. Sale ▲

➡ (3) If the property is perishable, it may be sold at any time without notice. Perishable property

➡ (4) If the property is not perishable, the following rules apply to its sale: Non-perishable property

1. The property may be sold when it has been in the possession of the police force for at least one month, in the case of a motor vehicle as defined in the *Highway Traffic Act* or a bicycle, or for at least three months, in the case of other property. R.S.O. 1980, c. 198 ▲

2. The sale shall be by public auction.

3. At least ten days notice of the time and place of the public auction shall be given by publication in a newspaper of general circulation in the municipality.

4. The sale may be adjourned, repeatedly if necessary, until the property is sold.

➡ (5) If a motor vehicle, bicycle or other property has been sold before it has been in the possession of the police force for three months and if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale. Claim of owner of property

➡ (6) The chief of police shall ensure that the police force keeps a register of property and that the following rules are followed: Register of property

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

Exception R.S.O. 1980, c. 198 (7) This section does not apply to a motor vehicle that is impounded under section 192 of the *Highway Traffic Act*.

Money **131.**—(1) This section applies to money that comes into the possession of a police force under the circumstances described in paragraph 1 or 2 of subsection 130 (1).

Accounting (2) The money shall be accounted for according to the prescribed method.

Use of money (3) If three months have elapsed after the day the money came into the possession of the police force and the owner has not claimed it, the board may use it for any purpose that it considers in the public interest.

Firearms **132.**—(1) This section applies to firearms that are in the possession of a police force because they have been found, turned in, seized or forfeited on a prosecution.

Safekeeping, return to owner (2) The chief of police shall ensure that firearms are securely stored, and that they are returned to their owners if there is a court order or other legal requirement to that effect.

Destruction (3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement that the firearm be returned to its owner, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies.

Firearm of special interest (4) If the chief of police considers the firearm unique, an antique, or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences.

Idem (5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there.

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly. Idem

(7) The chief of police may dispose of a firearm to which subsection (6) applies otherwise than by having it destroyed if he or she first obtains the Solicitor General's approval of the method of disposal. Disposal otherwise than by destruction

(8) The chief of police shall ensure that the police force keeps a register of firearms and that the following rules are followed: Register of firearms

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the board or of a member of the police force, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.
4. On or before the 31st day of January in each year, a statement shall be filed with the Commission listing the firearms that have come into the possession of the police force during the preceding calendar year, indicating which firearms are still being retained and which have been disposed of, and giving the particulars of disposition.

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

1. prescribing standards for police services;
2. prescribing procedures for the inspection and review by the Solicitor General of police forces;
3. requiring municipalities to provide police detention facilities, governing those facilities and providing for their inspection;
4. providing for financial aid to police training schools;

5. prescribing the minimum amount of remuneration to be paid by municipalities to the members of boards who are appointed by the Lieutenant Governor in Council or Solicitor General;
6. prescribing the procedures to be followed by boards and the places at which their meetings shall be held;
7. prescribing the forms of oaths or affirmations of office and secrecy for the purposes of section 32 (members of boards), section 45 (police officers), subsection 52 (5) (auxiliary members of police forces), subsection 53 (7) (special constables) and subsection 54 (6) (First Nations Constables);
8. respecting the government, operation and administration of police forces;
9. governing the qualifications for the appointment of persons to police forces and for their promotion;
10. prescribing groups of persons for the purposes of subsection 48 (1) (employment equity plans);
11. prescribing matters to be contained in employment equity plans;
12. respecting the political activities in which municipal police officers are permitted to engage;
13. establishing the ranks that shall be held by members of municipal police forces;
14. prescribing the minimum salary or other remuneration and allowances to be paid to members of municipal police forces;
15. regulating or prohibiting the use of any equipment by a police force or any of its members;
16. regulating the use of force by members of police forces;
17. prescribing standards of dress for police officers on duty and prescribing requirements respecting police uniforms;
18. prescribing courses of training for members of police forces and prescribing standards in that connection;

19. governing the conduct, duties, suspension and dismissal of members of police forces;
20. describing the circumstances under which members of police forces are permitted and not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
21. prescribing the records, returns, books and accounts to be kept by police forces and their members;
22. prescribing the method of accounting for fees and costs that come into the hands of members of police forces;
23. prescribing a code of offences for the purpose of section 56 (misconduct);
24. providing for the payment of fees and expenses to witnesses at hearings conducted under Part V or VI;
25. prescribing procedures for the investigation of complaints under Part VI;
26. assigning further duties to the Police Complaints Commissioner;
27. prescribing the method of accounting for money to which section 131 applies;
28. prescribing forms and providing for their use;
29. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed;
30. respecting any matter that is necessary or advisable to implement this Act effectively.

(2) A regulation made under subsection (1) may be general or particular in its application. ^{Idem}

133a. This Act binds the Crown in right of Ontario.

Crown bound

PART X

CONSEQUENTIAL AMENDMENTS AND REPEALS

134. Section 66 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Non-application of 1990, c. ...

66.—(1) The *Police Services Act, 1990*, being chapter ..., except section 15 (municipal by-law enforcement officers), does not apply to the District Corporation or to an area municipality.

Non-application of R.S.O. 1980, c. 302, ss. 202, 203

(2) Sections 202 and 203 of the *Municipal Act* do not apply to an area municipality.

135.—(1) Section 174 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

174. In this Part, “Metropolitan Board” means The Municipality of Metropolitan Toronto Police Services Board.

(2) Subsections 175 (1) and (2) of the said Act are repealed.

(3) Subsection 177 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10 and amended by 1988, chapter 12, section 1, is repealed and the following substituted therefor:

Composition of Metropolitan Board 1990, c. ...

(1) The Metropolitan Council shall be deemed to have applied to the Lieutenant Governor in Council for an increase in the size of its board under subsection 27 (9) of the *Police Services Act, 1990* and the Lieutenant Governor in Council shall be deemed to have approved the application.

(4) Section 178 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, is repealed.

136.—(1) Section 73 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

73. In this Part, “Durham Police Board” means The Regional Municipality of Durham Police Services Board.

(2) Section 74 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 1, is repealed.

(3) Subsection 75 (1) of the said Act is repealed and the following substituted therefor:

(1) The Durham Police Board and the members of the Durham Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

137.—(1) Section 68 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

68. In this Part, "Haldimand-Norfolk Police Board" means The Regional Municipality of Haldimand-Norfolk Police Services Board. Definition

(2) Section 69 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 2, is repealed.

(3) Subsections 70 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) The Haldimand-Norfolk Police Board and the members of the Haldimand-Norfolk Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

(2) Despite subsection 31 (1) of the *Police Services Act, 1990*, the Haldimand-Norfolk Police Board is responsible for providing police services only for those portions of the Regional Area in which a local municipality maintained a police force on the 31st day of March, 1974. Jurisdiction
1990, c. ...

(3) With the Solicitor General's approval, the Haldimand-Norfolk Police Board may assume responsibility for providing police services for additional portions of the Regional Area. Idem

138.—(1) Section 79 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

79. In this Part, "Halton Police Board" means The Regional Municipality of Halton Police Services Board. Definition

(2) Section 80 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 3, is repealed.

(3) Subsection 81 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The Halton Police Board and the members of the Halton Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

139.—(1) Section 90 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

90. In this Part, "Hamilton-Wentworth Police Board" means The Regional Municipality of Hamilton-Wentworth Police Services Board.

(2) Section 91 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 4, is repealed.

(3) Subsection 92 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The Hamilton-Wentworth Police Board and the members of the Hamilton-Wentworth Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

140.—(1) Section 116 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

116. In this Part, "Niagara Police Board" means The Regional Municipality of Niagara Police Services Board.

(2) Section 117 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 5, is repealed.

(3) Subsection 118 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The Niagara Police Board and the members of the Niagara Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

141.—(1) Section 74 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

74. In this Part, "Peel Police Board" means The Regional Municipality of Peel Police Services Board. Definition

(2) Section 75 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 6, is repealed.

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

(1) The Peel Police Board and the members of the Peel Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

142.—(1) Section 38 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

38. In this Part, "Sudbury Police Board" means The Regional Municipality of Sudbury Police Services Board. Definition

(2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 57, section 7, is repealed.

(3) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:

(1) The Sudbury Police Board and the members of the Sudbury Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

143.—(1) Section 109 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

109. In this Part, "Waterloo Police Board" means The Regional Municipality of Waterloo Police Services Board. Definition

(2) Section 110 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 8, is repealed.

(3) Subsection 111 (1) of the said Act is repealed and the following substituted therefor:

(1) The Waterloo Police Board and the members of the Waterloo Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

144.—(1) Section 111 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

111. In this Part, “York Police Board” means The Regional Municipality of York Police Services Board.

(2) Section 112 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 9, is repealed.

(3) Subsection 113 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The York Police Board and the members of the York Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

145.—(1) The following are repealed:

1. The *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, except section 57a, as enacted by the Statutes of Ontario, 1989, chapter 24, section 1.
2. The *Police Amendment Act, 1981*, being chapter 55.
3. The *Police Amendment Act, 1983*, being chapter 57.
4. Section 201 of the *Courts of Justice Act, 1984*, being chapter 11.
5. Section 53 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.
6. The *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63.
7. The *Metropolitan Toronto Police Force Complaints Amendment Act, 1986*, being chapter 31.

(2) The title of the *Police Act* is repealed and the following substituted therefor:

COURT SECURITY ACT



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

Commence-
ment

148. The short title of this Act is the *Police Services Act, 1990*.

Short title

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Bill 107

An Act to revise the Police Act and amend the law relating to Police Services

The Hon. S. Offer
Solicitor General

1st Reading December 20th, 1989
2nd Reading May 17th, 1990
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The Bill replaces the *Police Act*. The following are some of the proposed changes:

1. A declaration of principles is included (section 1).
2. Every municipality responsible for providing police services is required to establish a police services board to govern the municipal police force (section 27). These boards (formerly boards of commissioners of police) will be supervised by the Ontario Civilian Commission on Police Services (formerly the Ontario Police Commission) (Part II).
3. The minimum educational standard required of candidates for the position of police officer is raised from two to four years of secondary education (section 43).
4. Every police force is required to establish and implement an employment equity plan (section 48).
5. Special constables will be appointed by municipal police services boards and by the Commissioner of the Ontario Provincial Police (section 53).
6. The category of First Nations Constable is created (section 54).
7. Provisions relating to police disciplinary proceedings are revised (Part V).
8. A province-wide mandatory system for dealing with public complaints is introduced, based on the system currently in use in The Municipality of Metropolitan Toronto (Part VI).
9. A special investigations unit of the Ministry of the Solicitor General is established to investigate police conduct and to lay charges where appropriate (Part VII).
10. Bargaining, conciliation and arbitration provisions that apply to municipal police forces are revised (Part VIII).
11. The regulation-making powers of the Lieutenant Governor in Council are expanded to cover subjects such as standards of police services, the administration and operation of police forces, police pursuits and political activities (section 135).
12. Distinctions between municipal police forces and the Ontario Provincial Police are reduced.

Bill 107

1989

An Act to revise the Police Act and amend the law relating to Police Services

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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:

1. Police services shall be provided throughout Ontario in accordance with the following principles: Declaration of principles

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code, 1981*. 1981, c. 53
3. The need for co-operation between the providers of police services and the communities they serve.

4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multi-racial and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve.

Definitions

2. In this Act,

“association” means an association whose members belong to one police force and whose objects include the improvement of their working conditions and remuneration;

“board” means, except in Part VI, a municipal police services board;

“chief of police” means a municipal chief of police or the Commissioner of the Ontario Provincial Police and includes an acting chief of police;

“Commission” means the Ontario Civilian Commission on Police Services;

“Commissioner” means, except in Part VI, the Commissioner of the Ontario Provincial Police;

“member of a police force” means a police officer, and in the case of a municipal police force includes an employee who is not a police officer;

“municipality” includes district, metropolitan and regional municipalities and the County of Oxford;

“police force” means the Ontario Provincial Police or a municipal police force;

“police officer” means a chief of police or any other police officer, but does not include a special constable, a First Nations Constable, a by-law enforcement officer or an auxiliary member of a police force;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

PART I

RESPONSIBILITY FOR POLICE SERVICES

SOLICITOR GENERAL

3.—(1) This Act, except Part VI, shall be administered by the Solicitor General.

Adminis-
tration of
Act

(2) The Solicitor General shall,

Duties and
powers of
Solicitor
General

- (a)** monitor police forces to ensure that adequate and effective police services are provided at the municipal and provincial levels;
- (b)** monitor boards and police forces to ensure that they comply with prescribed standards of service;
- (c)** monitor the establishment and implementation of employment equity plans;
- (d)** develop and promote programs to enhance professional police practices, standards and training;
- (e)** conduct a system of inspection and review of police forces across Ontario;
- (f)** assist in the co-ordination of police services;
- (g)** consult with and advise boards, municipal chiefs of police, employers of special constables and associations on matters relating to police and police services;
- (h)** develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters;
- (i)** provide to boards and municipal chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;
- (j)** issue directives and guidelines respecting policy matters;
- (k)** develop and promote programs for community-oriented police services;

(1) operate the Ontario Police College.

Ontario
Police
College
continued

(3) The police college known as the Ontario Police College for the training of members of police forces is continued.

MUNICIPALITIES

Police
services in
municipalities

4.—(1) Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.

Application
of subsection
(1)

(2) Subsection (1) applies to,

(a) cities, towns, villages and townships (other than area municipalities within regional or metropolitan municipalities); and

(b) regional and metropolitan municipalities.

Exception,
Muskoka

(3) Subsection (1) does not apply to The District Municipality of Muskoka or to its area municipalities.

Exception,
Ottawa-
Carleton

(4) Subsection (1) does not apply to The Regional Municipality of Ottawa-Carleton but does apply to its area municipalities.

Exception,
Oxford
County

(5) Subsection (1) does not apply to the County of Oxford but does apply to its area municipalities.

Exemption of
towns of less
than 5,000

(6) The Lieutenant Governor in Council may, on the Solicitor General's recommendation, exempt any town having a population of less than 5,000 according to the last enumeration taken under section 14 of the *Assessment Act* from the application of subsection (1), and the exemption continues in effect until it is revoked.

R.S.O. 1980,
c. 31

Restriction,
villages and
townships

(7) Subsection (1) applies to a village or township only if it has been so designated by the Lieutenant Governor in Council on the Solicitor General's recommendation; the designation may relate to all or part of the village or township.

Methods of
establishing
municipal
police forces

5. A municipality's responsibility for providing police services shall be discharged in one of the following ways:

1. The board may appoint the members of a police force under clause 31 (1) (a), in which case the municipal council shall pay the cost of the police force.

2. The board may enter into an agreement under section 7 (sharing police services).
3. The council may enter into an agreement under section 10 (agreements for provision of police services by O.P.P.).
4. With the Commission's approval, the municipality may adopt a different method of providing police services.

6.—(1) Despite any other Act, two or more municipalities that have police forces may enter into an agreement to amalgamate them. Amalgamation of police forces

(2) The agreement shall deal with, Contents of amalgamation agreement

- (a) the establishment and composition of a board for the amalgamated police forces;
- (b) the amalgamation of the police forces and the appointment or transfer of their members;
- (c) the amalgamated board's use of the assets and its responsibility for the liabilities associated with the police forces;
- (d) the budgeting of the cost for the operation of the amalgamated police force;
- (e) any other matter that is necessary or advisable to effect the amalgamation.

(3) The agreement does not take effect until the Commission has approved the organization of the amalgamated police force. Commission's approval

(4) Appointments to a board for amalgamated police forces may be made before the agreement takes effect. Exception, board appointments

7. Two boards may agree that one board will provide police services to the other, on the conditions set out in the agreement. Municipal agreements for sharing police services

8.—(1) A municipality to which subsection 4 (1) (obligation to provide police services) does not apply may, with the Commission's approval, establish and maintain a police force. Additional municipal police forces

(2) An approval given or deemed to have been given under section 19 of the *Police Act* in respect of a police force that Transition
R.S.O. 1980,
c. 381

was being maintained on the day before this Act comes into force shall be deemed to have been given under this section.

Revocation (3) The Commission may revoke an approval given or deemed to have been given under this section.

Failure to provide police services **9.**—(1) If the Commission finds that a municipality to which subsection 4 (1) applies is not providing police services, it may request that the Commissioner have the Ontario Provincial Police give assistance.

Inadequate police services (2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.

Idem (3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.

Crown Attorney's request (4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.

Board's request (5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.

Request of chief of police in emergency (6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.

Chief of police to advise board (7) A chief of police who makes a request under subsection (6) shall advise the chair of the board of the fact as soon as possible.

Assistance of O.P.P. (8) When a request is made under this section, the Commissioner shall have the Ontario Provincial Police give such assistance as he or she considers necessary.

Cost of services (9) The Commissioner shall certify the cost of the services provided under this section by the Ontario Provincial Police and, unless the Solicitor General directs otherwise, the municipality shall pay that amount to the Treasurer of Ontario.

Idem (10) The amount may be deducted from any grant payable to the municipality out of provincial funds or may be

recovered by a court action, with costs, as a debt due to Her Majesty.

10.—(1) The Solicitor General may enter into an agreement with the council of a municipality for the provision of police services for the municipality by the Ontario Provincial Police.

Municipal agreements for provision of police services by O.P.P.

(2) The agreement requires the board's consent.

Board's consent

(3) No agreement shall be entered into under this section if, in the Solicitor General's opinion, the council seeks the agreement for the purpose of defeating the collective bargaining provisions of this Act.

Collective bargaining

(4) When the agreement comes into effect, the members of the Ontario Provincial Police assigned to the municipality shall provide police services, including by-law enforcement, for the municipality, and shall perform any other duties that are specified in the agreement.

Duties of O.P.P.

(5) The amounts received from the municipality under the agreement shall be paid into the Consolidated Revenue Fund.

Payment into Consolidated Revenue Fund

(6) If the municipality has an agreement under this section, section 31 (responsibilities of board), section 38 (municipal police force) and clause 39 (3) (a) (estimates respecting police force) do not apply; however, the board shall advise the Solicitor General and the senior officer of the Ontario Provincial Police in the municipality with respect to police services in the municipality, and may generally determine priorities in the municipality with respect to police services, in accordance with the agreement and with provincial policies affecting the Ontario Provincial Police.

Role of board

11.—(1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police force.

Fines

(2) If the municipality does not have its own police force because of an agreement under section 7 or 10, the police officers who are assigned to the municipality under the agreement shall, for the purposes of determining entitlement to fines, be deemed to be police officers of the municipal police force.

Idem

12.—(1) With the Commission's approval, the costs incurred by a municipality in providing police services may be paid by levying different rates for different areas defined by the municipal council or by levying rates in some but not all areas.

Rates for cost of police services

Exemption
for farm
lands and
buildings

(2) With the Commission's approval, the municipal council may grant a total or partial exemption from a rate or rates levied under subsection (1) to lands and buildings used exclusively for farming purposes.

Special areas

13.—(1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Solicitor General's opinion, to impose the responsibility for police services on a municipality or on the Province, the Lieutenant Governor in Council may designate the area as a special area.

Agreement
for provision
of police
services by
O.P.P.

(2) The person who operates the business or owns the special area shall enter into an agreement with the Solicitor General for the provision of police services by the Ontario Provincial Police for the special area.

Duties of
O.P.P.,
payment

(3) Subsections 10 (4) and (5) apply to the agreement with necessary modifications.

Failure to
enter into
agreement

(4) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Ontario Provincial Police shall provide police services for the area.

Cost of
services

(5) The costs of the services may be recovered from the person by a court action, with costs, as a debt due to Her Majesty.

Police
services
outside
municipality

14. A municipality that has an interest in land outside the territory of the municipality may agree to pay all or part of the cost of providing police services for the land.

Municipal by-
law
enforcement
officers

15.—(1) A municipal council may appoint persons to enforce the by-laws of the municipality.

Peace officers

(2) Municipal by-law enforcement officers are peace officers for the purpose of enforcing municipal by-laws.

Aid to
survivors

16. A municipal council may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police force who die from injuries received or illnesses contracted in the discharge of their duties.

ONTARIO PROVINCIAL POLICE

Commis-
sioner

17.—(1) There shall be a Commissioner of the Ontario Provincial Police who shall be appointed by the Lieutenant Governor in Council.

(2) Subject to the Solicitor General's direction, the Commissioner has the general control and administration of the Ontario Provincial Police and the employees connected with it.

Functions

(3) The Commissioner shall prepare and implement an employment equity plan in accordance with section 48 and the regulations.

Employment equity plans

(4) After the end of each calendar year, the Commissioner shall file with the Solicitor General an annual report on the affairs of the Ontario Provincial Police.

Annual report

18.—(1) The Ontario Provincial Police shall consist of the Commissioner and other police officers appointed under the *Public Service Act*.

Composition of O.P.P.

R.S.O. 1980, c. 418

(2) The Commissioner shall establish the ranks within the Ontario Provincial Police and shall determine the rank of each police officer.

Ranks

(3) The Lieutenant Governor in Council may name police officers of the Ontario Provincial Police to the rank of commissioned officers and may authorize the issue of commissions to them under the Great Seal.

Commissioned officers

(4) The Commissioner may appoint such other employees as are required in connection with the Ontario Provincial Police.

Employees

19.—(1) The Ontario Provincial Police have the following responsibilities:

Responsibilities of O.P.P.

1. Providing police services in respect of the parts of Ontario that do not have municipal police forces other than by-law enforcement officers.
2. Providing police services in respect of all navigable bodies and courses of water in Ontario, except those that lie within municipalities designated by the Solicitor General.
3. Maintaining a traffic patrol on the King's Highway, except the parts designated by the Solicitor General.
4. Maintaining a traffic patrol on the connecting links within the meaning of section 21 of the *Public Transportation and Highway Improvement Act* that are designated by the Solicitor General.

R.S.O. 1980, c. 421

5. Maintaining investigative services to assist municipal police forces on the Solicitor General's direction or at the Crown Attorney's request.

Municipal by-laws (2) The Ontario Provincial Police have no responsibilities in connection with municipal by-laws, except under agreements made in accordance with section 10.

Aid to survivors **20.** The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties.

PART II

ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

Commission continued **21.—(1)** The commission known as the Ontario Police Commission is continued under the name of "Ontario Civilian Commission on Police Services".

Composition (2) The Commission shall consist of not fewer than three and not more than nine members who shall be appointed by the Lieutenant Governor in Council.

Chair (3) The Lieutenant Governor in Council may designate one of the members of the Commission to be the chair.

Delegation (4) The chair may authorize a member of the Commission to exercise the Commission's powers and perform its duties with respect to a particular matter, but the authority conferred on the Commission by sections 23 and 24 may not be delegated.

Quorum (5) Two members of the Commission constitute a quorum.

Proceedings open to the public (6) Meetings, hearings, investigations and inquiries conducted by the Commission shall be open to the public, subject to subsection (7), and notice of them shall be published in the manner that the Commission determines.

Exception (7) The Commission may exclude the public from all or part of a meeting, hearing, investigation or inquiry if it is of the opinion that,

- (a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public

interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public.

(8) A document purporting to be issued by the Commission and signed by one of its members is admissible in evidence without proof of the signature or authority of the person signing.

Admissibility
of documents

(9) After the end of each calendar year, the Commission shall file with the Solicitor General an annual report on its affairs.

Annual
report

(10) The money required for the Commission's purposes shall be paid out of the amounts appropriated by the Legislature for that purpose.

Expenses

22.—(1) The Commission's powers and duties include,

Powers and
duties of
Commission

(a) if the Solicitor General advises the Commission that a board or municipal police force is not complying with prescribed standards of police services,

(i) directing the board or police force to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (1);

(b) if the Solicitor General advises the Commission that a board or municipal chief of police is not complying with the requirements of this Act and the regulations respecting employment equity plans,

(i) directing the board or chief of police to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (2);

- (c) conducting investigations with respect to municipal police matters under section 25;
- (d) conducting inquiries into matters relating to crime and law enforcement under section 26;
- (e) inquiring into any matter regarding the designation of a municipality under subsection 4 (7) (police services in villages and townships) and, after a hearing, making recommendations to the Solicitor General;
- (f) hearing and disposing of appeals by members of police forces in accordance with Part V.

Powers of Commission in hearings, investigations and inquiries
R.S.O. 1980, c. 411
Counsel

(2) When the Commission conducts a hearing, investigation or inquiry, it has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the proceeding as if it were an inquiry under that Act.

(3) At the Commission's request, the Solicitor General may appoint counsel to assist the Commission in a hearing, investigation or inquiry.

Sanctions for failure to comply with prescribed standards of police services

23.—(1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services, the Commission may take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality.
4. Appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period.

Sanctions for failure to comply with requirements respecting employment equity plans

(2) If the Commission is of the opinion, after holding a hearing, that a board or municipal chief of police has failed to comply with the requirements of this Act and the regulations respecting employment equity plans, the Commission may

take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Appointing an administrator to perform specified functions with respect to employment equity, recruitment and promotion in the police force for a specified period.

(3) If the Commission suspends the chief of police or members of the board who are entitled to remuneration under subsection 27 (12), it shall specify whether the suspension is with or without pay.

Suspension
with or
without pay

(4) The Commission shall not take measures under subsection (2) with respect to the failure of a chief of police to meet specific goals or timetables contained in the employment equity plan if the Commission finds that the chief of police has made all reasonable efforts to meet them.

Defence

(5) An administrator appointed under paragraph 4 of subsection (1) or paragraph 3 of subsection (2) has all the powers necessary for the performance of his or her functions.

Powers of
administrator

(6) If the Commission suspends or removes the chief of police, it may appoint a person to replace him or her.

Replacement
of chief of
police

(7) The parties to the hearing are the chief of police, the board, any member of the board that the Commission designates and, if the Commission so directs, the association or associations representing members of the police force.

Parties

(8) The Commission may add parties at any stage of the hearing on the conditions it considers proper.

Idem

(9) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(10) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Conse-
quences of
removal and
suspension

- Appeal to Divisional Court (11) A party may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.
- Grounds for appeal (12) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.
- Idem (13) An appeal may also be made from a finding that a chief of police has made all reasonable efforts to meet the specific goals and timetables contained in an employment equity plan.
- Appeal by non-parties (14) If the consent of the Attorney General is sought within thirty days of the Commission's decision and is given, a person who is not a party may appeal under subsection (13) as if he or she were a party.
- Emergency, interim order **24.**—(1) The Commission may make an interim order under subsection 23 (1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.
- Restriction (2) The Commission shall not remove a person from office or disband a police force by means of an interim order.
- Investigations **25.**—(1) The Commission may, at the Solicitor General's request, at a municipal council's request or of its own motion, investigate, inquire into and report on,
 - (a) the conduct or the performance of duties of a municipal chief of police or other municipal police officer, an auxiliary member of a municipal police force, a special constable, a by-law enforcement officer or a member of a board;
 - (b) the administration of a municipal police force;
 - (c) the manner in which police services are provided for a municipality;
 - (d) the police needs of a municipality.
- Cost of investigation (2) The cost of an investigation conducted at a council's request shall be paid by the municipality, unless the Solicitor General directs otherwise.
- Report (3) The Commission shall communicate its report of an investigation under subsection (1) to the Solicitor General at his or her request and to the board or council at its request, and may communicate the report to any other person as the Commission considers advisable.

(4) If the Commission concludes after a hearing that a member of a police force is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that the member be,

Penalties,
member of
police force

- (a) demoted as the Commission specifies, permanently or for a specified period;
- (b) dismissed; or
- (c) retired, if the member is entitled to retire.

(5) If the Commission concludes, after a hearing, that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member.

Penalties,
member of
board

(6) A member of a police force or of a board on whom a penalty is imposed under subsection (4) or (5) may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.

Appeal to
Divisional
Court

(7) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Grounds for
appeal

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(9) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Conse-
quences of
removal and
suspension

26.—(1) The Lieutenant Governor in Council may direct the Commission to inquire into and report to the Lieutenant Governor in Council on any matter relating to crime or law enforcement, and shall define the scope of the inquiry in the direction.

Inquiries

(2) Section 6 (stated case) of the *Public Inquiries Act* applies to inquiries conducted under this section.

Application
of R.S.O.
1980, c. 411,
s. 6

(3) Witnesses at inquiries conducted under this section have the right to retain and instruct counsel and all the other rights of witnesses in civil courts.

Rights of
witnesses

Offence

(4) Any person who knowingly discloses, without the Commission's consent, evidence taken in private at an inquiry conducted under this section or information likely to identify the witness is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

PART III

MUNICIPAL POLICE SERVICES BOARDS

Police services boards

27.—(1) There shall be a police services board for every municipality that maintains a police force.

Boards of commissioners of police continued as police services boards

(2) Every board of commissioners of police constituted or continued under the *Police Act* or any other Act and in existence on the day this Act comes into force is continued as a police services board.

R.S.O. 1980, c. 381

Name

(3) A board shall be known as “(insert name of municipality) Police Services Board”.

Three-member boards in smaller municipalities

(4) The board of a municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* does not exceed 25,000 shall consist of,

R.S.O. 1980, c. 31

- (a) the head of the municipal council, or another council member appointed by resolution of the council; and
- (b) two persons appointed by the Lieutenant Governor in Council.

Five-member boards in larger municipalities

(5) The board of a municipality, other than a regional or metropolitan municipality, whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 25,000 shall consist of,

- (a) the head of the municipal council, or another council member appointed by resolution of the council;
- (b) one person appointed by resolution of the council; and
- (c) three persons appointed by the Lieutenant Governor in Council.

(6) The council of a municipality to which subsection (4) would otherwise apply may determine, by resolution, that the composition of its board shall be as described in subsection (5).

Smaller municipalities, option to expand board

(7) A resolution passed under clause 8 (2a) (b) of the *Police Act* before the day this Act comes into force shall be deemed to have been passed under subsection (6).

Transition
R.S.O. 1980,
c. 381

(8) The board of a regional or metropolitan municipality shall consist of,

Regional and metropolitan municipalities

(a) two council members appointed by resolution of the municipal council; and

(b) three persons appointed by the Lieutenant Governor in Council.

(9) The council of a regional or metropolitan municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

Seven-member boards in certain circumstances
R.S.O. 1980,
c. 31

(a) the head of the council, or another council member appointed by resolution of the council;

(b) two council members appointed by resolution of the council; and

(c) four persons appointed by the Lieutenant Governor in Council.

(10) If the position of a member appointed by the Lieutenant Governor in Council becomes vacant, the Solicitor General may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment.

Vacancies

(11) If the position of a member who is appointed by a municipal council or holds office by virtue of being the head of a municipal council becomes vacant, the board shall notify the council, which shall forthwith appoint a replacement.

Idem

(12) The council shall pay the members of the board who are appointed by the Lieutenant Governor in Council or Solicitor General remuneration that is at least equal to the prescribed amount.

Remuneration

Judges and justices of the peace ineligible

(13) No judge or justice of the peace shall be appointed as a member of a board.

Transition, judges and justices of the peace

(14) A judge or justice of the peace who is a member of a board on the day this Act comes into force may continue to be a member until the third anniversary of that day.

Transition, municipalities without boards

(15) In the case of a municipality that is required by subsection (1) to have a police services board and that does not, on the day this Act comes into force, have a board of commissioners of police, the following rules apply:

1. Subsection (1) does not apply to the municipality until the first anniversary of the coming into force of this Act.
2. Until subsection (1) applies to the municipality, the council shall perform the duties and may exercise the powers that this Act imposes and confers on police services boards.

Election of chair

28. The members of a board shall elect a chair at the board's first meeting in each year.

Protection from personal liability

29.—(1) No action or other proceeding for damages shall be instituted against a member of a board for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Board's liability

(2) Subsection (1) does not relieve a board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee.

Board may contract, sue and be sued

30.—(1) A board may contract, sue and be sued in its own name.

Members not liable for board's contracts

(2) The members of a board are not personally liable for the board's contracts.

Responsibilities of boards

31.—(1) A board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall,

- (a) appoint the members of the municipal police force;
- (b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;

- (c) establish policies for the effective management of the police force;
- (d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;
- (e) direct the chief of police and monitor his or her performance;
- (f) establish an employment equity plan in accordance with section 48 and the regulations, review its implementation by the chief of police and receive regular reports from him or her on that subject;
- (g) receive regular reports from the chief of police on disclosures and decisions made under section 49 (secondary activities);
- (h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;
- (i) establish guidelines for the administration by the chief of police of the public complaints system under Part VI;
- (j) review the administration by the chief of police of the public complaints system and receive regular reports from him or her on that subject.

(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.

Members of police force under board's jurisdiction

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

Restriction

(4) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

Idem

(5) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.

Training of board members

(6) The board may, by by-law, make rules for the effective management of the police force.

Rules re management of police force

Guidelines re
secondary
activities

(7) The board may establish guidelines consistent with section 49 for police officers' disclosure of secondary activities to the chief of police and for the decisions of the chief of police under subsection 49 (4).

Oath of
office

32. Before entering on the duties of office, a member of a board shall take an oath or affirmation of office in the prescribed form.

Agreement
to constitute
joint board
R.S.O. 1980,
c. 31

33.—(1) Despite any special Act, two or more municipalities whose combined population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 5,000 may enter into an agreement to constitute a joint board.

Idem

(2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the consent of their boards.

Composition
of board

(3) The joint board shall consist of,

- (a) the heads of the councils of the participating municipalities; and
- (b) other members appointed by the Lieutenant Governor in Council.

Application
of Act to
joint boards

(4) The provisions of this Act that apply to boards also apply with necessary modifications to joint boards.

Delegation

34. A board may delegate to two or more of its members any authority conferred on it by this Act, except,

- (a) the authority to hear the appeals of police officers found guilty of misconduct under Part V, which must be exercised by a quorum; and
- (b) the authority to bargain under Part VIII, which the board may delegate to one or more members.

Meetings

35.—(1) The board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Proceedings
open to the
public

(3) Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

(4) The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that, Exception

- (a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or
- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public.

36. A document purporting to be a by-law of the board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing. Admissibility of documents

37. In performing its duties under this Act, a board has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the board as if it were conducting an inquiry under that Act. Power with respect to witnesses
R.S.O. 1980, c. 411

38. A municipal police force shall consist of a chief of police and such other police officers and other employees as the board considers adequate, and shall be provided with the equipment and facilities that the board considers adequate. Municipal police force

39.—(1) Each year, the board shall submit to the municipal council or to each council responsible for maintaining the police force, as the case may be, its estimates for the year. Estimates

(2) The estimates shall be submitted at least one month before the beginning of the fiscal year of the municipality or municipalities, as the case may be; if they are to be submitted to municipalities whose fiscal years begin on different dates, they shall be submitted to all the councils at least one month before the earliest date. Time

(3) The estimates shall show, separately, the amounts that will be required, Idem

- (a) to maintain the police force and provide it with equipment and facilities; and

- (b) to pay the expenses of the board's operation other than the remuneration of board members.

Commission hearing in case of disagreement

(4) If the council does not approve the board's estimates or disagrees with the board on the number of members of the police force that is adequate or the equipment and facilities that are adequate, the Commission shall determine the question after a hearing.

Reduction or abolition of police force

40.—(1) A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act.

Criteria for Commission's consent

(2) The Commission shall consent to the termination of the employment of a member of the police force under subsection (1) only if,

- (a) the member and the board have made an agreement dealing with severance pay or agreed to submit the matter to arbitration; or
- (b) the Commission has made an order under subsection (3).

Order imposing arbitration

(3) If the member and the board do not make an agreement dealing with severance pay and do not agree to submit the matter to arbitration, the Commission, if it is of the opinion that it would be appropriate to permit the abolition of the police force or the reduction of its size, may order the member and the board to submit the matter to arbitration and may give any necessary directions in that connection.

Arbitration

(4) Section 124 applies to an arbitration referred to in this section with necessary modifications.

PART IV

POLICE OFFICERS AND OTHER POLICE STAFF

CHIEF OF POLICE

Duties of chief of police

41.—(1) The duties of a chief of police include,

- (a) in the case of a municipal police force, administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the board under subsection 31 (1);

- (b) ensuring that members of the police force carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community, and that discipline is maintained in the police force;
- (c) ensuring that the police force provides community-oriented police services;
- (d) administering discipline in accordance with Part V;
- (e) administering the public complaints system under Part VI;
- (f) implementing the employment equity plan established under section 48 and the regulations;
- (g) in the case of a municipal police force, reporting to the board at regular intervals on public complaints and on the implementation of the employment equity plan.

(2) The chief of police reports to the board and shall obey its lawful orders and directions.

Chief of police reports to board

POLICE OFFICERS

42.—(1) The duties of a police officer include,

Duties of police officer

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges, prosecuting and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;

- (h) in the case of a municipal police force and in the case of an agreement under section 10 (agreement for provision of police services by O.P.P.), enforcing municipal by-laws;
- (i) completing the prescribed training.

Power to act throughout Ontario

(2) A police officer has authority to act as such throughout Ontario.

Powers and duties of common law constable
Criteria for hiring

(3) A police officer has the powers and duties ascribed to a constable at common law.

43.—(1) No person shall be appointed as a police officer unless he or she,

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least eighteen years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (d) is of good moral character and habits; and
- (e) has successfully completed at least four years of secondary school education or its equivalent.

Idem

(2) A candidate for appointment as a police officer shall provide any relevant information or material that is lawfully requested in connection with his or her application.

Probationary period

44.—(1) A municipal police officer's probationary period begins on the day he or she is appointed and ends on the later of,

- (a) the first anniversary of the day of appointment;
- (b) the first anniversary of the day the police officer completes an initial period of training at the Ontario Police College.

Time for completing initial training

(2) The police officer shall complete the initial period of training within six months of the day of appointment.

Termination of employment during probationary period

(3) A board may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer reasonable information

with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the board may determine.

(4) Subsections (1), (2) and (3) do not apply to a police officer who has completed a probationary period with another municipal police force.

Only one probationary period

45. A person appointed to be a police officer shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

Oaths of office and secrecy

46. No municipal police officer shall engage in political activity, except as the regulations permit.

Political activity

MEMBERS OF POLICE FORCES

47.—(1) Subject to subsection (2), if a member of a municipal police force becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the board shall accommodate his or her needs in accordance with the *Human Rights Code, 1981*.

Accommodation of needs of disabled member of municipal police force 1981, c. 53

(2) The board may discharge the member, or retire him or her if entitled to retire, if, after holding a hearing at which the evidence of two legally qualified medical practitioners is received, the board,

Undue hardship

(a) determines, on the basis of that evidence, that the member is mentally or physically disabled and as a result incapable of performing the essential duties of the position, and what duties the member is capable of performing; and

(b) concludes that the member's needs cannot be accommodated without undue hardship on the board.

(3) Subject to subsection (4), if a member of the Ontario Provincial Police becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the Commissioner shall accommodate the member's needs in accordance with the *Human Rights Code, 1981*.

Idem.
O.P.P.

(4) The member may be discharged, or retired if entitled to retire, if, after holding a hearing at which the evidence of two legally qualified medical practitioners is received, the Commissioner or a person whom he or she designates,

Idem

- (a) determines, on the basis of that evidence, that the member is mentally or physically disabled and as a result incapable of performing the essential duties of the position, and what duties the member is capable of performing; and
- (b) concludes that the member's needs cannot be accommodated without undue hardship on the Crown in right of Ontario. ▲

Appeal

(5) A member of a police force who is discharged or retired under subsection (2) or (4) may appeal to the Commission by serving a written notice on the Commission and on the board or the Commissioner, as the case may be, within thirty days of receiving notice of the decision.

Powers of Commission

(6) The Commission may confirm, alter or revoke the decision or may require the board or Commissioner, as the case may be, to rehear the matter.

Decision

(7) The Commission shall promptly give written notice of its decision, with reasons, to the appellant and to the board or Commissioner, as the case may be.

Participation of members of Commission

(8) No member of the Commission shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the consent of the appellant, no decision of the Commission shall be given unless all members who were present throughout the hearing participate in the decision.

Employment equity plans

48.—(1) Every police force shall have an employment equity plan prepared in accordance with this section and the regulations.

Contents of plan

- (2) An employment equity plan shall provide for,
 - (a) the elimination of systemic barriers to the recruitment and promotion of persons who are members of prescribed groups;
 - (b) the implementation of positive measures with respect to the recruitment and promotion of those persons, so as to make the police force more representative of the community or communities it serves; and
 - (c) specific goals and timetables with respect to the elimination of systemic barriers, the implementation

of positive measures and the composition of the police force.

(3) In the case of a municipal police force, the board shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Board to prepare plan for municipal police force

(4) In the case of the Ontario Provincial Police, the Commissioner shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Commissioner to prepare plan for O.P.P.

(5) Before approving the employment equity plan, the Solicitor General may require that changes be made to it.

Solicitor General

49.—(1) A member of a police force shall not engage in any activity,

Restrictions on secondary activities

(a) that interferes with or influences adversely the performance of his or her duties as a member of a police force, or is likely to do so;

(b) that places him or her in a position of conflict of interest, or is likely to do so;

(c) that would otherwise constitute full-time employment for another person; or

(d) in which he or she has an advantage derived from employment as a member of a police force.

(2) Clause (1) (d) does not prohibit a member of a police force from performing, in a private capacity, services that have been arranged through the police force.

Exception, paid duty

(3) A member of a police force who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police.

Disclosure to chief of police

(4) The chief of police shall decide whether the member is permitted to engage in the activity and the member shall comply with that decision.

Decision of chief of police

50.—(1) The board or the Crown in right of Ontario, as the case may be, is liable in respect of torts committed by members of the police force in the course of their employment.

Liability for torts

Indemnification of member of municipal police force

(2) The board may, in accordance with the guidelines established under clause 31 (1) (h), indemnify a member of the police force for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Agreement

(3) The police force and the board may, in an agreement made under Part VIII, provide for indemnification for the legal costs of members of the police force, except the legal costs of a member who is found guilty of a criminal offence; if such an agreement exists, the board shall indemnify members in accordance with the agreement and subsection (2) does not apply.

Council responsible for board's liabilities

(4) The council is responsible for the liabilities incurred by the board under subsections (1), (2) and (3).

Indemnification of member of O.P.P.

(5) The Treasurer of Ontario may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Agreement

R.S.O. 1980, c. 418

(6) The Ontario Provincial Police and the Crown in right of Ontario may, in an agreement made under the *Public Service Act*, provide for indemnification for the legal costs of members of the police force, except the legal costs of a member who is found guilty of a criminal offence; if such an agreement exists, the Treasurer shall indemnify members in accordance with the agreement and subsection (5) does not apply.

51.—(1) With the board's approval, a municipal chief of police may appoint persons as police cadets to undergo training. Police cadets

(2) A police cadet is a member of the municipal police force. Idem

52.—(1) With the Commission's approval, a board may appoint auxiliary members of the police force. Auxiliary members of municipal police force

(2) If the board suspends or terminates the appointment of an auxiliary member of the police force, it shall promptly give the Commission written notice of the suspension or termination. Notice of suspension or termination

(3) The Commissioner may appoint auxiliary members of the Ontario Provincial Police. Auxiliary members of O.P.P.

(4) An auxiliary member of a police force has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the chief of police. Authority of auxiliary members of police force

(5) The chief of police may authorize an auxiliary member of the police force to perform police duties only in special circumstances, including an emergency, that the police officers of the police force are not sufficiently numerous to deal with. Restriction

(6) A person appointed to be an auxiliary member of a police force shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. Oaths of office and secrecy


SPECIAL CONSTABLES

53.—(1) With the Commission's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient. Special constables appointed by board


(2) With the Commission's approval, the Commissioner may appoint a special constable to act for the period, area and purpose that the Commissioner considers expedient. Special constables appointed by Commissioner

(3) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment. Powers of police officer

(4) A special constable shall not be employed by a police force to perform on a permanent basis, whether part-time or full-time, all the usual duties of a police officer. Restriction

- Idem (5) Subsection (4) does not prohibit police forces from employing special constables to escort and convey persons in custody and to perform duties related to the responsibilities of boards under the *Court Security Act*. 
- R.S.O. 1980, c. 381
- Suspension or termination of appointment (6) The power to appoint a special constable includes the power to suspend or terminate the appointment, but if a board or the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.
- Commission (7) The Commission also has power to suspend or terminate the appointment of a special constable.
- Information and opportunity to reply (8) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the board, Commissioner or Commission, as the case may be, may determine.
- Oaths of office and secrecy (9) A person appointed to be a special constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

FIRST NATIONS CONSTABLES

-  First Nations Constables **54.**—(1) With the Commission's approval, the Commissioner may appoint a First Nations Constable to perform specified duties.
- Further approval R.S.C. 1985, c. 1-5 (2) If the specified duties of a First Nations Constable relate to a reserve as defined in the *Indian Act (Canada)*, the appointment also requires the approval of the reserve's police governing authority or band council.
- Powers of police officer (3) The appointment of a First Nations Constable confers on him or her the powers of a police officer for the purpose of carrying out his or her specified duties.
- Duty to consult (4) The Commissioner shall not suspend or terminate the appointment of a First Nations Constable whose specified duties relate to a reserve without first consulting with the police governing authority or band council that approved the appointment.
- Suspension or termination of appointment (5) The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment, but if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.

(6) The Commission also has power to suspend or terminate the appointment of a First Nations Constable. Commission

(7) Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commissioner, as the case may be, may determine. Information and opportunity to reply

(8) A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. Oaths of office and secrecy

EMERGENCIES

55.—(1) In an emergency, the Solicitor General may make an agreement with the Crown in right of Canada or of another province or with any of its agencies for the provision of police services. Emergencies

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates. Authority to act as police officers

(3) For the purpose of the *Workers' Compensation Act*, the relationship between a member of a police force and the body that employs him or her continues as if an agreement had not been made under this section. Application of R.S.O. 1980, c. 539

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses. Expense of calling out Canadian Forces

(5) Subject to sections 33 and 34 of the *National Defence Act* (Canada), while an agreement made under this section is in force, no member of a police force that has jurisdiction in the area to which the agreement relates shall resign without the consent of the chief of police. Resignation during emergency prohibited R.S.C. 1985, c. N-5

PART V

DISCIPLINARY PROCEEDINGS

56. A police officer is guilty of misconduct if he or she, Misconduct

- (a) commits an offence described in a prescribed code of conduct;
- (b) contravenes section 46 (political activity);

- (c) engages in an activity that contravenes subsection 49 (1) (secondary activities) without the permission of his or her chief of police, being aware that the activity may contravene that subsection;
- (d) contravenes subsection 55 (5) (resignation during emergency);
- (e) contravenes section 57 (inducing misconduct, withholding services);
- (f) contravenes subsection 96 (4) (photography at hearing);
- (g) contravenes subsection 100 (6) (obstructing Police Complaints Commissioner);
- (h) contravenes subsection 108 (2) (confidentiality);
- (i) contravenes section 117 (trade union membership);
- (j) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 132;
- (k) deals with money in a manner that is not consistent with section 133;
- (l) deals with a firearm in a manner that is not consistent with section 134;
- (m) contravenes a regulation made under paragraph 15 (equipment), 16 (use of force), 17 (standards of dress, police uniforms) 20 (police pursuits) or 21 (records) of subsection 135 (1).

Inducing
misconduct

57.—(1) No person, including a member of a police force, shall,

- (a) induce or attempt to induce a member of a police force to withhold his or her services; or
- (b) induce or attempt to induce a police officer to commit misconduct.

Withholding
services

(2) No member of a police force shall withhold his or her services.

Offence

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more

than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(4) No prosecution shall be instituted under this section without the consent of the Solicitor General.

Consent of
Solicitor
General

58.—(1) Any apparent or alleged misconduct by a police officer shall be investigated by his or her chief of police.

Chief to
investigate
misconduct

(2) When a complaint is made under Part VI with respect to apparent or alleged misconduct by a police officer, the following rules apply:

Effect of
complaint

1. The complaint shall be dealt with in accordance with Part VI, and recourse shall be had to this Part only as Part VI permits.
2. Any investigation of the matter under this Part and any hearing under section 60 are suspended as soon as the chief of police becomes aware that a complaint has been made.

59.—(1) If the chief of police investigates apparent or alleged misconduct and concludes that the police officer is guilty of misconduct but that the misconduct is not of a serious nature, the following rules apply:

Procedure in
case of
misconduct
not of
serious
nature

1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.
2. The chief of police may then admonish the police officer and may cause an entry concerning the matter, the action taken and the police officer's reply to be made in his or her employment record.
3. If the police officer refuses to accept the admonition, the chief of police shall not cause particulars to be recorded without first holding a hearing.

(2) An entry made in the police officer's employment record under paragraph 2 of subsection (1) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct have been made in the record under this Part or Part VI.

Expungement

(3) Nothing in this section affects agreements between boards and police officers or associations that permit other penalties than admonition to be administered, if the police

Agreement

officer in question consents, without a hearing under section 60.

Hearing

60.—(1) A chief of police may hold a hearing to determine whether a police officer belonging to his or her police force is guilty of misconduct.

Prosecutor

(2) The chief of police shall designate to be prosecutor at the hearing,

- (a) a police officer of the rank of sergeant or higher;
- (b) if there is none of that rank, a police officer of a rank equal to or higher than that of the police officer who is the subject of the hearing; or
- (c) a legal counsel.

Recording of evidence

(3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.

Examination of evidence

(4) Before the hearing, the police officer shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence.

Idem

(5) If the hearing is being conducted as a result of a complaint made under Part VI, the complainant shall likewise be given an opportunity to examine evidence and reports before the hearing.

Police officer not required to give evidence
R.S.O. 1980,
c. 484

(6) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.

Limited admissibility of certain statements

(7) In the case of a hearing that is being conducted as a result of a complaint made under Part VI, no statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.

Person conducting hearing not to communicate in relation to subject-matter of hearing

(8) The person conducting the hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or person's counsel or representative, unless the police officer and the prosecutor receive notice and have an opportunity to participate.

(9) However, the person conducting the hearing may seek legal advice from an adviser independent of the police officer and the prosecutor, and in that case the nature of the advice shall be communicated to them so that they make submissions as to the law. ▲

Exception

(10) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them. ▼

Release of exhibits

(11) If the police officer is charged with an offence under a law of Canada or of a province or territory in connection with the alleged misconduct, the hearing shall continue unless the Crown Attorney advises the chief of police that it should be stayed until the conclusion of the court proceedings.

Stay

(12) If six months have elapsed since the facts on which an allegation of misconduct is based first came to the attention of the chief of police, no notice of hearing shall be served unless the board (in the case of a municipal police officer) or the Commissioner (in the case of a member of the Ontario Provincial Police) is of the opinion that it was reasonable, under the circumstances, to delay serving the notice of hearing. ▲

Six-month limitation period. exception

61.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may,

Penalties

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days or 240 hours, as the case may be;
- (e) direct that the police officer forfeit not more than five days' or forty hours' pay, as the case may be; or
- (f) direct that the police officer forfeit not more than twenty days or 160 hours off, as the case may be.

(2) Penalties imposed under clauses (1) (d), (e) and (f) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day.

Calculation

Idem

(3) Instead of or in addition to a penalty described in subsection (1), the chief of police may reprimand the police officer.

Dismissal and demotion

(4) The chief of police shall not impose the penalties of dismissal or demotion unless the notice of hearing or a subsequent notice served on the police officer indicated that they might be imposed if the misconduct were proved on clear and convincing evidence.

Notice of decision

(5) The chief of police shall promptly give written notice of the decision, with reasons, to the police officer and, in the case of a municipal police force, to the board.

Idem

(6) If the hearing was conducted as a result of a complaint made under Part VI, the chief of police shall also give notice of the decision, with reasons, to the complainant and to the Police Complaints Commissioner.

Police officer's employment record

(7) No reference to the allegations of misconduct or the hearing shall be made in the police officer's employment record, and the matter shall not be taken into account for any purpose relating to his or her employment, unless,

- (a) misconduct is proved on clear and convincing evidence; or
- (b) the police officer resigns before the matter is finally disposed of.

Misconduct by municipal chief of police

62.—(1) A board may hold a hearing to determine whether the chief of police is guilty of misconduct, and this Part applies with necessary modifications.

Commission hearing

(2) The chief of police may, by serving a notice to that effect on the board and the Commission, require that the Commission hold the hearing instead of the board.

Appeal to board

63.—(1) A municipal police officer on whom a penalty is imposed under section 61 may appeal to the board by serving a notice of appeal on the board and the chief of police within fifteen days of receiving notice of the decision.

Hearing

(2) The board shall hear the appeal on the record, but may receive new or additional evidence as it considers just.

Powers of board

(3) The board may confirm, alter or revoke the decision or may require the chief of police to rehear the matter.

- (4) The board shall promptly give written notice of its decision, with reasons, to the chief of police and the police officer. Board's decision
- (5) No member of the board shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the police officer's consent, no decision of the board shall be given unless all members who were present throughout the hearing participate in the decision. Participation of members
- (6) The members of the board who participate in the decision shall not communicate directly or indirectly in relation to the subject-matter of the appeal with any person or person's counsel or representative, unless the police officer and the chief of police receive notice and have an opportunity to participate. Members not to communicate in relation to subject-matter of appeal
- (7) However, the board may seek legal advice from an adviser independent of the police officer and the chief of police, and in that case the nature of the advice shall be communicated to them so that they may make submissions as to the law. Exception
- (8) The police officer may appeal to the Commission from the board's decision by serving a notice of appeal on the Commission, the board and the chief of police within thirty days of receiving notice of the decision. Further appeal to Commission
64. Instead of hearing a police officer's appeal under section 63, the board may, on its own initiative or on the application of the police officer or the chief of police, require the Commission to hear the appeal. Hearing by Commission instead of board
65. A member of the Ontario Provincial Police on whom a penalty is imposed under section 61 may appeal to the Commission by serving a written notice on the Commission and the Commissioner within thirty days of receiving notice of the decision. O.P.P. appeal to Commission from Commissioner's decision
66. If the hearing was conducted as a result of a complaint made under Part VI, sections 63 and 65 do not apply and the police officer may only appeal in accordance with that Part. Exception in case of public complaint
67. Subsections 63 (2) to (7) apply to appeals heard by the Commission as if references to the board were references to the Commission and, in the case of an appeal from a board's decision, as if references to the chief of police were references to the board. Appeals to Commission

Extension of
time for
appeals

68. The board or Commission may grant an extension of the time provided for giving it a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Delegation

69. A chief of police may authorize any member of the police force to exercise any power or perform any duty of the chief of police referred to in this Part, subject to the following rules:

1. A hearing under section 60 shall be conducted by a police officer of the rank of inspector or higher.
2. A police officer from another police force who meets the requirements of paragraph 1 may conduct the hearing, with the approval of his or her chief of police.
3. The measures referred to in subsection 59 (1) (procedure in case of misconduct not of serious nature) shall be taken by a police officer of the rank of inspector or higher.

Notice

70.—(1) A notice required to be given under this Part is sufficiently given if delivered personally or sent by prepaid registered mail addressed to the person.

Notice by
mail

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date.

Suspension

71.—(1) If a police officer is suspected of or charged with an offence under a law of Canada or of a province or territory or is suspected of misconduct, the chief of police may suspend him or her from duty with pay.

Revocation
and reimpo-
sition of
suspension

(2) The chief of police may revoke the suspension and later reimpose it, repeatedly if necessary, as he or she considers appropriate.

Duration of
suspension

(3) Unless the chief of police revokes the suspension, it shall continue until the final disposition of the proceeding in which the police officer's conduct is at issue.

Conditions of
suspension

(4) While suspended, the police officer shall not exercise any of the powers vested in him or her as a police officer or

wear or use clothing or equipment that was issued to him or her in that capacity.

(5) If a police officer is convicted of an offence and sentenced to a term of imprisonment, the chief of police may suspend him or her without pay, even if the conviction or sentence is under appeal. Suspension without pay

72.—(1) If a police officer is suspended with pay, the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period. Earnings from other employment

(2) Subsection (1) does not apply to earnings from other employment that was commenced before the period of suspension. Exception

PART VI

PUBLIC COMPLAINTS

73.—(1) In this Part, Definitions

“bureau” means the public complaints investigation bureau of a police force;

“Commissioner” means the Police Complaints Commissioner appointed under section 99.

(2) In this Part, unless the context indicates otherwise, a reference to a police officer is a reference to the police officer who is the subject of a complaint. Police officer

74. This Part shall be administered by the Attorney General. Attorney General

75. Complaints by members of the public about the conduct of police officers shall be dealt with in accordance with this Part. Application of Part

76.—(1) Every chief of police shall establish and maintain a public complaints investigation bureau. Bureau

(2) The chief of police shall ensure that the bureau is supplied with sufficient staff to perform its duties effectively. Staff

(3) If the police force has fewer than twenty police officers, the bureau of another police force may, under an agreement made in accordance with section 7 (municipal agreements for sharing police services) or 10 (municipal agreements for provi- Small police forces

sion of police services by O.P.P.), act as the first-named police force's bureau as well; in that case, subsections (1) and (2) do not apply.

INITIAL HANDLING OF COMPLAINT

Complaint by
member of
public

77.—(1) A member of the public may make a complaint about the conduct of a police officer, orally or in writing,

- (a) at the bureau of the police force to which the complaint relates, or at a station or detachment of that police force; or
- (b) at an office of the Commissioner; or
- (c) at any bureau, police station or detachment.

Recording of
complaint

(2) The person who receives the complaint shall record it on a form provided by the Commissioner and shall give a copy of the completed form to the person who makes the complaint.

Information

(3) The person who makes the complaint shall also be given a statement, in a form provided by the Commissioner, that sets out the procedures followed in dealing with a complaint and describes the rights of a complainant.

Preservation
of evidence,
preliminary
investigation

(4) The person on duty who is in charge of a place when a complaint is received shall,

- (a) take all reasonable steps to ensure that evidence that might otherwise be lost is secured immediately;
- (b) if he or she considers it appropriate, ensure that a preliminary investigation is conducted immediately; and
- (c) ensure that a report on the evidence and on the preliminary investigation, if any, is forthwith prepared and attached to the complaint.

Copies of
complaint

(5) The person who records the complaint shall forthwith send copies of it,

- (a) to the bureau, the chief of police and the Commissioner, in the case of a complaint made at a station or detachment of the police force to which it relates;

- (b) to the chief of police and the Commissioner, in the case of a complaint made at the bureau of the police force to which it relates;
- (c) to the bureau and the chief of police of the police force to which it relates, in the case of a complaint made at an office of the Commissioner;
- (d) to the Commissioner, in the case of a complaint made at a bureau, station or detachment of a different police force than the one to which it relates.
- (6) If a complaint was made at a bureau, station or detachment of a different police force than the one to which it relates, the Commissioner shall forthwith send copies of the complaint and of any report prepared under subsection (4) to the appropriate bureau. Complaint made to another police force
- (7) A complaint that is made more than six months after the incident to which it relates shall be further dealt with under this Part only if the Commissioner so directs. Complaint made more than six months after incident
- 78.**—(1) In exceptional circumstances, the Attorney General may direct the Commissioner to make a complaint about the conduct of a police officer. Complaint by Commissioner
- (2) The Commissioner shall cause the complaint to be recorded and shall send copies to the bureau and the chief of police of the force to which it relates. Recording of complaint. copies
- (3) The Commissioner is the complainant in the case of a complaint made under this section. Complainant
- (4) Subsection 77 (7) and sections 80 (notice to potential complainant), 81 (classification of complaint), 82 (reclassification), 83 (informal resolution) and 85 (decision by chief of police re no further action) do not apply to complaints made under this section. Non-application of certain provisions
- 79.**—(1) When the bureau receives a complaint, the person in charge shall forthwith give the police officer notice of the substance of the complaint, unless in the person's opinion to do so might prejudice the investigation. Notice to police officer
- (2) The notice shall be written on a form provided by the Commissioner. Form
- 80.**—(1) If the complaint is made by a person who was not directly affected by the incident and did not observe it, the Commissioner shall, as soon as possible after receiving the Notice to potential complainant

complaint, attempt to find the person who was directly affected by the incident or who observed it and send him or her a notice.

Idem

(2) The notice shall indicate that a complaint has been made, that the person is entitled to be the complainant in the matter and that the complaint will not be dealt with further unless he or she is the complainant.

Idem

(3) The notice shall also include information about the procedures followed in dealing with a complaint and the rights of a complainant.

No further
action

(4) The complaint shall not be further dealt with under this Part if,

(a) no person who was directly affected by the incident or who observed it can be found; or

(b) the person to whom the Commissioner sends the notice does not, within thirty days of the date on which it is sent, file with the Commissioner a request to be the complainant in the matter.

Disciplinary
proceeding

(5) However, if a disciplinary proceeding is commenced against the police officer in respect of the complaint, the chief of police shall notify the Commissioner of the proceeding and of its result, and the Commissioner shall then notify the person who made the complaint.

Reopening of
matter

(6) If the person to whom the Commissioner sends the notice files a request to be the complainant in the matter after the thirty-day period referred to in subsection (4), the Commissioner may cause the matter to be reopened despite the late filing if he or she considers it advisable to do so.

Classification
of complaint

81.—(1) When the bureau receives a complaint, the person in charge shall consider whether it relates to possible misconduct under section 56, to other matters or to both.

Idem

(2) If the person in charge is of the opinion that all or part of the complaint relates only to other matters than possible misconduct, he or she may, with the Commissioner's consent, classify the complaint or part as an inquiry.

Notice and
investigation

(3) When all or part of a complaint has been classified as an inquiry, the person in charge shall forthwith notify the complainant and the police officer of the fact and may cause the inquiry to be investigated.

(4) Not more than sixty days after the bureau receives the original complaint, the person in charge shall send the complainant a written response to the inquiry and shall also send the Commissioner a copy of the response, together with a summary of the results of any investigation. Response to complainant

(5) A complaint or part of a complaint that is classified as an inquiry and not reclassified as a complaint and that is the subject of a response under this section need not be dealt with further under this Part. Effect

82.—(1) During the course of the investigation of an inquiry, if the person in charge concludes that all or part of it relates to possible misconduct, he or she may reclassify the inquiry or part as a complaint. Reclassification

(2) After receiving a summary of the results of the investigation of an inquiry, the Commissioner may direct the person in charge to reclassify all or part of it as a complaint. Idem

(3) The person in charge shall forthwith notify the complainant and the police officer of the reclassification, and shall also notify the Commissioner in the case of a reclassification under subsection (1). Notice

(4) An inquiry or part of an inquiry that is reclassified as a complaint shall be dealt with as such under this Part. Effect

INFORMAL RESOLUTION, WITHDRAWAL

83.—(1) If the complainant and the police officer consent, the complaint may be resolved informally by the person in charge of the bureau, before the chief of police gives notice of a decision under section 90, or by the Commissioner after that time. Informal resolution by person in charge of bureau

(2) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, its consent is also required for an informal resolution. Board's consent

(3) When a complaint is resolved informally, the resolution shall be recorded on a form provided by the Commissioner and signed by the complainant and police officer. Record

(4) Copies of the record shall be provided to the complainant and the police officer, and to the Commissioner if the complaint was resolved by the person in charge of the bureau. Copies

(5) If the Commissioner is of the opinion that the informal resolution is the result of a misunderstanding or a threat or Commissioner's decision that complaint to continue

other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the informal resolution.

Notice

(6) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

Withdrawal of complaint

84.—(1) The complainant may withdraw the complaint by giving a notice of withdrawal to the person in charge of the bureau, before the chief of police gives notice of a decision under section 90, or to the Commissioner after that time.

Idem, complaint made by Commissioner

(2) If the complaint was made under section 78, the Commissioner may withdraw it by giving a notice of withdrawal to the chief of police and a copy to the police officer; subsection (3) applies to the withdrawal but subsections (4) to (7) do not.

Board's consent

(3) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, it shall not be withdrawn without the board's consent.

Copies

(4) A copy of the notice of withdrawal shall be provided to the police officer, and to the Commissioner if the person in charge of the bureau received the notice.

Form

(5) The notice of withdrawal shall be written on a form provided by the Commissioner.

Commissioner's decision that complaint to continue

(6) If the Commissioner is of the opinion that the withdrawal is the result of a misunderstanding or a threat or other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the withdrawal.

Notice

(7) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

POWERS OF CHIEF OF POLICE

Decision re no further action

85.—(1) At any time before making a decision under section 90, the chief of police may decide that the complaint or part of it shall not be further dealt with under this Part, if he or she is of the opinion that the complaint or part is frivolous or vexatious or was made in bad faith.

Notice

(2) The chief of police shall give the Commissioner, the complainant and the police officer notice of the decision.

86.—(1) The chief of police may commence or continue a disciplinary proceeding against a police officer under Part V even if, Power to commence or continue disciplinary proceeding

- (a) the complaint is withdrawn or is resolved informally; or
- (b) the complaint is not to be further dealt with under this Part because of subsection 77 (7) (complaint filed more than six months after incident) or section 80 (complaint made by person not directly affected), or because of a decision by the chief of police under section 85.

(2) The chief of police shall give the Commissioner and the complainant notice of a decision to commence or continue a disciplinary proceeding in the circumstances described in subsection (1), and shall also give them notice of the results of the proceeding. Notice to Commissioner and complainant

INVESTIGATION OF COMPLAINT

87.—(1) The person in charge of the bureau shall cause an investigation to be conducted into the complaint in accordance with the prescribed procedures. Investigation

(2) During the course of the investigation, the person in charge shall send the Commissioner, the complainant and the police officer interim reports on the investigation at monthly intervals. Interim reports

(3) The first interim report shall be sent not more than thirty days after the bureau receives the complaint. Idem

(4) If there are no new matters to report, the person in charge may send the Commissioner, the complainant and the police officer a notice to that effect instead of an interim report. Exception

(5) The person in charge may withhold an interim report from the complainant or the police officer if, in his or her opinion, it is desirable to do so in order to avoid prejudicing the investigation, but in that case shall forthwith notify the Commissioner of the decision and the reasons for it. Idem

(6) When the investigation has been completed, the person in charge shall cause a final report to be prepared and shall send copies of it to the Commissioner, the chief of police, the complainant and the police officer. Final report

Contents

(7) The final report shall contain,

- (a) a summary of the complaint, including a description of the police officer's alleged misconduct;
- (b) a summary of the investigation, including summaries of the information obtained from the complainant, the police officer and any witnesses; and
- (c) a description and analysis of any physical evidence obtained.

Further investigation

(8) After receiving a final report, the Commissioner may require the chief of police to have the complaint investigated further.

Idem

(9) A summary of the results of any further investigation shall be sent to the persons who received the final report.

Forms

(10) The interim reports and final report shall be written on forms provided by the Commissioner.

Investigation by Commissioner

88.—(1) The Commissioner may conduct the investigation into the complaint, instead of the bureau,

- (a) for any reason, after receiving the first interim report or after the thirty-day period referred to in subsection 87 (3) has expired;
- (b) if the complainant has commenced a court proceeding against the police officer, the police force or the chief of police, the police services board or the municipality (in the case of a municipal police force) or the Crown in right of Ontario (in the case of the Ontario Provincial Police) in connection with the incident to which the complaint relates;
- (c) if the Commissioner has reasonable grounds to believe that undue delay or other unusual circumstances have affected the bureau's investigation or the preparation of its final report; or
- (d) if the chief of police requests that the Commissioner conduct the investigation.

Duty of chief of police

(2) The chief of police, if he or she becomes aware that the complainant has commenced a court proceeding of the kind described in clause (1) (b), shall forthwith notify the Commissioner of the fact.

(3) If the complaint concerns more than one police force, the Commissioner shall conduct the investigation.

Complaints concerning more than one police force

(4) When the Commissioner decides to conduct the investigation, he or she shall forthwith notify the chief of police, giving reasons in the case of a decision under clause (1) (a) or (c).

Notice

(5) When the Commissioner notifies the chief of police of a decision to conduct the investigation, the person in charge of the bureau shall forthwith end any investigation begun by the bureau and send to the Commissioner the evidence that has been gathered and the documents relating to the complaint.

Effect on bureau

(6) Section 87 applies to the Commissioner's investigation, with necessary modifications, except that the Commissioner shall send the first interim report not more than thirty days after giving notice of the decision to conduct the investigation.

Manner of conducting investigation

89.—(1) If the complaint was made under section 78, the Commissioner shall conduct the investigation in accordance with the prescribed procedures, and section 87 does not apply.

Investigation of complaint made by Commissioner

(2) The Commissioner shall send the police officer and the chief of police interim reports on the investigation at monthly intervals.

Interim reports

(3) The first interim report shall be sent not more than thirty days after the Commissioner makes the complaint.

Idem

(4) If there are no new matters to report, the Commissioner may send the police officer and the chief of police a notice to that effect instead of an interim report.

Exception

(5) The Commissioner may withhold an interim report from the police officer if, in his or her opinion, it is desirable to do so to avoid prejudicing the investigation, but in that case shall forthwith notify the chief of police of the decision and the reasons for it.

Idem

(6) When the investigation has been completed, the Commissioner shall cause a final report to be prepared and shall send copies of it to the chief of police and the police officer.

Final report

(7) The final report shall contain,

Contents

(a) a summary of the complaint, including a description of the police officer's alleged misconduct;

- (b) a summary of the investigation, including summaries of the information obtained from the police officer and any witnesses; and
- (c) a description and analysis of any physical evidence obtained.

DECISION BY CHIEF OF POLICE

Review of
final report

20.—(1) The chief of police shall review the final report of the investigation of a complaint and may order further investigation if he or she considers it advisable.

Results of
further
investigation

(2) A summary of the results of any further investigation shall be sent to the persons who received the final report, and to the Commissioner if he or she conducted the original investigation.

Decision

(3) After reviewing the final report and the results of any further investigation, the chief of police shall,

- (a) decide that no further action is necessary;
- (b) admonish the police officer regarding the matter in accordance with subsection 59 (1);
- (c) hold a disciplinary hearing under section 60;
- (d) order that all or part of the complaint be the subject of a hearing by a board of inquiry; or
- (e) cause an information to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.

Idem

(4) If the chief of police decides to hold a disciplinary hearing under section 60 or orders a hearing by a board of inquiry, he or she may at the same time cause an information to be laid against the police officer.

Notice

(5) The chief of police shall give written notice of the decision to the Commissioner, the complainant and the police officer, with reasons in the case of a decision that no further action is necessary or a decision to admonish the police officer.

Idem

(6) If the chief of police orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 103 (9).

(7) The chief of police shall give notice of the decision within six months of receiving the final report, unless the Commissioner grants an extension. Six-month time limit

(8) If the chief of police does not give notice of the decision within the six-month period and is not granted an extension, he or she shall be deemed to have decided that no further action is necessary. Deemed decision

REVIEW BY COMMISSIONER

21.—(1) The Commissioner shall review the decision of the chief of police, Review by Commissioner

- (a) at the complainant's or police officer's request, in the case of a decision under section 90 to admonish the police officer;
- (b) at the complainant's request, in the case of a decision under section 90 that no further action is necessary;
- (c) at the complainant's request, in the case of a decision under section 85 that the complaint or part of it not be further dealt with under this Part.

↙ (2) The Commissioner may, if in his or her opinion it is in the public interest to do so, review the decision of the chief of police, Idem

- (a) in the case of a decision under section 90 to admonish the police officer;
- (b) in the case of a decision under section 90 that no further action is necessary;
- (c) in the case of a decision under section 85 that the complaint or part of it not be further dealt with under this Part. ↗

(3) The Commissioner shall, at the complainant's request, review the decision made in a disciplinary hearing under section 60 arising out of a complaint. Idem

(4) The complainant or police officer may request a review by the Commissioner only within thirty days of receiving notice of the decision, unless the Commissioner grants an extension. Thirty-day limit

Complaint
made by
Commissioner

(5) In the case of a complaint made under section 78, the Commissioner may review,

- (a) a decision by the chief of police to admonish the police officer;
- (b) a decision by the chief of police that no further action is necessary;
- (c) the decision made in a disciplinary hearing under section 60 arising out of the complaint.

Commissioner's
decision

(6) After conducting the review, the Commissioner may decide to take no further action, or may order a hearing by a board of inquiry if he or she believes it to be necessary in the public interest.

Notice

(7) The Commissioner shall forthwith give written notice of his or her decision, with reasons in the case of a decision to take no further action, to the chief of police, the complainant and the police officer.

Idem

(8) If the Commissioner orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 103 (9).

HEARING BY BOARD OF INQUIRY

Police
officer's
appeal to
board

92.—(1) If a penalty is imposed on a police officer after a disciplinary hearing under section 60 that was conducted as a result of the complaint, he or she may appeal to a board of inquiry by serving a notice of appeal on the Commissioner, the chair of the panel and the chief of police within fifteen days of receiving notice of the decision.

Notice to
complainant

(2) The Commissioner shall forthwith notify the complainant of the appeal.

Extension of
time for
appeal

(3) A member of the panel who was appointed on a recommendation made under subsection 103 (2) may grant an extension of the time provided for serving a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Appeal to be
combined
with other
hearing

(4) The hearing of the police officer's appeal and any hearing ordered by the Commissioner under section 91 shall be combined.

Constitution
of board

93.—(1) A board of inquiry shall be constituted,

- (a) when the chief of police orders under section 90 that a matter be heard by a board of inquiry;
- (b) when the Commissioner orders a hearing under section 91; and
- (c) when a police officer appeals under section 92.

(2) The chair of the panel shall assign the following members of the panel to the board of inquiry, choosing members from the area where the complaint arose if possible:

Assignment
of members
to board

1. As presiding officer, a member who was appointed on a recommendation made under subsection 103 (2).
2. A member who was appointed on a recommendation made under subsection 103 (3).
3. A member who was appointed on a recommendation made under subsection 103 (4).

(3) In the case of a complaint against a chief of police, the board of inquiry shall include, instead of a member of the panel who was appointed on a recommendation made under subsection 103 (3), a person, other than a police officer or a member of the Law Society of Upper Canada, appointed to the board of inquiry by the chair of the panel on the recommendation of the Ontario Association of Chiefs of Police.

Complaint
against chief
of police

24—(1) The hearing before the board of inquiry shall be a new hearing, unless it follows a disciplinary hearing under section 60; in that case it shall be on the record, but the board may receive new or additional evidence as it considers just.

New hearing.
exception

(2) If a board is constituted following a disciplinary hearing, the chief of police shall cause a record of the hearing to be prepared, at the Commissioner's expense if the Commissioner ordered the hearing before the board.

Record of
disciplinary
hearing

(3) The record shall include a transcript and shall be accompanied by the documents, physical evidence and exhibits considered at the disciplinary hearing.

Idem

25—(1) The parties to a hearing are,

Parties

- (a) the complainant;
- (b) the police officer;

(c) the Commissioner; and

(d) the chief of police, in the case of an appeal by the police officer.

Idem (2) The board of inquiry may add parties at any stage of the hearing on the conditions it considers proper.

Carriage (3) In the case of a hearing ordered by the chief of police or by the Commissioner, the Commissioner has carriage of the matter and, in the case of an appeal by the police officer, the police officer has carriage.

Statement of alleged misconduct (4) In the case of a hearing ordered by the chief of police or by the Commissioner, the chief of police or the Commissioner, as the case may be, shall provide the parties with a concise statement of the allegations of misconduct to be heard.

Notice of hearing **96.**—(1) The board of inquiry shall appoint a time for the hearing and notify the parties.

Examination of evidence (2) Before the hearing, the police officer and the complainant shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence at the hearing.

Recording of evidence (3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.

Application of 1984, c. 11, s. 146 (4) Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to the hearing.

Police officer not required to give evidence R.S.O. 1980, c. 484 (5) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.

Limited admissibility of certain statements (6) No statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.

Board not to communicate in relation to subject-matter of hearing (7) The board of inquiry shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or party or party's counsel or representative, unless all parties receive notice and have an opportunity to participate.

(8) However, the board may seek legal advice from an adviser independent of the parties, and in that case the nature of the advice shall be communicated to the parties so that they may make submissions as to the law. Exception

(9) If it appears to be in the interests of justice, the board may direct that the board, the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose. Adjournment
for view

(10) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them. Release of
exhibits

(11) If the police officer is charged with an offence under a law of Canada or of a province or territory in connection with the misconduct or possible misconduct to which the complaint relates, the hearing shall continue unless the Crown Attorney advises the presiding officer that it should be stayed until the conclusion of the court proceedings. Stay

(12) No member of the board shall participate in a decision unless he or she was present throughout the hearing and heard the parties' evidence and argument; except with the parties' consent, no decision shall be given unless all the members so present participate in it. Only
members at
hearing to
participate in
decision

(13) The decision of a majority of the members of the board is the board's decision. Decision

27.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may make submissions as to penalty and the board of inquiry may, Penalties

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days or 240 hours, as the case may be;
- (e) direct that the police officer forfeit not more than five days' or forty hours' pay, as the case may be; or

- (f) direct that the police officer forfeit not more than twenty days or 160 hours off, as the case may be.

Calculation

(2) Penalties imposed under clauses (1) (d), (e) and (f) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day.

Idem

(3) Instead of or in addition to a penalty described in subsection (1), the board may reprimand the police officer.

Notice of decision

(4) The board shall promptly give written notice of the decision, with reasons, to the parties and the Attorney General.

Appeal to Divisional Court

98.—(1) A party to a hearing before a board of inquiry may appeal to the Divisional Court within thirty days of receiving notice of the board's decision.

Grounds for appeal

(2) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Attorney General

(3) The Attorney General is entitled to be heard, by counsel or otherwise, on the argument of the appeal.

POLICE COMPLAINTS COMMISSIONER

Appointment of Commissioner

99.—(1) The Lieutenant Governor in Council shall appoint a Police Complaints Commissioner, to hold office for a term not exceeding five years.

Reappointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding five years in each case.

Staff

R.S.O. 1980, c. 418

(3) Such employees as are considered necessary for the purposes of this Part may be appointed under the *Public Service Act*.

Remuneration

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Records

(5) The Commissioner shall maintain copies of all records, reports and other materials received under this Part.

Monitoring handling of complaints

(6) The Commissioner shall monitor the handling of complaints by bureaus and chiefs of police.

Local offices

(7) The Commissioner may establish local offices.

(8) Anything that is given to or served upon the Commissioner under this Part may be given or served at one of the local offices. Idem

(9) The Commissioner shall report annually to the Attorney General. Annual report

(10) The Commissioner's accounts shall be audited annually by the Provincial Auditor. Audit

100.—(1) For the purposes of an investigation under section 88 or 89 or a review under section 91, the Commissioner may, if he or she has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, enter a police station after informing the chief of police and examine there documents and things related to the complaint. Powers on investigation or review

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation or review as if it were an inquiry under that Act. Powers on inquiry
R.S.O. 1980,
c. 411

(3) The Commissioner may, in writing, appoint a person to make any investigation or review the Commissioner is authorized to make and the person has all the powers and duties of the Commissioner relating to the investigation and the review. Appointment of person to make investigation or review

(4) The person shall be provided with a certificate of appointment containing his or her photograph, and while exercising any powers or performing any duties in respect of the investigation or review shall produce the certificate of appointment upon request. Identification

(5) The person shall report the results of the investigation or review to the Commissioner. Report

(6) No person shall obstruct the Commissioner or a person appointed under subsection (3) or withhold from the Commissioner or person or conceal or destroy any documents or things related to the investigation or review. Obstruction

(7) If a justice of the peace is satisfied, on an application made without notice by the Commissioner or a person appointed under subsection (3), that there are reasonable grounds to believe that there are in any place documents or things relating to an investigation or review, the justice of the peace may make an order authorizing the applicant, together with such persons as he or she calls on for assistance, to enter Search warrant

the place, by force if necessary, search for the documents or things and examine them.

Entry and search at night restricted

(8) The entry and search shall not be made between the hours of 9 p.m. and 6 a.m. unless the order so authorizes.

Removal of books, etc.

(9) The Commissioner may, upon giving a receipt, remove any documents or things examined under subsection (1) or (7) relating to the investigation or review, shall cause them to be copied with reasonable dispatch and shall then return them promptly to the person from whom they were removed.

Admissibility of copies

(10) A copy made as provided in subsection (9) and certified to be a true copy by the Commissioner is admissible in evidence in any proceeding and is proof, in the absence of evidence to the contrary, of the original document and its contents.

Appointment of expert

(11) The Commissioner may appoint an expert to examine documents or things examined under subsection (1) or (7).

Recommendations concerning police practices or procedures

101.—(1) The Commissioner may make recommendations with respect to the practices or procedures of a police force by sending the recommendations, with any supporting documents, to,

- (a) the Attorney General;
- (b) the Solicitor General;
- (c) the chief of police;
- (d) the association, if any; and
- (e) the police services board, in the case of a municipal police force.

Comments

(2) Within ninety days of receiving the recommendations, the chief of police, association and police services board shall send their comments to the Attorney General, the Solicitor General and the Commissioner.

Judicial review of Commissioner's decisions

102. The Commissioner's decisions under subsection 83 (5) (complaint to continue to be dealt with despite informal resolution), subsection 84 (6) (complaint to continue to be dealt with despite withdrawal) and clause 88 (1) (c) (decision to conduct investigation because of undue delay) shall be deemed to be made in the exercise of a statutory power of decision.

BOARDS OF INQUIRY

- 103.**—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry to conduct hearings in connection with complaints. Panel for boards of inquiry
- (2) One-third of the members of the panel shall be members of the Law Society of Upper Canada who are recommended for appointment by the Attorney General. Recommendations for appointment
- (3) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Police Association of Ontario. Idem
- (4) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Association of Municipalities of Ontario. Idem
- (5) The Attorney General may make the recommendations under subsection (3) or (4) if the Police Association of Ontario or the Association of Municipalities of Ontario, as the case may be, do not submit written recommendations to the Attorney General within the time that he or she specifies. Failure to make recommendations
- (6) Appointments to the panel shall be for a term not exceeding three years and a member may be reappointed for a further term or terms. Term
- (7) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board to which he or she was assigned before the expiration of the term. Continuance in office for uncompleted assignments
- (8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration
- (9) The Lieutenant Governor in Council shall appoint a person to be the chair of the panel. Chair
- (10) The chair shall cause to be prepared and published an annual summary of the decisions of boards, with reasons. Annual summary of decisions

GENERAL MATTERS

- 104.** No reference to a complaint, a hearing held under this Part or a disciplinary hearing conducted under section 60 as a result of the complaint shall be made in the police officer's employment record Police officer's employment record

cer's employment record, and the matter shall not be taken into account for any purpose related to his or her employment, unless,

- (a) the police officer is convicted of an offence in connection with the incident;
- (b) misconduct is proved on clear and convincing evidence at a hearing held under this Part or at a disciplinary hearing;
- (c) the chief of police admonishes the police officer in connection with the incident, in accordance with subsection 59 (1);
- (d) the police officer admits misconduct in the course of attempts to resolve the complaint informally; or
- (e) the police officer resigns before the complaint is finally disposed of.

Resignation
after hearing
ordered

105.—(1) This section applies to a police officer who resigns from the police force after a hearing is ordered under section 90 or 91.

Idem

(2) If the police officer resigns before a board of inquiry is constituted under section 93, the following rules apply:

1. No board of inquiry shall be constituted unless the police officer, within twelve months of the resignation, applies for employment with a police force or is employed by a police force.
2. In that case, the board acquires jurisdiction over the police officer despite the earlier resignation.

Idem

(3) If the police officer resigns after a board of inquiry is constituted, the following rules apply:

1. The board of inquiry loses jurisdiction over the police officer.
2. If the police officer, within twelve months of the resignation, applies for employment with a police force or is employed by a police force, the board's jurisdiction is revived.

Notice

106.—(1) A notice or other document required to be given or sent under this Part is sufficiently given if delivered

personally or sent by prepaid registered mail addressed to the person.

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date.

Notice by mail

107.—(1) The chief of police may authorize any police officer of the rank of inspector or higher (from another police force if there is none in the chief's own police force) to exercise any power or perform any duty of the chief of police referred to in this Part.

Delegation by chief of police

(2) The Commissioner may authorize any member of his or her staff to exercise any power or perform any duty of the Commissioner referred to in this Part.

Delegation by Commissioner

108.—(1) This section applies to every person engaged in the administration of this Part, including a member of a police force.

Application of section

(2) A person shall preserve secrecy in respect of all information obtained in the course of his or her duties and not contained in a record as defined in the *Freedom of Information and Protection of Privacy Act, 1987*, and shall not communicate such information to any other person except,

Confidentiality, exceptions 1987, c. 25

- (a) in accordance with subsection (3);
- (b) as may be required for law enforcement purposes; or
- (c) with the consent of the person, if any, to whom the information relates.

(3) A person may communicate information obtained in the course of his or her duties,

Permitted disclosure

- (a) as may be required in connection with the administration of this Act and the regulations; or
- (b) to his or her counsel.

(4) No person shall be required to testify in a civil proceeding with regard to information obtained in the course of his or her duties, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Non-compellability

Inadmissibility of documents

(5) No document prepared under this Part as the result of a complaint and no statement referred to in subsection 96 (6) (statements made during attempt at informal resolution) is admissible in a civil proceeding, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Non-application of R.S.O. 1980, c. 325

109. The *Ombudsman Act* does not apply to anything done under this Part.

Agreement for contributions

110. The Attorney General may, with the approval of the Lieutenant Governor in Council, enter into an agreement with a municipality providing for its payment to the Treasurer of Ontario, on such conditions as may be agreed upon, of contributions in respect of the amounts required for the purposes of this Part.

Offence

111. A person who contravenes subsection 96 (4) (photography at hearing), 100 (6) (obstructing Commissioner) or 108 (2) (confidentiality) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Definition
1984, c. 63

112.—(1) In subsection (2), “former Act” means the *Metropolitan Toronto Police Force Complaints Act, 1984*.

Transition, complaints under former Act

(2) Despite the repeal of the former Act by subsection 148 (1), complaints made under the former Act before the day this Act comes into force shall be dealt with in accordance with the former Act, except that hearings before boards of inquiry that are constituted after the day this Act comes into force shall be conducted in accordance with this Part.

PART VII

SPECIAL INVESTIGATIONS

Special investigations unit

113.—(1) There shall be a special investigations unit of the Ministry of the Solicitor General.

Composition

(2) The unit shall consist of a director appointed by the Lieutenant Governor in Council on the recommendation of the Solicitor General and investigators appointed under the *Public Service Act*.

R.S.O. 1980, c. 418

Idem

(3) A person who is a police officer or former police officer shall not be appointed as director, and persons who are police officers shall not be appointed as investigators.

Peace officers

(4) The director and investigators are peace officers.

(5) The director may, on his or her own initiative, and shall, at the request of the Solicitor General or Attorney General, cause investigations to be conducted into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. Investigations

(6) An investigator shall not participate in an investigation that relates to members of a police force of which he or she was a member. Restriction

(7) If there are reasonable grounds to do so in his or her opinion, the director shall cause informations to be laid against police officers in connection with the matters investigated and shall refer them to the Crown Attorney for prosecution. Charges

(8) The director shall report the results of investigations to the Attorney General. Report

(9) Members of police forces shall co-operate fully with the members of the unit in the conduct of investigations. Co-operation of police forces

PART VIII

LABOUR RELATIONS

114. In this Part, Definitions

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 131 (1);

“senior officer” means a member of a police force who has the rank of inspector or higher or is employed in a supervisory or confidential capacity.

115.—(1) This Part, except section 117, does not apply to the Ontario Provincial Police. Exclusion of O.P.P.

(2) The working conditions and remuneration of the chief of police and deputy chief of police of a police force shall be determined under clause 31 (1) (d) (responsibilities of board) and not under this Part. Exclusion of chief of police and deputy

116.—(1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter. Hearing re person's status

(2) The Commission's decision is final. Decision final

Membership
in trade
union
prohibited,
exception

117. A member of a police force shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities that do not contravene section 49 and the chief of police consents.

Categories

118.—(1) If a majority of the members of a police force, or an association that is entitled to give notices of desire to bargain, assigns the members of the police force to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police force.

Senior
officers

(2) If at least 50 per cent of the senior officers of a police force belong to an association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police force.

Restriction

(3) Bargaining, conciliation and arbitration may be carried on with more than two categories within a police force (apart from senior officers) only if the Commission has approved the creation of the categories.

Notice of
desire to
bargain

119.—(1) If no agreement exists or at any time after ninety days before an agreement would expire but for subsection 129 (1) or (2), a majority of the members of a police force may give the board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement.

Bargaining

(2) Within fifteen days after the notice of desire to bargain is given or within the longer period that the parties agree upon, the board shall meet with a bargaining committee of the members of the police force.

Idem

(3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with the remuneration, pensions, sick leave credit gratuities and grievance procedures of the members of the police force and, subject to section 126, their working conditions.

Filing of
agreement

(4) The board shall promptly file a copy of any agreement with the Arbitration Commission.

Association

(5) If at least 50 per cent of the members of the police force belong to an association, it shall give the notice of desire to bargain.

(6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the *Municipal Act*, it shall also be given to the Minister of Municipal Affairs, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan.

Pension plans
under
R.S.O. 1980,
c. 302

120.—(1) The members of the bargaining committee shall be members of the police force.

Bargaining
committee

(2) One legal counsel and one other advisor for each of the bargaining committee and the board may participate in the bargaining sessions.

Counsel and
advisors

(3) If the notice of desire to bargain is given by an association that is affiliated with a police organization, or if at least 50 per cent of the members of the police force belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

Police organi-
zation

(4) The chief of police or, if the parties consent, another person designated by the chief of police may also attend the parties' bargaining sessions in an advisory capacity.

Chief of
police

121.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a notice of desire to bargain has been given.

Appointment
of concil-
iation officer

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Duty of
conciliation
officer

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

Extension of
time

(4) When the conciliation officer reports to the Solicitor General that an agreement has been reached or that an agreement cannot be reached, the Solicitor General shall promptly inform the parties of the report.

Report

(5) Neither party shall give a notice requiring matters in dispute to be referred for arbitration under section 122 until the Solicitor General has informed the parties of the conciliation officer's report or informed them that he or she does not consider the case appropriate for the appointment of a conciliation officer.

No
arbitration
during concil-
iation

Arbitration

122.—(1) If matters remain in dispute after bargaining under section 119 and conciliation, if any, under section 121, a party may give the Solicitor General and the other party a written notice referring the matters to arbitration.

Composition
of arbitration
board

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General.

Time for
arbitration

(3) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver its decision or award within sixty days after commencing the arbitration.

Representations
by
council

(4) The municipal council may make representations before the arbitration board if it is authorized to do so by a resolution.

Criteria

(5) In making an award, the arbitration board shall take into account the interest and welfare of the community served by the police force as well as any local factors affecting the community.

Filing of
award

(6) The arbitration board shall promptly file a copy of its decision or award with the Arbitration Commission.

Costs and
expenses

(7) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board.

123.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

Dispute, appointment of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Duty of conciliation officer

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

Extension of time

(4) When the conciliation officer reports to the Solicitor General that the dispute has been resolved or that it cannot be resolved by conciliation, the Solicitor General shall promptly inform the parties of the report.

Report

(5) Neither party shall give a notice referring the dispute for arbitration until the Solicitor General has informed the parties of the conciliation officer's report.

No arbitration during conciliation

124.—(1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the Solicitor General and the other party a written notice referring the dispute to arbitration.

Arbitration after conciliation fails


(2) The procedure provided by subsection (1) is available in addition to any grievance or arbitration procedure provided by the agreement, decision or award.

Idem

(3) The following rules apply to the composition of the arbitration board:

Composition of arbitration board



1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person. 
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General.

Time for
arbitration

(4) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time.

Filing of
decision

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration Commission.

Costs and
expenses

(6) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board.

Enforcement

(7) After the day that is thirty days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the deci-

sion, in the prescribed form, in the office of the Registrar of the Supreme Court.

(8) The decision shall be entered in the same way as a judgment of the Supreme Court and may be enforced as such. Idem

125. The parties may agree to extend any period of time mentioned in this Part. Extension of time

126. Agreements and awards made under this Part do not affect the working conditions of the members of the police force in so far as those working conditions are determined by sections 42 to 49, subsection 50 (3) and Parts V, VI and VII of this Act and by the regulations. Restriction

127. The *Arbitrations Act* does not apply to arbitrations conducted under this Part. Non-application of R.S.O. 1980, c. 25

128. Agreements, decisions and awards made under this Part bind the board and the members of the police force. Agreements, decisions and awards binding

129.—(1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced. Duration of agreements, decisions and awards

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the year in which they come into effect and thereafter shall continue in effect until replaced. Longer duration if parties agree

130.—(1) If, when the council is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the council shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate. Provision for expenditures

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipal council may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made. Coming into effect

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2). Exception

131.—(1) The commission known as the Ontario Police Arbitration Commission is continued. Arbitration Commission continued

Composition

(2) The Arbitration Commission shall be composed of the following members, appointed by the Lieutenant Governor in Council:

1. Two representatives of boards, recommended for appointment by the Municipal Police Authorities.
2. Two representatives of members of associations, recommended for appointment by the Police Association of Ontario.
3. A chair.

Terms of office

(3) The representatives of boards and members of associations shall hold office for two-year terms and may be reappointed; the chair shall hold office during pleasure.

Staff

(4) Such employees as are necessary for the proper conduct of the Arbitration Commission's work may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

Responsibilities of Arbitration Commission

(5) The Arbitration Commission has the following responsibilities:

1. Maintaining a register of arbitrators who are available for appointment.
2. Assisting arbitrators by making administrative arrangements in connection with arbitrations.
3. Fixing the fees of arbitrators appointed by the Solicitor General under section 124.
4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards.
5. Sponsoring research on the subject of agreements, arbitrations and awards.
6. Maintaining a file of agreements, decisions and awards made under this Part.

Regulations

(6) Subject to the approval of the Lieutenant Governor in Council, the Arbitration Commission may make regulations,

- (a) governing the conduct of arbitrations and prescribing procedures for them;
- (b) prescribing forms and providing for their use.

(7) The persons who are members of the Arbitration Commission on the day this Act comes into force shall continue to hold office until their terms expire, and may be reappointed in accordance with subsection (2). Transition

PART IX

REGULATIONS AND MISCELLANEOUS

132.—(1) This section applies to personal property of all kinds, except firearms and money, that comes into the possession of a police force under either of the following circumstances: Property in possession of police force

1. The property was stolen from its owner or was found abandoned in a public place, and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police force in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

(2) The chief of police may cause the property to be sold, and the board may use the proceeds for any purpose that it considers in the public interest. Sale

(3) If the property is perishable, it may be sold at any time without notice. Perishable property

(4) If the property is not perishable, the following rules apply to its sale: Non-perishable property

1. The property may be sold when it has been in the possession of the police force for at least one month, in the case of a motor vehicle as defined in the *Highway Traffic Act* or a bicycle, or for at least three months, in the case of other property.

R.S.O. 1980,
c. 198

2. The sale shall be by public auction.
3. At least ten days notice of the time and place of the public auction shall be given by publication in a newspaper of general circulation in the municipality.
4. The sale may be adjourned, repeatedly if necessary, until the property is sold.

Claim of
owner of
property

(5) If a motor vehicle, bicycle or other property has been sold before it has been in the possession of the police force for three months and if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale.

Register of
property

(6) The chief of police shall ensure that the police force keeps a register of property and that the following rules are followed:

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

Exception
R.S.O. 1980,
c. 198

(7) This section does not apply to a motor vehicle that is impounded under section 192 of the *Highway Traffic Act*.

Money

133.—(1) This section applies to money that comes into the possession of a police force under the circumstances described in paragraph 1 or 2 of subsection 132 (1).

Accounting

(2) The money shall be accounted for according to the prescribed method.

Use of
money

(3) If three months have elapsed after the day the money came into the possession of the police force and the owner has not claimed it, the board may use it for any purpose that it considers in the public interest.

Firearms

134.—(1) This section applies to firearms that are in the possession of a police force because they have been found, turned in or seized.

Safe-keeping,
return to
owner

(2) The chief of police shall ensure that firearms are securely stored, and that they are returned to their owners if there is a court order or other legal requirement to that effect.

Destruction

(3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement governing how the firearm is to be dealt with, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies.

(4) If the chief of police considers the firearm unique, an antique, or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences. Firearm of special interest

(5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there. Idem

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly. Idem

(7) The chief of police may dispose of a firearm to which subsection (6) applies otherwise than by having it destroyed if he or she first obtains the Solicitor General's approval of the method of disposal. Disposal otherwise than by destruction

(8) The chief of police shall ensure that the police force keeps a register of firearms and that the following rules are followed: Register of firearms

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the board or of a member of the police force, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.
4. On or before the 31st day of January in each year, a statement shall be filed with the Commission listing the firearms that have come into the possession of the police force during the preceding calendar year, indicating which firearms are still being retained and which have been disposed of, and giving the particulars of disposition.

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

1. prescribing standards for police services;

2. prescribing procedures for the inspection and review by the Solicitor General of police forces;
3. requiring municipalities to provide police detention facilities, governing those facilities and providing for their inspection;
4. providing for financial aid to police training schools;
5. prescribing the minimum amount of remuneration to be paid by municipalities to the members of boards who are appointed by the Lieutenant Governor in Council or Solicitor General;
6. prescribing the procedures to be followed by boards and the places at which their meetings shall be held;
7. prescribing the forms of oaths or affirmations of office and secrecy for the purposes of section 32 (members of boards), section 45 (police officers), subsection 52 (6) (auxiliary members of police forces), subsection 53 (9) (special constables) and subsection 54 (8) (First Nations Constables);
8. respecting the government, operation and administration of police forces;
9. governing the qualifications for the appointment of persons to police forces and for their promotion;
10. prescribing groups of persons for the purposes of subsection 48 (1) (employment equity plans);
11. prescribing matters to be contained in employment equity plans;
12. respecting the political activities in which municipal police officers are permitted to engage;
13. establishing the ranks that shall be held by members of municipal police forces;
14. prescribing the minimum salary or other remuneration and allowances to be paid to members of municipal police forces;
15. regulating or prohibiting the use of any equipment by a police force or any of its members;

16. regulating the use of force by members of police forces;
17. prescribing standards of dress for police officers on duty and prescribing requirements respecting police uniforms;
18. prescribing courses of training for members of police forces and prescribing standards in that connection;
19. governing the conduct, duties, suspension and dismissal of members of police forces;
20. describing the circumstances under which members of police forces are permitted and not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
21. prescribing the records, returns, books and accounts to be kept by police forces and their members;
22. prescribing the method of accounting for fees and costs that come into the hands of members of police forces;
23. prescribing a code of conduct in which offences constituting misconduct are described for the purposes of section 56;
24. providing for the payment of fees and expenses to witnesses at hearings conducted under Part V or VI;
25. prescribing procedures for the investigation of complaints under Part VI;
26. assigning further duties to the Police Complaints Commissioner;
27. prescribing the method of accounting for money to which section 133 applies;
28. prescribing forms and providing for their use;
29. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed;
30. respecting any matter that is necessary or advisable to implement this Act effectively.

Idem

(2) A regulation made under subsection (1) may be general or particular in its application.

Crown bound

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

PART X

CONSEQUENTIAL AMENDMENTS AND REPEALS

137. Section 66 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Non-application of 1990, c. 10

66.—(1) The *Police Services Act, 1990*, being chapter 10, except section 15 (municipal by-law enforcement officers), does not apply to the District Corporation or to an area municipality.

Non-application of R.S.O. 1980, c. 302, ss. 202, 203

(2) Sections 202 and 203 of the *Municipal Act* do not apply to an area municipality.

138.—(1) Section 174 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

174. In this Part, "Metropolitan Board" means The Municipality of Metropolitan Toronto Police Services Board.

(2) Subsections 175 (1) and (2) of the said Act are repealed.

(3) Subsection 177 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10 and amended by 1988, chapter 12, section 1, is repealed and the following substituted therefor:

Composition of Metropolitan Board 1990, c. 10

(1) The Metropolitan Council shall be deemed to have applied to the Lieutenant Governor in Council for an increase in the size of its board under subsection 27 (9) of the *Police Services Act, 1990* and the Lieutenant Governor in Council shall be deemed to have approved the application.

(4) Section 178 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, is repealed.

139.—(1) Section 73 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

73. In this Part, "Durham Police Board" means The Regional Municipality of Durham Police Services Board. Definition

(2) Section 74 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 1, is repealed.

(3) Subsection 75 (1) of the said Act is repealed and the following substituted therefor:

(1) The Durham Police Board and the members of the Durham Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

140.—(1) Section 68 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

68. In this Part, "Haldimand-Norfolk Police Board" means The Regional Municipality of Haldimand-Norfolk Police Services Board. Definition

(2) Section 69 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 2, is repealed.

(3) Subsections 70 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) The Haldimand-Norfolk Police Board and the members of the Haldimand-Norfolk Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

(2) Despite subsection 31 (1) of the *Police Services Act, 1990*, the Haldimand-Norfolk Police Board is responsible for providing police services only for those portions of the Regional Area in which a local municipality maintained a police force on the 31st day of March, 1974. Jurisdiction
1990, c. 10

(3) With the Solicitor General's approval, the Haldimand-Norfolk Police Board may assume responsibility for providing police services for additional portions of the Regional Area. Idem

141.—(1) Section 79 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

79. In this Part, "Halton Police Board" means The Regional Municipality of Halton Police Services Board.

(2) Section 80 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 3, is repealed.

(3) Subsection 81 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Halton Police Board and the members of the Halton Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

142.—(1) Section 90 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

90. In this Part, "Hamilton-Wentworth Police Board" means The Regional Municipality of Hamilton-Wentworth Police Services Board.

(2) Section 91 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 4, is repealed.

(3) Subsection 92 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Hamilton-Wentworth Police Board and the members of the Hamilton-Wentworth Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

143.—(1) Section 116 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

116. In this Part, "Niagara Police Board" means The Regional Municipality of Niagara Police Services Board.

(2) Section 117 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 5, is repealed.

(3) Subsection 118 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Niagara Police Board and the members of the Niagara Regional Police Force have the same duties with

respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

144.—(1) Section 74 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

74. In this Part, "Peel Police Board" means The Regional Municipality of Peel Police Services Board. Definition

(2) Section 75 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 6, is repealed.

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

(1) The Peel Police Board and the members of the Peel Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

145.—(1) Section 38 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

38. In this Part, "Sudbury Police Board" means The Regional Municipality of Sudbury Police Services Board. Definition

(2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 57, section 7, is repealed.

(3) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:

(1) The Sudbury Police Board and the members of the Sudbury Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

146.—(1) Section 109 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

109. In this Part, "Waterloo Police Board" means The Regional Municipality of Waterloo Police Services Board. Definition

(2) Section 110 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 8, is repealed.

(3) Subsection 111 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The Waterloo Police Board and the members of the Waterloo Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

147.—(1) Section 111 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

111. In this Part, “York Police Board” means The Regional Municipality of York Police Services Board.

(2) Section 112 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 9, is repealed.

(3) Subsection 113 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The York Police Board and the members of the York Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

148.—(1) The following are repealed:

1. The *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, except section 57a, as enacted by the Statutes of Ontario, 1989, chapter 24, section 1.
2. The *Police Amendment Act, 1981*, being chapter 55.
3. The *Police Amendment Act, 1983*, being chapter 57.
4. Section 201 of the *Courts of Justice Act, 1984*, being chapter 11.
5. Section 53 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.
6. The *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63.
7. The *Metropolitan Toronto Police Force Complaints Amendment Act, 1986*, being chapter 31.

(2) The title of the *Police Act* is repealed and the following substituted therefor:

COURT SECURITY ACT

↓ (3) Section 57a of the *Court Security Act* is amended by striking out "or council" in the first line. ↑

149. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

150. The short title of this Act is the *Police Services Act, 1990*. Short title



Bill 107

*(Chapter 10
Statutes of Ontario, 1990)*

An Act to revise the Police Act and amend the law relating to Police Services

The Hon. S. Offer
Solicitor General

<i>1st Reading</i>	December 20th, 1989
<i>2nd Reading</i>	May 17th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

1877
amend

Bill 107

1989

**An Act to revise the Police Act and
amend the law relating to Police Services**

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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:

1. Police services shall be provided throughout Ontario in accordance with the following principles: Declaration of principles

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code, 1981*.
3. The need for co-operation between the providers of police services and the communities they serve.

4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multi-racial and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve.

Definitions

2. In this Act,

“association” means an association whose members belong to one police force and whose objects include the improvement of their working conditions and remuneration;

“board” means, except in Part VI, a municipal police services board;

“chief of police” means a municipal chief of police or the Commissioner of the Ontario Provincial Police and includes an acting chief of police;

“Commission” means the Ontario Civilian Commission on Police Services;

“Commissioner” means, except in Part VI, the Commissioner of the Ontario Provincial Police;

“member of a police force” means a police officer, and in the case of a municipal police force includes an employee who is not a police officer;

“municipality” includes district, metropolitan and regional municipalities and the County of Oxford;

“police force” means the Ontario Provincial Police or a municipal police force;

“police officer” means a chief of police or any other police officer, but does not include a special constable, a First Nations Constable, a by-law enforcement officer or an auxiliary member of a police force;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

PART I

RESPONSIBILITY FOR POLICE SERVICES

SOLICITOR GENERAL

3.—(1) This Act, except Part VI, shall be administered by the Solicitor General.

Adminis-
tration of
Act

(2) The Solicitor General shall,

Duties and
powers of
Solicitor
General

- (a)** monitor police forces to ensure that adequate and effective police services are provided at the municipal and provincial levels;
- (b)** monitor boards and police forces to ensure that they comply with prescribed standards of service;
- (c)** monitor the establishment and implementation of employment equity plans;
- (d)** develop and promote programs to enhance professional police practices, standards and training;
- (e)** conduct a system of inspection and review of police forces across Ontario;
- (f)** assist in the co-ordination of police services;
- (g)** consult with and advise boards, municipal chiefs of police, employers of special constables and associations on matters relating to police and police services;
- (h)** develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters;
- (i)** provide to boards and municipal chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;
- (j)** issue directives and guidelines respecting policy matters;
- (k)** develop and promote programs for community-oriented police services;

(1) operate the Ontario Police College.

Ontario
Police
College
continued

(3) The police college known as the Ontario Police College for the training of members of police forces is continued.

MUNICIPALITIES

Police
services in
municipalities

4.—(1) Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.

Application
of subsection
(1)

(2) Subsection (1) applies to,

(a) cities, towns, villages and townships (other than area municipalities within regional or metropolitan municipalities); and

(b) regional and metropolitan municipalities.

Exception.
Muskoka

(3) Subsection (1) does not apply to The District Municipality of Muskoka or to its area municipalities.

Exception.
Ottawa-
Carleton

(4) Subsection (1) does not apply to The Regional Municipality of Ottawa-Carleton but does apply to its area municipalities.

Exception.
Oxford
County

(5) Subsection (1) does not apply to the County of Oxford but does apply to its area municipalities.

Exemption of
towns of less
than 5,000

(6) The Lieutenant Governor in Council may, on the Solicitor General's recommendation, exempt any town having a population of less than 5,000 according to the last enumeration taken under section 14 of the *Assessment Act* from the application of subsection (1), and the exemption continues in effect until it is revoked.

R.S.O. 1980,
c. 31

Restriction,
villages and
townships

(7) Subsection (1) applies to a village or township only if it has been so designated by the Lieutenant Governor in Council on the Solicitor General's recommendation; the designation may relate to all or part of the village or township.

Methods of
establishing
municipal
police forces

5. A municipality's responsibility for providing police services shall be discharged in one of the following ways:

1. The board may appoint the members of a police force under clause 31 (1) (a), in which case the municipal council shall pay the cost of the police force.

2. The board may enter into an agreement under section 7 (sharing police services).
3. The council may enter into an agreement under section 10 (agreements for provision of police services by O.P.P.).
4. With the Commission's approval, the municipality may adopt a different method of providing police services.

6.—(1) Despite any other Act, two or more municipalities that have police forces may enter into an agreement to amalgamate them. Amalgamation of police forces

(2) The agreement shall deal with, Contents of amalgamation agreement

- (a) the establishment and composition of a board for the amalgamated police forces;
- (b) the amalgamation of the police forces and the appointment or transfer of their members;
- (c) the amalgamated board's use of the assets and its responsibility for the liabilities associated with the police forces;
- (d) the budgeting of the cost for the operation of the amalgamated police force;
- (e) any other matter that is necessary or advisable to effect the amalgamation.

(3) The agreement does not take effect until the Commission has approved the organization of the amalgamated police force. Commission's approval

(4) Appointments to a board for amalgamated police forces may be made before the agreement takes effect. Exception, board appointments

7. Two boards may agree that one board will provide police services to the other, on the conditions set out in the agreement. Municipal agreements for sharing police services

8.—(1) A municipality to which subsection 4 (1) (obligation to provide police services) does not apply may, with the Commission's approval, establish and maintain a police force. Additional municipal police forces

(2) An approval given or deemed to have been given under section 19 of the *Police Act* in respect of a police force that Transition R.S.O. 1980, c. 381

was being maintained on the day before this Act comes into force shall be deemed to have been given under this section.

Revocation

(3) The Commission may revoke an approval given or deemed to have been given under this section.

Failure to provide police services

9.—(1) If the Commission finds that a municipality to which subsection 4 (1) applies is not providing police services, it may request that the Commissioner have the Ontario Provincial Police give assistance.

Inadequate police services

(2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.

Idem

(3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.

Crown Attorney's request

(4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.

Board's request

(5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.

Request of chief of police in emergency

(6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.

Chief of police to advise board

(7) A chief of police who makes a request under subsection (6) shall advise the chair of the board of the fact as soon as possible.

Assistance of O.P.P.

(8) When a request is made under this section, the Commissioner shall have the Ontario Provincial Police give such assistance as he or she considers necessary.

Cost of services

(9) The Commissioner shall certify the cost of the services provided under this section by the Ontario Provincial Police and, unless the Solicitor General directs otherwise, the municipality shall pay that amount to the Treasurer of Ontario.

Idem

(10) The amount may be deducted from any grant payable to the municipality out of provincial funds or may be

recovered by a court action, with costs, as a debt due to Her Majesty.

10.—(1) The Solicitor General may enter into an agreement with the council of a municipality for the provision of police services for the municipality by the Ontario Provincial Police.

Municipal agreements for provision of police services by O.P.P.

(2) The agreement requires the board's consent.

Board's consent

(3) No agreement shall be entered into under this section if, in the Solicitor General's opinion, the council seeks the agreement for the purpose of defeating the collective bargaining provisions of this Act.

Collective bargaining

(4) When the agreement comes into effect, the members of the Ontario Provincial Police assigned to the municipality shall provide police services, including by-law enforcement, for the municipality, and shall perform any other duties that are specified in the agreement.

Duties of O.P.P.

(5) The amounts received from the municipality under the agreement shall be paid into the Consolidated Revenue Fund.

Payment into Consolidated Revenue Fund

(6) If the municipality has an agreement under this section, section 31 (responsibilities of board), section 38 (municipal police force) and clause 39 (3) (a) (estimates respecting police force) do not apply; however, the board shall advise the Solicitor General and the senior officer of the Ontario Provincial Police in the municipality with respect to police services in the municipality, and may generally determine priorities in the municipality with respect to police services, in accordance with the agreement and with provincial policies affecting the Ontario Provincial Police.

Role of board

11.—(1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police force.

Fines

(2) If the municipality does not have its own police force because of an agreement under section 7 or 10, the police officers who are assigned to the municipality under the agreement shall, for the purposes of determining entitlement to fines, be deemed to be police officers of the municipal police force.

Idem

12.—(1) With the Commission's approval, the costs incurred by a municipality in providing police services may be paid by levying different rates for different areas defined by the municipal council or by levying rates in some but not all areas.

Rates for cost of police services

Exemption
for farm
lands and
buildings

(2) With the Commission's approval, the municipal council may grant a total or partial exemption from a rate or rates levied under subsection (1) to lands and buildings used exclusively for farming purposes.

Special areas

13.—(1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Solicitor General's opinion, to impose the responsibility for police services on a municipality or on the Province, the Lieutenant Governor in Council may designate the area as a special area.

Agreement
for provision
of police
services by
O.P.P.

(2) The person who operates the business or owns the special area shall enter into an agreement with the Solicitor General for the provision of police services by the Ontario Provincial Police for the special area.

Duties of
O.P.P.,
payment

(3) Subsections 10 (4) and (5) apply to the agreement with necessary modifications.

Failure to
enter into
agreement

(4) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Ontario Provincial Police shall provide police services for the area.

Cost of
services

(5) The costs of the services may be recovered from the person by a court action, with costs, as a debt due to Her Majesty.

Police
services
outside
municipality

14. A municipality that has an interest in land outside the territory of the municipality may agree to pay all or part of the cost of providing police services for the land.

Municipal by-
law
enforcement
officers

15.—(1) A municipal council may appoint persons to enforce the by-laws of the municipality.

Peace officers

(2) Municipal by-law enforcement officers are peace officers for the purpose of enforcing municipal by-laws.

Aid to
survivors

16. A municipal council may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police force who die from injuries received or illnesses contracted in the discharge of their duties.

ONTARIO PROVINCIAL POLICE

Commis-
sioner

17.—(1) There shall be a Commissioner of the Ontario Provincial Police who shall be appointed by the Lieutenant Governor in Council.

(2) Subject to the Solicitor General's direction, the Commissioner has the general control and administration of the Ontario Provincial Police and the employees connected with it. Functions

(3) The Commissioner shall prepare and implement an employment equity plan in accordance with section 48 and the regulations. Employment equity plans

(4) After the end of each calendar year, the Commissioner shall file with the Solicitor General an annual report on the affairs of the Ontario Provincial Police. Annual report

18.—(1) The Ontario Provincial Police shall consist of the Commissioner and other police officers appointed under the *Public Service Act*. Composition of O.P.P.

R.S.O. 1980,
c. 418

(2) The Commissioner shall establish the ranks within the Ontario Provincial Police and shall determine the rank of each police officer. Ranks

(3) The Lieutenant Governor in Council may name police officers of the Ontario Provincial Police to the rank of commissioned officers and may authorize the issue of commissions to them under the Great Seal. Commissioned officers

(4) The Commissioner may appoint such other employees as are required in connection with the Ontario Provincial Police. Employees

19.—(1) The Ontario Provincial Police have the following responsibilities: Responsibilities of O.P.P.

1. Providing police services in respect of the parts of Ontario that do not have municipal police forces other than by-law enforcement officers.

2. Providing police services in respect of all navigable bodies and courses of water in Ontario, except those that lie within municipalities designated by the Solicitor General.

3. Maintaining a traffic patrol on the King's Highway, except the parts designated by the Solicitor General.

4. Maintaining a traffic patrol on the connecting links within the meaning of section 21 of the *Public Transportation and Highway Improvement Act* that are designated by the Solicitor General. R.S.O. 1980,
c. 421

5. Maintaining investigative services to assist municipal police forces on the Solicitor General's direction or at the Crown Attorney's request.

Municipal by-laws

(2) The Ontario Provincial Police have no responsibilities in connection with municipal by-laws, except under agreements made in accordance with section 10.

Aid to survivors

20. The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties.

PART II

ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

Commission continued

21.—(1) The commission known as the Ontario Police Commission is continued under the name of "Ontario Civilian Commission on Police Services".

Composition

(2) The Commission shall consist of not fewer than three and not more than nine members who shall be appointed by the Lieutenant Governor in Council.

Chair

(3) The Lieutenant Governor in Council may designate one of the members of the Commission to be the chair.

Delegation

(4) The chair may authorize a member of the Commission to exercise the Commission's powers and perform its duties with respect to a particular matter, but the authority conferred on the Commission by sections 23 and 24 may not be delegated.

Quorum

(5) Two members of the Commission constitute a quorum.

Proceedings open to the public

(6) Meetings, hearings, investigations and inquiries conducted by the Commission shall be open to the public, subject to subsection (7), and notice of them shall be published in the manner that the Commission determines.

Exception

(7) The Commission may exclude the public from all or part of a meeting, hearing, investigation or inquiry if it is of the opinion that,

- (a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public

interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public.

(8) A document purporting to be issued by the Commission and signed by one of its members is admissible in evidence without proof of the signature or authority of the person signing.

Admissibility
of documents

(9) After the end of each calendar year, the Commission shall file with the Solicitor General an annual report on its affairs.

Annual
report

(10) The money required for the Commission's purposes shall be paid out of the amounts appropriated by the Legislature for that purpose.

Expenses

22.—(1) The Commission's powers and duties include,

Powers and
duties of
Commission

- (a) if the Solicitor General advises the Commission that a board or municipal police force is not complying with prescribed standards of police services,

(i) directing the board or police force to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (1);

- (b) if the Solicitor General advises the Commission that a board or municipal chief of police is not complying with the requirements of this Act and the regulations respecting employment equity plans,

(i) directing the board or chief of police to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (2);

- (c) conducting investigations with respect to municipal police matters under section 25;
- (d) conducting inquiries into matters relating to crime and law enforcement under section 26;
- (e) inquiring into any matter regarding the designation of a municipality under subsection 4 (7) (police services in villages and townships) and, after a hearing, making recommendations to the Solicitor General;
- (f) hearing and disposing of appeals by members of police forces in accordance with Part V.

Powers of Commission in hearings, investigations and inquiries R.S.O. 1980, c. 411

Counsel

(2) When the Commission conducts a hearing, investigation or inquiry, it has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the proceeding as if it were an inquiry under that Act.

(3) At the Commission's request, the Solicitor General may appoint counsel to assist the Commission in a hearing, investigation or inquiry.

Sanctions for failure to comply with prescribed standards of police services

23.—(1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services, the Commission may take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality.
4. Appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period.

Sanctions for failure to comply with requirements respecting employment equity plans

(2) If the Commission is of the opinion, after holding a hearing, that a board or municipal chief of police has failed to comply with the requirements of this Act and the regulations respecting employment equity plans, the Commission may

take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Appointing an administrator to perform specified functions with respect to employment equity, recruitment and promotion in the police force for a specified period.

(3) If the Commission suspends the chief of police or members of the board who are entitled to remuneration under subsection 27 (12), it shall specify whether the suspension is with or without pay.

Suspension
with or
without pay

(4) The Commission shall not take measures under subsection (2) with respect to the failure of a chief of police to meet specific goals or timetables contained in the employment equity plan if the Commission finds that the chief of police has made all reasonable efforts to meet them.

Defence

(5) An administrator appointed under paragraph 4 of subsection (1) or paragraph 3 of subsection (2) has all the powers necessary for the performance of his or her functions.

Powers of
administrator

(6) If the Commission suspends or removes the chief of police, it may appoint a person to replace him or her.

Replacement
of chief of
police

(7) The parties to the hearing are the chief of police, the board, any member of the board that the Commission designates and, if the Commission so directs, the association or associations representing members of the police force.

Parties

(8) The Commission may add parties at any stage of the hearing on the conditions it considers proper.

Idem

(9) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(10) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Conse-
quences of
removal and
suspension

- Appeal to Divisional Court (11) A party may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.
- Grounds for appeal (12) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.
- Idem (13) An appeal may also be made from a finding that a chief of police has made all reasonable efforts to meet the specific goals and timetables contained in an employment equity plan.
- Appeal by non-parties (14) If the consent of the Attorney General is sought within thirty days of the Commission's decision and is given, a person who is not a party may appeal under subsection (13) as if he or she were a party.
- Emergency, interim order **24.**—(1) The Commission may make an interim order under subsection 23 (1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.
- Restriction (2) The Commission shall not remove a person from office or disband a police force by means of an interim order.
- Investigations **25.**—(1) The Commission may, at the Solicitor General's request, at a municipal council's request or of its own motion, investigate, inquire into and report on,
 - (a) the conduct or the performance of duties of a municipal chief of police or other municipal police officer, an auxiliary member of a municipal police force, a special constable, a by-law enforcement officer or a member of a board;
 - (b) the administration of a municipal police force;
 - (c) the manner in which police services are provided for a municipality;
 - (d) the police needs of a municipality.
- Cost of investigation (2) The cost of an investigation conducted at a council's request shall be paid by the municipality, unless the Solicitor General directs otherwise.
- Report (3) The Commission shall communicate its report of an investigation under subsection (1) to the Solicitor General at his or her request and to the board or council at its request, and may communicate the report to any other person as the Commission considers advisable.

(4) If the Commission concludes after a hearing that a member of a police force is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that the member be,

Penalties,
member of
police force

(a) demoted as the Commission specifies, permanently or for a specified period;

(b) dismissed; or

(c) retired, if the member is entitled to retire.

(5) If the Commission concludes, after a hearing, that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member.

Penalties,
member of
board

(6) A member of a police force or of a board on whom a penalty is imposed under subsection (4) or (5) may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.

Appeal to
Divisional
Court

(7) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Grounds for
appeal

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Replacement
of suspended
or removed
member

(9) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Conse-
quences of
removal and
suspension

26.—(1) The Lieutenant Governor in Council may direct the Commission to inquire into and report to the Lieutenant Governor in Council on any matter relating to crime or law enforcement, and shall define the scope of the inquiry in the direction.

Inquiries

(2) Section 6 (stated case) of the *Public Inquiries Act* applies to inquiries conducted under this section.

Application
of R.S.O.
1980, c. 411,
s. 6

(3) Witnesses at inquiries conducted under this section have the right to retain and instruct counsel and all the other rights of witnesses in civil courts.

Rights of
witnesses

Offence

(4) Any person who knowingly discloses, without the Commission's consent, evidence taken in private at an inquiry conducted under this section or information likely to identify the witness is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

PART III

MUNICIPAL POLICE SERVICES BOARDS

Police services boards

27.—(1) There shall be a police services board for every municipality that maintains a police force.

Boards of commissioners of police continued as police services boards

(2) Every board of commissioners of police constituted or continued under the *Police Act* or any other Act and in existence on the day this Act comes into force is continued as a police services board.

R.S.O. 1980, c. 381

Name

(3) A board shall be known as “(insert name of municipality) Police Services Board”.

Three-member boards in smaller municipalities
R.S.O. 1980, c. 31

(4) The board of a municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* does not exceed 25,000 shall consist of,

- (a) the head of the municipal council, or another council member appointed by resolution of the council; and
- (b) two persons appointed by the Lieutenant Governor in Council.

Five-member boards in larger municipalities

(5) The board of a municipality, other than a regional or metropolitan municipality, whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 25,000 shall consist of,

- (a) the head of the municipal council, or another council member appointed by resolution of the council;
- (b) one person appointed by resolution of the council; and
- (c) three persons appointed by the Lieutenant Governor in Council.

(6) The council of a municipality to which subsection (4) would otherwise apply may determine, by resolution, that the composition of its board shall be as described in subsection (5).

Smaller municipalities, option to expand board

(7) A resolution passed under clause 8 (2a) (b) of the *Police Act* before the day this Act comes into force shall be deemed to have been passed under subsection (6).

Transition
R.S.O. 1980,
c. 381

(8) The board of a regional or metropolitan municipality shall consist of,

Regional and metropolitan municipalities

(a) two council members appointed by resolution of the municipal council; and

(b) three persons appointed by the Lieutenant Governor in Council.

(9) The council of a regional or metropolitan municipality whose population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

Seven-member boards in certain circumstances
R.S.O. 1980,
c. 31

(a) the head of the council, or another council member appointed by resolution of the council;

(b) two council members appointed by resolution of the council; and

(c) four persons appointed by the Lieutenant Governor in Council.

(10) If the position of a member appointed by the Lieutenant Governor in Council becomes vacant, the Solicitor General may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment.

Vacancies

(11) If the position of a member who is appointed by a municipal council or holds office by virtue of being the head of a municipal council becomes vacant, the board shall notify the council, which shall forthwith appoint a replacement.

Idem

(12) The council shall pay the members of the board who are appointed by the Lieutenant Governor in Council or Solicitor General remuneration that is at least equal to the prescribed amount.

Remuneration

Judges and justices of the peace ineligible

(13) No judge or justice of the peace shall be appointed as a member of a board.

Transition, judges and justices of the peace

(14) A judge or justice of the peace who is a member of a board on the day this Act comes into force may continue to be a member until the third anniversary of that day.

Transition, municipalities without boards

(15) In the case of a municipality that is required by subsection (1) to have a police services board and that does not, on the day this Act comes into force, have a board of commissioners of police, the following rules apply:

1. Subsection (1) does not apply to the municipality until the first anniversary of the coming into force of this Act.
2. Until subsection (1) applies to the municipality, the council shall perform the duties and may exercise the powers that this Act imposes and confers on police services boards.

Election of chair

28. The members of a board shall elect a chair at the board's first meeting in each year.

Protection from personal liability

29.—(1) No action or other proceeding for damages shall be instituted against a member of a board for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Board's liability

(2) Subsection (1) does not relieve a board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee.

Board may contract, sue and be sued

30.—(1) A board may contract, sue and be sued in its own name.

Members not liable for board's contracts

(2) The members of a board are not personally liable for the board's contracts.

Responsibilities of boards

31.—(1) A board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall,

- (a) appoint the members of the municipal police force;
- (b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;

- (c) establish policies for the effective management of the police force;
- (d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;
- (e) direct the chief of police and monitor his or her performance;
- (f) establish an employment equity plan in accordance with section 48 and the regulations, review its implementation by the chief of police and receive regular reports from him or her on that subject;
- (g) receive regular reports from the chief of police on disclosures and decisions made under section 49 (secondary activities);
- (h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;
- (i) establish guidelines for the administration by the chief of police of the public complaints system under Part VI;
- (j) review the administration by the chief of police of the public complaints system and receive regular reports from him or her on that subject.

(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.

Members of police force under board's jurisdiction

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

Restriction

(4) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

Idem

(5) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.

Training of board members

(6) The board may, by by-law, make rules for the effective management of the police force.

Rules re management of police force

Guidelines re
secondary
activities

(7) The board may establish guidelines consistent with section 49 for police officers' disclosure of secondary activities to the chief of police and for the decisions of the chief of police under subsection 49 (4).

Oath of
office

32. Before entering on the duties of office, a member of a board shall take an oath or affirmation of office in the prescribed form.

Agreement
to constitute
joint board
R.S.O. 1980,
c. 31

33.—(1) Despite any special Act, two or more municipalities whose combined population according to the last enumeration taken under section 14 of the *Assessment Act* exceeds 5,000 may enter into an agreement to constitute a joint board.

Idem

(2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the consent of their boards.

Composition
of board

(3) The joint board shall consist of,

- (a) the heads of the councils of the participating municipalities; and
- (b) other members appointed by the Lieutenant Governor in Council.

Application
of Act to
joint boards

(4) The provisions of this Act that apply to boards also apply with necessary modifications to joint boards.

Delegation

34. A board may delegate to two or more of its members any authority conferred on it by this Act, except,

- (a) the authority to hear the appeals of police officers found guilty of misconduct under Part V, which must be exercised by a quorum; and
- (b) the authority to bargain under Part VIII, which the board may delegate to one or more members.

Meetings

35.—(1) The board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Proceedings
open to the
public

(3) Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

(4) The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that, Exception

(a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

(b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public.

36. A document purporting to be a by-law of the board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing. Admissibility of documents

37. In performing its duties under this Act, a board has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the board as if it were conducting an inquiry under that Act. Power with respect to witnesses
R.S.O. 1980,
c. 411

38. A municipal police force shall consist of a chief of police and such other police officers and other employees as the board considers adequate, and shall be provided with the equipment and facilities that the board considers adequate. Municipal police force

39.—(1) Each year, the board shall submit to the municipal council or to each council responsible for maintaining the police force, as the case may be, its estimates for the year. Estimates

(2) The estimates shall be submitted at least one month before the beginning of the fiscal year of the municipality or municipalities, as the case may be; if they are to be submitted to municipalities whose fiscal years begin on different dates, they shall be submitted to all the councils at least one month before the earliest date. Time

(3) The estimates shall show, separately, the amounts that will be required, Idem

(a) to maintain the police force and provide it with equipment and facilities; and

- (b) to pay the expenses of the board's operation other than the remuneration of board members.

Commission hearing in case of disagreement

(4) If the council does not approve the board's estimates or disagrees with the board on the number of members of the police force that is adequate or the equipment and facilities that are adequate, the Commission shall determine the question after a hearing.

Reduction or abolition of police force

40.—(1) A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act.

Criteria for Commission's consent

(2) The Commission shall consent to the termination of the employment of a member of the police force under subsection (1) only if,

- (a) the member and the board have made an agreement dealing with severance pay or agreed to submit the matter to arbitration; or
- (b) the Commission has made an order under subsection (3).

Order imposing arbitration

(3) If the member and the board do not make an agreement dealing with severance pay and do not agree to submit the matter to arbitration, the Commission, if it is of the opinion that it would be appropriate to permit the abolition of the police force or the reduction of its size, may order the member and the board to submit the matter to arbitration and may give any necessary directions in that connection.

Arbitration

(4) Section 124 applies to an arbitration referred to in this section with necessary modifications.

PART IV

POLICE OFFICERS AND OTHER POLICE STAFF

CHIEF OF POLICE

Duties of chief of police

41.—(1) The duties of a chief of police include,

- (a) in the case of a municipal police force, administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the board under subsection 31 (1);

- (b) ensuring that members of the police force carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community, and that discipline is maintained in the police force;
- (c) ensuring that the police force provides community-oriented police services;
- (d) administering discipline in accordance with Part V;
- (e) administering the public complaints system under Part VI;
- (f) implementing the employment equity plan established under section 48 and the regulations;
- (g) in the case of a municipal police force, reporting to the board at regular intervals on public complaints and on the implementation of the employment equity plan.

(2) The chief of police reports to the board and shall obey its lawful orders and directions.

Chief of police reports to board

POLICE OFFICERS

42.—(1) The duties of a police officer include,

Duties of police officer

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges, prosecuting and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;

- (h) in the case of a municipal police force and in the case of an agreement under section 10 (agreement for provision of police services by O.P.P.), enforcing municipal by-laws;
- (i) completing the prescribed training.

Power to act throughout Ontario

(2) A police officer has authority to act as such throughout Ontario.

Powers and duties of common law constable

(3) A police officer has the powers and duties ascribed to a constable at common law.

Criteria for hiring

43.—(1) No person shall be appointed as a police officer unless he or she,

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least eighteen years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;
- (d) is of good moral character and habits; and
- (e) has successfully completed at least four years of secondary school education or its equivalent.

Idem

(2) A candidate for appointment as a police officer shall provide any relevant information or material that is lawfully requested in connection with his or her application.

Probationary period

44.—(1) A municipal police officer's probationary period begins on the day he or she is appointed and ends on the later of,

- (a) the first anniversary of the day of appointment;
- (b) the first anniversary of the day the police officer completes an initial period of training at the Ontario Police College.

Time for completing initial training

(2) The police officer shall complete the initial period of training within six months of the day of appointment.

Termination of employment during probationary period

(3) A board may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer reasonable information

with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the board may determine.

(4) Subsections (1), (2) and (3) do not apply to a police officer who has completed a probationary period with another municipal police force. Only one probationary period

45. A person appointed to be a police officer shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. Oaths of office and secrecy

46. No municipal police officer shall engage in political activity, except as the regulations permit. Political activity

MEMBERS OF POLICE FORCES

47.—(1) Subject to subsection (2), if a member of a municipal police force becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the board shall accommodate his or her needs in accordance with the *Human Rights Code, 1981*. Accommodation of needs of disabled member of municipal police force 1981, c. 53

(2) The board may discharge the member, or retire him or her if entitled to retire, if, after holding a hearing at which the evidence of two legally qualified medical practitioners is received, the board, Undue hardship

(a) determines, on the basis of that evidence, that the member is mentally or physically disabled and as a result incapable of performing the essential duties of the position, and what duties the member is capable of performing; and

(b) concludes that the member's needs cannot be accommodated without undue hardship on the board.

(3) Subject to subsection (4), if a member of the Ontario Provincial Police becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the Commissioner shall accommodate the member's needs in accordance with the *Human Rights Code, 1981*. Idem. O.P.P.

(4) The member may be discharged, or retired if entitled to retire, if, after holding a hearing at which the evidence of two legally qualified medical practitioners is received, the Commissioner or a person whom he or she designates, Idem

- (a) determines, on the basis of that evidence, that the member is mentally or physically disabled and as a result incapable of performing the essential duties of the position, and what duties the member is capable of performing; and
- (b) concludes that the member's needs cannot be accommodated without undue hardship on the Crown in right of Ontario.

Appeal

(5) A member of a police force who is discharged or retired under subsection (2) or (4) may appeal to the Commission by serving a written notice on the Commission and on the board or the Commissioner, as the case may be, within thirty days of receiving notice of the decision.

Powers of Commission

(6) The Commission may confirm, alter or revoke the decision or may require the board or Commissioner, as the case may be, to rehear the matter.

Decision

(7) The Commission shall promptly give written notice of its decision, with reasons, to the appellant and to the board or Commissioner, as the case may be.

Participation of members of Commission

(8) No member of the Commission shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the consent of the appellant, no decision of the Commission shall be given unless all members who were present throughout the hearing participate in the decision.

Employment equity plans

48.—(1) Every police force shall have an employment equity plan prepared in accordance with this section and the regulations.

Contents of plan

- (2) An employment equity plan shall provide for,
 - (a) the elimination of systemic barriers to the recruitment and promotion of persons who are members of prescribed groups;
 - (b) the implementation of positive measures with respect to the recruitment and promotion of those persons, so as to make the police force more representative of the community or communities it serves; and
 - (c) specific goals and timetables with respect to the elimination of systemic barriers, the implementation

of positive measures and the composition of the police force.

(3) In the case of a municipal police force, the board shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Board to prepare plan for municipal police force

(4) In the case of the Ontario Provincial Police, the Commissioner shall prepare the employment equity plan and submit it to the Solicitor General for approval.

Commissioner to prepare plan for O.P.P.

(5) Before approving the employment equity plan, the Solicitor General may require that changes be made to it.

Solicitor General

49.—(1) A member of a police force shall not engage in any activity,

Restrictions on secondary activities

(a) that interferes with or influences adversely the performance of his or her duties as a member of a police force, or is likely to do so;

(b) that places him or her in a position of conflict of interest, or is likely to do so;

(c) that would otherwise constitute full-time employment for another person; or

(d) in which he or she has an advantage derived from employment as a member of a police force.

(2) Clause (1) (d) does not prohibit a member of a police force from performing, in a private capacity, services that have been arranged through the police force.

Exception, paid duty

(3) A member of a police force who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police.

Disclosure to chief of police

(4) The chief of police shall decide whether the member is permitted to engage in the activity and the member shall comply with that decision.

Decision of chief of police

50.—(1) The board or the Crown in right of Ontario, as the case may be, is liable in respect of torts committed by members of the police force in the course of their employment.

Liability for torts

Indemnification of member of municipal police force

(2) The board may, in accordance with the guidelines established under clause 31 (1) (h), indemnify a member of the police force for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Agreement

(3) The police force and the board may, in an agreement made under Part VIII, provide for indemnification for the legal costs of members of the police force, except the legal costs of a member who is found guilty of a criminal offence; if such an agreement exists, the board shall indemnify members in accordance with the agreement and subsection (2) does not apply.

Council responsible for board's liabilities

(4) The council is responsible for the liabilities incurred by the board under subsections (1), (2) and (3).

Indemnification of member of O.P.P.

(5) The Treasurer of Ontario may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the member is not found to be liable;
- (b) in the defence of a criminal prosecution, if the member is found not guilty;
- (c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith.

Agreement
R.S.O. 1980,
c. 418

(6) The Ontario Provincial Police and the Crown in right of Ontario may, in an agreement made under the *Public Service Act*, provide for indemnification for the legal costs of members of the police force, except the legal costs of a member who is found guilty of a criminal offence; if such an agreement exists, the Treasurer shall indemnify members in accordance with the agreement and subsection (5) does not apply.

51.—(1) With the board's approval, a municipal chief of police may appoint persons as police cadets to undergo training. Police cadets

(2) A police cadet is a member of the municipal police force. Idem

52.—(1) With the Commission's approval, a board may appoint auxiliary members of the police force. Auxiliary members of municipal police force

(2) If the board suspends or terminates the appointment of an auxiliary member of the police force, it shall promptly give the Commission written notice of the suspension or termination. Notice of suspension or termination

(3) The Commissioner may appoint auxiliary members of the Ontario Provincial Police. Auxiliary members of O.P.P.

(4) An auxiliary member of a police force has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the chief of police. Authority of auxiliary members of police force

(5) The chief of police may authorize an auxiliary member of the police force to perform police duties only in special circumstances, including an emergency, that the police officers of the police force are not sufficiently numerous to deal with. Restriction

(6) A person appointed to be an auxiliary member of a police force shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. Oaths of office and secrecy

SPECIAL CONSTABLES

53.—(1) With the Commission's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient. Special constables appointed by board

(2) With the Commission's approval, the Commissioner may appoint a special constable to act for the period, area and purpose that the Commissioner considers expedient. Special constables appointed by Commissioner

(3) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment. Powers of police officer

(4) A special constable shall not be employed by a police force to perform on a permanent basis, whether part-time or full-time, all the usual duties of a police officer. Restriction

- Idem (5) Subsection (4) does not prohibit police forces from employing special constables to escort and convey persons in custody and to perform duties related to the responsibilities of boards under the *Court Security Act*.
- R.S.O. 1980, c. 381
- Suspension or termination of appointment (6) The power to appoint a special constable includes the power to suspend or terminate the appointment, but if a board or the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.
- Commission (7) The Commission also has power to suspend or terminate the appointment of a special constable.
- Information and opportunity to reply (8) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the board, Commissioner or Commission, as the case may be, may determine.
- Oaths of office and secrecy (9) A person appointed to be a special constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

FIRST NATIONS CONSTABLES

- First Nations Constables **54.**—(1) With the Commissioner's approval, the Commissioner may appoint a First Nations Constable to perform specified duties.
- Further approval R.S.C. 1985, c. 1-5 (2) If the specified duties of a First Nations Constable relate to a reserve as defined in the *Indian Act (Canada)*, the appointment also requires the approval of the reserve's police governing authority or band council.
- Powers of police officer (3) The appointment of a First Nations Constable confers on him or her the powers of a police officer for the purpose of carrying out his or her specified duties.
- Duty to consult (4) The Commissioner shall not suspend or terminate the appointment of a First Nations Constable whose specified duties relate to a reserve without first consulting with the police governing authority or band council that approved the appointment.
- Suspension or termination of appointment (5) The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment, but if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.

(6) The Commission also has power to suspend or terminate the appointment of a First Nations Constable. Commission

(7) Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commission, as the case may be, may determine. Information and opportunity to reply

(8) A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. Oaths of office and secrecy

EMERGENCIES

55.—(1) In an emergency, the Solicitor General may make an agreement with the Crown in right of Canada or of another province or with any of its agencies for the provision of police services. Emergencies

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates. Authority to act as police officers

(3) For the purpose of the *Workers' Compensation Act*, the relationship between a member of a police force and the body that employs him or her continues as if an agreement had not been made under this section. Application of R.S.O. 1980, c. 539

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses. Expense of calling out Canadian Forces

(5) Subject to sections 33 and 34 of the *National Defence Act* (Canada), while an agreement made under this section is in force, no member of a police force that has jurisdiction in the area to which the agreement relates shall resign without the consent of the chief of police. Resignation during emergency prohibited R.S.C. 1985, c. N-5

PART V

DISCIPLINARY PROCEEDINGS

56. A police officer is guilty of misconduct if he or she, Misconduct

(a) commits an offence described in a prescribed code of conduct;

(b) contravenes section 46 (political activity);

- (c) engages in an activity that contravenes subsection 49 (1) (secondary activities) without the permission of his or her chief of police, being aware that the activity may contravene that subsection;
- (d) contravenes subsection 55 (5) (resignation during emergency);
- (e) contravenes section 57 (inducing misconduct, withholding services);
- (f) contravenes subsection 96 (4) (photography at hearing);
- (g) contravenes subsection 100 (6) (obstructing Police Complaints Commissioner);
- (h) contravenes subsection 108 (2) (confidentiality);
- (i) contravenes section 117 (trade union membership);
- (j) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 132;
- (k) deals with money in a manner that is not consistent with section 133;
- (l) deals with a firearm in a manner that is not consistent with section 134;
- (m) contravenes a regulation made under paragraph 15 (equipment), 16 (use of force), 17 (standards of dress, police uniforms) 20 (police pursuits) or 21 (records) of subsection 135 (1).

Inducing
misconduct

57.—(1) No person, including a member of a police force, shall,

- (a) induce or attempt to induce a member of a police force to withhold his or her services; or
- (b) induce or attempt to induce a police officer to commit misconduct.

Withholding
services

(2) No member of a police force shall withhold his or her services.

Offence

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more

than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(4) No prosecution shall be instituted under this section without the consent of the Solicitor General.

Consent of
Solicitor
General

58.—(1) Any apparent or alleged misconduct by a police officer shall be investigated by his or her chief of police.

Chief to
investigate
misconduct

(2) When a complaint is made under Part VI with respect to apparent or alleged misconduct by a police officer, the following rules apply:

Effect of
complaint

1. The complaint shall be dealt with in accordance with Part VI, and recourse shall be had to this Part only as Part VI permits.
2. Any investigation of the matter under this Part and any hearing under section 60 are suspended as soon as the chief of police becomes aware that a complaint has been made.

59.—(1) If the chief of police investigates apparent or alleged misconduct and concludes that the police officer is guilty of misconduct but that the misconduct is not of a serious nature, the following rules apply:

Procedure in
case of
misconduct
not of
serious
nature

1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.
2. The chief of police may then admonish the police officer and may cause an entry concerning the matter, the action taken and the police officer's reply to be made in his or her employment record.
3. If the police officer refuses to accept the admonition, the chief of police shall not cause particulars to be recorded without first holding a hearing.

(2) An entry made in the police officer's employment record under paragraph 2 of subsection (1) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct have been made in the record under this Part or Part VI.

Expungement

(3) Nothing in this section affects agreements between boards and police officers or associations that permit other penalties than admonition to be administered, if the police

Agreement

officer in question consents, without a hearing under section 60.

Hearing **60.**—(1) A chief of police may hold a hearing to determine whether a police officer belonging to his or her police force is guilty of misconduct.

Prosecutor (2) The chief of police shall designate to be prosecutor at the hearing,

(a) a police officer of the rank of sergeant or higher;

(b) if there is none of that rank, a police officer of a rank equal to or higher than that of the police officer who is the subject of the hearing; or

(c) a legal counsel.

Recording of evidence (3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.

Examination of evidence (4) Before the hearing, the police officer shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence.

Idem (5) If the hearing is being conducted as a result of a complaint made under Part VI, the complainant shall likewise be given an opportunity to examine evidence and reports before the hearing.

Police officer not required to give evidence R.S.O. 1980, c. 484 (6) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.

Limited admissibility of certain statements (7) In the case of a hearing that is being conducted as a result of a complaint made under Part VI, no statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.

Person conducting hearing not to communicate in relation to subject-matter of hearing (8) The person conducting the hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or person's counsel or representative, unless the police officer and the prosecutor receive notice and have an opportunity to participate.

(9) However, the person conducting the hearing may seek legal advice from an adviser independent of the police officer and the prosecutor, and in that case the nature of the advice shall be communicated to them so that they make submissions as to the law. Exception

(10) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them. Release of exhibits

(11) If the police officer is charged with an offence under a law of Canada or of a province or territory in connection with the alleged misconduct, the hearing shall continue unless the Crown Attorney advises the chief of police that it should be stayed until the conclusion of the court proceedings. Stay

(12) If six months have elapsed since the facts on which an allegation of misconduct is based first came to the attention of the chief of police, no notice of hearing shall be served unless the board (in the case of a municipal police officer) or the Commissioner (in the case of a member of the Ontario Provincial Police) is of the opinion that it was reasonable, under the circumstances, to delay serving the notice of hearing. Six-month limitation period, exception

61.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may, Penalties

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days or 240 hours, as the case may be;
- (e) direct that the police officer forfeit not more than five days' or forty hours' pay, as the case may be; or
- (f) direct that the police officer forfeit not more than twenty days or 160 hours off, as the case may be.

(2) Penalties imposed under clauses (1) (d), (e) and (f) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day. Calculation

- Idem (3) Instead of or in addition to a penalty described in subsection (1), the chief of police may reprimand the police officer.
- Dismissal and demotion (4) The chief of police shall not impose the penalties of dismissal or demotion unless the notice of hearing or a subsequent notice served on the police officer indicated that they might be imposed if the misconduct were proved on clear and convincing evidence.
- Notice of decision (5) The chief of police shall promptly give written notice of the decision, with reasons, to the police officer and, in the case of a municipal police force, to the board.
- Idem (6) If the hearing was conducted as a result of a complaint made under Part VI, the chief of police shall also give notice of the decision, with reasons, to the complainant and to the Police Complaints Commissioner.
- Police officer's employment record (7) No reference to the allegations of misconduct or the hearing shall be made in the police officer's employment record, and the matter shall not be taken into account for any purpose relating to his or her employment, unless,
- (a) misconduct is proved on clear and convincing evidence; or
 - (b) the police officer resigns before the matter is finally disposed of.
- Misconduct by municipal chief of police **62.**—(1) A board may hold a hearing to determine whether the chief of police is guilty of misconduct, and this Part applies with necessary modifications.
- Commission hearing (2) The chief of police may, by serving a notice to that effect on the board and the Commission, require that the Commission hold the hearing instead of the board.
- Appeal to board **63.**—(1) A municipal police officer on whom a penalty is imposed under section 61 may appeal to the board by serving a notice of appeal on the board and the chief of police within fifteen days of receiving notice of the decision.
- Hearing (2) The board shall hear the appeal on the record, but may receive new or additional evidence as it considers just.
- Powers of board (3) The board may confirm, alter or revoke the decision or may require the chief of police to rehear the matter.

(4) The board shall promptly give written notice of its decision, with reasons, to the chief of police and the police officer.

Board's
decision

(5) No member of the board shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the police officer's consent, no decision of the board shall be given unless all members who were present throughout the hearing participate in the decision.

Participation
of members

(6) The members of the board who participate in the decision shall not communicate directly or indirectly in relation to the subject-matter of the appeal with any person or person's counsel or representative, unless the police officer and the chief of police receive notice and have an opportunity to participate.

Members
not to
communicate
in relation to
subject-
matter of
appeal

(7) However, the board may seek legal advice from an adviser independent of the police officer and the chief of police, and in that case the nature of the advice shall be communicated to them so that they may make submissions as to the law.

Exception

(8) The police officer may appeal to the Commission from the board's decision by serving a notice of appeal on the Commission, the board and the chief of police within thirty days of receiving notice of the decision.

Further
appeal to
Commission

64. Instead of hearing a police officer's appeal under section 63, the board may, on its own initiative or on the application of the police officer or the chief of police, require the Commission to hear the appeal.

Hearing by
Commission
instead of
board

65. A member of the Ontario Provincial Police on whom a penalty is imposed under section 61 may appeal to the Commission by serving a written notice on the Commission and the Commissioner within thirty days of receiving notice of the decision.

O.P.P..
appeal to
Commission
from
Commis-
sioner's
decision

66. If the hearing was conducted as a result of a complaint made under Part VI, sections 63 and 65 do not apply and the police officer may only appeal in accordance with that Part.

Exception in
case of
public
complaint

67. Subsections 63 (2) to (7) apply to appeals heard by the Commission as if references to the board were references to the Commission and, in the case of an appeal from a board's decision, as if references to the chief of police were references to the board.

Appeals to
Commission

Extension of
time for
appeals

68. The board or Commission may grant an extension of the time provided for giving it a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Delegation

69. A chief of police may authorize any member of the police force to exercise any power or perform any duty of the chief of police referred to in this Part, subject to the following rules:

1. A hearing under section 60 shall be conducted by a police officer of the rank of inspector or higher.
2. A police officer from another police force who meets the requirements of paragraph 1 may conduct the hearing, with the approval of his or her chief of police.
3. The measures referred to in subsection 59 (1) (procedure in case of misconduct not of serious nature) shall be taken by a police officer of the rank of inspector or higher.

Notice

70.—(1) A notice required to be given under this Part is sufficiently given if delivered personally or sent by prepaid registered mail addressed to the person.

Notice by
mail

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date.

Suspension

71.—(1) If a police officer is suspected of or charged with an offence under a law of Canada or of a province or territory or is suspected of misconduct, the chief of police may suspend him or her from duty with pay.

Revocation
and reimpo-
sition of
suspension

(2) The chief of police may revoke the suspension and later reimpose it, repeatedly if necessary, as he or she considers appropriate.

Duration of
suspension

(3) Unless the chief of police revokes the suspension, it shall continue until the final disposition of the proceeding in which the police officer's conduct is at issue.

Conditions of
suspension

(4) While suspended, the police officer shall not exercise any of the powers vested in him or her as a police officer or

wear or use clothing or equipment that was issued to him or her in that capacity.

(5) If a police officer is convicted of an offence and sentenced to a term of imprisonment, the chief of police may suspend him or her without pay, even if the conviction or sentence is under appeal. Suspension without pay

72.—(1) If a police officer is suspended with pay, the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period. Earnings from other employment

(2) Subsection (1) does not apply to earnings from other employment that was commenced before the period of suspension. Exception

PART VI

PUBLIC COMPLAINTS

73.—(1) In this Part, Definitions

“bureau” means the public complaints investigation bureau of a police force;

“Commissioner” means the Police Complaints Commissioner appointed under section 99.

(2) In this Part, unless the context indicates otherwise, a reference to a police officer is a reference to the police officer who is the subject of a complaint. Police officer

74. This Part shall be administered by the Attorney General. Attorney General

75. Complaints by members of the public about the conduct of police officers shall be dealt with in accordance with this Part. Application of Part

76.—(1) Every chief of police shall establish and maintain a public complaints investigation bureau. Bureau

(2) The chief of police shall ensure that the bureau is supplied with sufficient staff to perform its duties effectively. Staff

(3) If the police force has fewer than twenty police officers, the bureau of another police force may, under an agreement made in accordance with section 7 (municipal agreements for sharing police services) or 10 (municipal agreements for provi- Small police forces

sion of police services by O.P.P.), act as the first-named police force's bureau as well; in that case, subsections (1) and (2) do not apply.

INITIAL HANDLING OF COMPLAINT

Complaint by
member of
public

77.—(1) A member of the public may make a complaint about the conduct of a police officer, orally or in writing,

- (a) at the bureau of the police force to which the complaint relates, or at a station or detachment of that police force; or
- (b) at an office of the Commissioner; or
- (c) at any bureau, police station or detachment.

Recording of
complaint

(2) The person who receives the complaint shall record it on a form provided by the Commissioner and shall give a copy of the completed form to the person who makes the complaint.

Information

(3) The person who makes the complaint shall also be given a statement, in a form provided by the Commissioner, that sets out the procedures followed in dealing with a complaint and describes the rights of a complainant.

Preservation
of evidence,
preliminary
investigation

(4) The person on duty who is in charge of a place when a complaint is received shall,

- (a) take all reasonable steps to ensure that evidence that might otherwise be lost is secured immediately;
- (b) if he or she considers it appropriate, ensure that a preliminary investigation is conducted immediately; and
- (c) ensure that a report on the evidence and on the preliminary investigation, if any, is forthwith prepared and attached to the complaint.

Copies of
complaint

(5) The person who records the complaint shall forthwith send copies of it,

- (a) to the bureau, the chief of police and the Commissioner, in the case of a complaint made at a station or detachment of the police force to which it relates;

- (b) to the chief of police and the Commissioner, in the case of a complaint made at the bureau of the police force to which it relates;
- (c) to the bureau and the chief of police of the police force to which it relates, in the case of a complaint made at an office of the Commissioner;
- (d) to the Commissioner, in the case of a complaint made at a bureau, station or detachment of a different police force than the one to which it relates.

(6) If a complaint was made at a bureau, station or detachment of a different police force than the one to which it relates, the Commissioner shall forthwith send copies of the complaint and of any report prepared under subsection (4) to the appropriate bureau. Complaint made to another police force

(7) A complaint that is made more than six months after the incident to which it relates shall be further dealt with under this Part only if the Commissioner so directs. Complaint made more than six months after incident

78.—(1) In exceptional circumstances, the Attorney General may direct the Commissioner to make a complaint about the conduct of a police officer. Complaint by Commissioner

(2) The Commissioner shall cause the complaint to be recorded and shall send copies to the bureau and the chief of police of the force to which it relates. Recording of complaint, copies

(3) The Commissioner is the complainant in the case of a complaint made under this section. Complainant

(4) Subsection 77 (7) and sections 80 (notice to potential complainant), 81 (classification of complaint), 82 (reclassification), 83 (informal resolution) and 85 (decision by chief of police re no further action) do not apply to complaints made under this section. Non-application of certain provisions

79.—(1) When the bureau receives a complaint, the person in charge shall forthwith give the police officer notice of the substance of the complaint, unless in the person's opinion to do so might prejudice the investigation. Notice to police officer

(2) The notice shall be written on a form provided by the Commissioner. Form

80.—(1) If the complaint is made by a person who was not directly affected by the incident and did not observe it, the Commissioner shall, as soon as possible after receiving the Notice to potential complainant

complaint, attempt to find the person who was directly affected by the incident or who observed it and send him or her a notice.

Idem

(2) The notice shall indicate that a complaint has been made, that the person is entitled to be the complainant in the matter and that the complaint will not be dealt with further unless he or she is the complainant.

Idem

(3) The notice shall also include information about the procedures followed in dealing with a complaint and the rights of a complainant.

No further action

(4) The complaint shall not be further dealt with under this Part if,

- (a) no person who was directly affected by the incident or who observed it can be found; or
- (b) the person to whom the Commissioner sends the notice does not, within thirty days of the date on which it is sent, file with the Commissioner a request to be the complainant in the matter.

Disciplinary proceeding

(5) However, if a disciplinary proceeding is commenced against the police officer in respect of the complaint, the chief of police shall notify the Commissioner of the proceeding and of its result, and the Commissioner shall then notify the person who made the complaint.

Reopening of matter

(6) If the person to whom the Commissioner sends the notice files a request to be the complainant in the matter after the thirty-day period referred to in subsection (4), the Commissioner may cause the matter to be reopened despite the late filing if he or she considers it advisable to do so.

Classification of complaint

81.—(1) When the bureau receives a complaint, the person in charge shall consider whether it relates to possible misconduct under section 56, to other matters or to both.

Idem

(2) If the person in charge is of the opinion that all or part of the complaint relates only to other matters than possible misconduct, he or she may, with the Commissioner's consent, classify the complaint or part as an inquiry.

Notice and investigation

(3) When all or part of a complaint has been classified as an inquiry, the person in charge shall forthwith notify the complainant and the police officer of the fact and may cause the inquiry to be investigated.

(4) Not more than sixty days after the bureau receives the original complaint, the person in charge shall send the complainant a written response to the inquiry and shall also send the Commissioner a copy of the response, together with a summary of the results of any investigation.

Response to complainant

(5) A complaint or part of a complaint that is classified as an inquiry and not reclassified as a complaint and that is the subject of a response under this section need not be dealt with further under this Part.

Effect

82.—(1) During the course of the investigation of an inquiry, if the person in charge concludes that all or part of it relates to possible misconduct, he or she may reclassify the inquiry or part as a complaint.

Reclassification

(2) After receiving a summary of the results of the investigation of an inquiry, the Commissioner may direct the person in charge to reclassify all or part of it as a complaint.

Idem

(3) The person in charge shall forthwith notify the complainant and the police officer of the reclassification, and shall also notify the Commissioner in the case of a reclassification under subsection (1).

Notice

(4) An inquiry or part of an inquiry that is reclassified as a complaint shall be dealt with as such under this Part.

Effect

INFORMAL RESOLUTION, WITHDRAWAL

83.—(1) If the complainant and the police officer consent, the complaint may be resolved informally by the person in charge of the bureau, before the chief of police gives notice of a decision under section 90, or by the Commissioner after that time.

Informal resolution by person in charge of bureau

(2) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, its consent is also required for an informal resolution.

Board's consent

(3) When a complaint is resolved informally, the resolution shall be recorded on a form provided by the Commissioner and signed by the complainant and police officer.

Record

(4) Copies of the record shall be provided to the complainant and the police officer, and to the Commissioner if the complaint was resolved by the person in charge of the bureau.

Copies

(5) If the Commissioner is of the opinion that the informal resolution is the result of a misunderstanding or a threat or

Commissioner's decision that complaint to continue

other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the informal resolution.

Notice

(6) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

Withdrawal of complaint

84.—(1) The complainant may withdraw the complaint by giving a notice of withdrawal to the person in charge of the bureau, before the chief of police gives notice of a decision under section 90, or to the Commissioner after that time.

Idem, complaint made by Commissioner

(2) If the complaint was made under section 78, the Commissioner may withdraw it by giving a notice of withdrawal to the chief of police and a copy to the police officer; subsection (3) applies to the withdrawal but subsections (4) to (7) do not.

Board's consent

(3) If a board of inquiry has begun to hear evidence or argument in respect of the complaint, it shall not be withdrawn without the board's consent.

Copies

(4) A copy of the notice of withdrawal shall be provided to the police officer, and to the Commissioner if the person in charge of the bureau received the notice.

Form

(5) The notice of withdrawal shall be written on a form provided by the Commissioner.

Commissioner's decision that complaint to continue

(6) If the Commissioner is of the opinion that the withdrawal is the result of a misunderstanding or a threat or other improper pressure, he or she may decide that the complaint shall continue to be dealt with under this Part despite the withdrawal.

Notice

(7) The Commissioner shall give notice of the decision, with reasons, to the complainant, the police officer, the chief of police and the person in charge of the bureau.

POWERS OF CHIEF OF POLICE

Decision re no further action

85.—(1) At any time before making a decision under section 90, the chief of police may decide that the complaint or part of it shall not be further dealt with under this Part, if he or she is of the opinion that the complaint or part is frivolous or vexatious or was made in bad faith.

Notice

(2) The chief of police shall give the Commissioner, the complainant and the police officer notice of the decision.

86.—(1) The chief of police may commence or continue a disciplinary proceeding against a police officer under Part V even if, Power to commence or continue disciplinary proceeding

- (a) the complaint is withdrawn or is resolved informally; or
- (b) the complaint is not to be further dealt with under this Part because of subsection 77 (7) (complaint filed more than six months after incident) or section 80 (complaint made by person not directly affected), or because of a decision by the chief of police under section 85.

(2) The chief of police shall give the Commissioner and the complainant notice of a decision to commence or continue a disciplinary proceeding in the circumstances described in subsection (1), and shall also give them notice of the results of the proceeding. Notice to Commissioner and complainant

INVESTIGATION OF COMPLAINT

87.—(1) The person in charge of the bureau shall cause an investigation to be conducted into the complaint in accordance with the prescribed procedures. Investigation

(2) During the course of the investigation, the person in charge shall send the Commissioner, the complainant and the police officer interim reports on the investigation at monthly intervals. Interim reports

(3) The first interim report shall be sent not more than thirty days after the bureau receives the complaint. Idem

(4) If there are no new matters to report, the person in charge may send the Commissioner, the complainant and the police officer a notice to that effect instead of an interim report. Exception

(5) The person in charge may withhold an interim report from the complainant or the police officer if, in his or her opinion, it is desirable to do so in order to avoid prejudicing the investigation, but in that case shall forthwith notify the Commissioner of the decision and the reasons for it. Idem

(6) When the investigation has been completed, the person in charge shall cause a final report to be prepared and shall send copies of it to the Commissioner, the chief of police, the complainant and the police officer. Final report

Contents

(7) The final report shall contain,

- (a) a summary of the complaint, including a description of the police officer's alleged misconduct;
- (b) a summary of the investigation, including summaries of the information obtained from the complainant, the police officer and any witnesses; and
- (c) a description and analysis of any physical evidence obtained.

Further investigation

(8) After receiving a final report, the Commissioner may require the chief of police to have the complaint investigated further.

Idem

(9) A summary of the results of any further investigation shall be sent to the persons who received the final report.

Forms

(10) The interim reports and final report shall be written on forms provided by the Commissioner.

Investigation by Commissioner

88.—(1) The Commissioner may conduct the investigation into the complaint, instead of the bureau,

- (a) for any reason, after receiving the first interim report or after the thirty-day period referred to in subsection 87 (3) has expired;
- (b) if the complainant has commenced a court proceeding against the police officer, the police force or the chief of police, the police services board or the municipality (in the case of a municipal police force) or the Crown in right of Ontario (in the case of the Ontario Provincial Police) in connection with the incident to which the complaint relates;
- (c) if the Commissioner has reasonable grounds to believe that undue delay or other unusual circumstances have affected the bureau's investigation or the preparation of its final report; or
- (d) if the chief of police requests that the Commissioner conduct the investigation.

Duty of chief of police

(2) The chief of police, if he or she becomes aware that the complainant has commenced a court proceeding of the kind described in clause (1) (b), shall forthwith notify the Commissioner of the fact.

(3) If the complaint concerns more than one police force, the Commissioner shall conduct the investigation.

Complaints concerning more than one police force

(4) When the Commissioner decides to conduct the investigation, he or she shall forthwith notify the chief of police, giving reasons in the case of a decision under clause (1) (a) or (c).

Notice

(5) When the Commissioner notifies the chief of police of a decision to conduct the investigation, the person in charge of the bureau shall forthwith end any investigation begun by the bureau and send to the Commissioner the evidence that has been gathered and the documents relating to the complaint.

Effect on bureau

(6) Section 87 applies to the Commissioner's investigation, with necessary modifications, except that the Commissioner shall send the first interim report not more than thirty days after giving notice of the decision to conduct the investigation.

Manner of conducting investigation

89.—(1) If the complaint was made under section 78, the Commissioner shall conduct the investigation in accordance with the prescribed procedures, and section 87 does not apply.

Investigation of complaint made by Commissioner

(2) The Commissioner shall send the police officer and the chief of police interim reports on the investigation at monthly intervals.

Interim reports

(3) The first interim report shall be sent not more than thirty days after the Commissioner makes the complaint.

Idem

(4) If there are no new matters to report, the Commissioner may send the police officer and the chief of police a notice to that effect instead of an interim report.

Exception

(5) The Commissioner may withhold an interim report from the police officer if, in his or her opinion, it is desirable to do so to avoid prejudicing the investigation, but in that case shall forthwith notify the chief of police of the decision and the reasons for it.

Idem

(6) When the investigation has been completed, the Commissioner shall cause a final report to be prepared and shall send copies of it to the chief of police and the police officer.

Final report

(7) The final report shall contain,

Contents

(a) a summary of the complaint, including a description of the police officer's alleged misconduct;

- (b) a summary of the investigation, including summaries of the information obtained from the police officer and any witnesses; and
- (c) a description and analysis of any physical evidence obtained.

DECISION BY CHIEF OF POLICE

Review of
final report

90.—(1) The chief of police shall review the final report of the investigation of a complaint and may order further investigation if he or she considers it advisable.

Results of
further
investigation

(2) A summary of the results of any further investigation shall be sent to the persons who received the final report, and to the Commissioner if he or she conducted the original investigation.

Decision

(3) After reviewing the final report and the results of any further investigation, the chief of police shall,

- (a) decide that no further action is necessary;
- (b) admonish the police officer regarding the matter in accordance with subsection 59 (1);
- (c) hold a disciplinary hearing under section 60;
- (d) order that all or part of the complaint be the subject of a hearing by a board of inquiry; or
- (e) cause an information to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.

Idem

(4) If the chief of police decides to hold a disciplinary hearing under section 60 or orders a hearing by a board of inquiry, he or she may at the same time cause an information to be laid against the police officer.

Notice

(5) The chief of police shall give written notice of the decision to the Commissioner, the complainant and the police officer, with reasons in the case of a decision that no further action is necessary or a decision to admonish the police officer.

Idem

(6) If the chief of police orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 103 (9).

(7) The chief of police shall give notice of the decision within six months of receiving the final report, unless the Commissioner grants an extension. Six-month time limit

(8) If the chief of police does not give notice of the decision within the six-month period and is not granted an extension, he or she shall be deemed to have decided that no further action is necessary. Deemed decision

REVIEW BY COMMISSIONER

91.—(1) The Commissioner shall review the decision of the chief of police, Review by Commissioner

- (a) at the complainant's or police officer's request, in the case of a decision under section 90 to admonish the police officer;
- (b) at the complainant's request, in the case of a decision under section 90 that no further action is necessary;
- (c) at the complainant's request, in the case of a decision under section 85 that the complaint or part of it not be further dealt with under this Part.

(2) The Commissioner may, if in his or her opinion it is in the public interest to do so, review the decision of the chief of police, Idem

- (a) in the case of a decision under section 90 to admonish the police officer;
- (b) in the case of a decision under section 90 that no further action is necessary;
- (c) in the case of a decision under section 85 that the complaint or part of it not be further dealt with under this Part.

(3) The Commissioner shall, at the complainant's request, review the decision made in a disciplinary hearing under section 60 arising out of a complaint. Idem

(4) The complainant or police officer may request a review by the Commissioner only within thirty days of receiving notice of the decision, unless the Commissioner grants an extension. Thirty-day limit

Complaint
made by
Commis-
sioner

(5) In the case of a complaint made under section 78, the Commissioner may review,

- (a) a decision by the chief of police to admonish the police officer;
- (b) a decision by the chief of police that no further action is necessary;
- (c) the decision made in a disciplinary hearing under section 60 arising out of the complaint.

Commis-
sioner's
decision

(6) After conducting the review, the Commissioner may decide to take no further action, or may order a hearing by a board of inquiry if he or she believes it to be necessary in the public interest.

Notice

(7) The Commissioner shall forthwith give written notice of his or her decision, with reasons in the case of a decision to take no further action, to the chief of police, the complainant and the police officer.

Idem

(8) If the Commissioner orders a hearing by a board of inquiry, he or she shall also notify the chair appointed under subsection 103 (9).

HEARING BY BOARD OF INQUIRY

Police
officer's
appeal to
board

92.—(1) If a penalty is imposed on a police officer after a disciplinary hearing under section 60 that was conducted as a result of the complaint, he or she may appeal to a board of inquiry by serving a notice of appeal on the Commissioner, the chair of the panel and the chief of police within fifteen days of receiving notice of the decision.

Notice to
complainant

(2) The Commissioner shall forthwith notify the complainant of the appeal.

Extension of
time for
appeal

(3) A member of the panel who was appointed on a recommendation made under subsection 103 (2) may grant an extension of the time provided for serving a notice of appeal, before or after the expiry of the time, and may give directions in connection with the extension.

Appeal to be
combined
with other
hearing

(4) The hearing of the police officer's appeal and any hearing ordered by the Commissioner under section 91 shall be combined.

Constitution
of board

93.—(1) A board of inquiry shall be constituted,

- (a) when the chief of police orders under section 90 that a matter be heard by a board of inquiry;
- (b) when the Commissioner orders a hearing under section 91; and
- (c) when a police officer appeals under section 92.

(2) The chair of the panel shall assign the following members of the panel to the board of inquiry, choosing members from the area where the complaint arose if possible:

Assignment of members to board

- 1. As presiding officer, a member who was appointed on a recommendation made under subsection 103 (2).
- 2. A member who was appointed on a recommendation made under subsection 103 (3).
- 3. A member who was appointed on a recommendation made under subsection 103 (4).

(3) In the case of a complaint against a chief of police, the board of inquiry shall include, instead of a member of the panel who was appointed on a recommendation made under subsection 103 (3), a person, other than a police officer or a member of the Law Society of Upper Canada, appointed to the board of inquiry by the chair of the panel on the recommendation of the Ontario Association of Chiefs of Police.

Complaint against chief of police

94.—(1) The hearing before the board of inquiry shall be a new hearing, unless it follows a disciplinary hearing under section 60; in that case it shall be on the record, but the board may receive new or additional evidence as it considers just.

New hearing, exception

(2) If a board is constituted following a disciplinary hearing, the chief of police shall cause a record of the hearing to be prepared, at the Commissioner's expense if the Commissioner ordered the hearing before the board.

Record of disciplinary hearing

(3) The record shall include a transcript and shall be accompanied by the documents, physical evidence and exhibits considered at the disciplinary hearing.

Idem

95.—(1) The parties to a hearing are,

Parties

- (a) the complainant;
- (b) the police officer;

(c) the Commissioner; and

(d) the chief of police, in the case of an appeal by the police officer.

Idem (2) The board of inquiry may add parties at any stage of the hearing on the conditions it considers proper.

Carriage (3) In the case of a hearing ordered by the chief of police or by the Commissioner, the Commissioner has carriage of the matter and, in the case of an appeal by the police officer, the police officer has carriage.

Statement of alleged misconduct (4) In the case of a hearing ordered by the chief of police or by the Commissioner, the chief of police or the Commissioner, as the case may be, shall provide the parties with a concise statement of the allegations of misconduct to be heard.

Notice of hearing **96.**—(1) The board of inquiry shall appoint a time for the hearing and notify the parties.

Examination of evidence (2) Before the hearing, the police officer and the complainant shall be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence at the hearing.

Recording of evidence (3) The oral evidence given at the hearing shall be recorded and copies or transcripts shall be provided on the same terms as in the Supreme Court of Ontario.

Application of 1984, c. 11, s. 146 (4) Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to the hearing.

Police officer not required to give evidence R.S.O. 1980, c. 484 (5) Despite section 12 of the *Statutory Powers Procedure Act*, the police officer shall not be required to give evidence at the hearing.

Limited admissibility of certain statements (6) No statement made by the police officer or complainant in the course of an attempt to resolve the complaint informally shall be admitted in evidence at the hearing, except with the consent of the person who made the statement.

Board not to communicate in relation to subject-matter of hearing (7) The board of inquiry shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or party or party's counsel or representative, unless all parties receive notice and have an opportunity to participate.

(8) However, the board may seek legal advice from an adviser independent of the parties, and in that case the nature of the advice shall be communicated to the parties so that they may make submissions as to the law. Exception

(9) If it appears to be in the interests of justice, the board may direct that the board, the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose. Adjournment
for view

(10) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them. Release of
exhibits

(11) If the police officer is charged with an offence under a law of Canada or of a province or territory in connection with the misconduct or possible misconduct to which the complaint relates, the hearing shall continue unless the Crown Attorney advises the presiding officer that it should be stayed until the conclusion of the court proceedings. Stay

(12) No member of the board shall participate in a decision unless he or she was present throughout the hearing and heard the parties' evidence and argument; except with the parties' consent, no decision shall be given unless all the members so present participate in it. Only
members at
hearing to
participate in
decision

(13) The decision of a majority of the members of the board is the board's decision. Decision

97.—(1) If misconduct is proved at the hearing on clear and convincing evidence, the chief of police may make submissions as to penalty and the board of inquiry may, Penalties

- (a) dismiss the police officer from the police force;
- (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
- (c) demote the police officer, specifying the manner and period of the demotion;
- (d) suspend the police officer without pay for a period not exceeding thirty days or 240 hours, as the case may be;
- (e) direct that the police officer forfeit not more than five days' or forty hours' pay, as the case may be; or

- (f) direct that the police officer forfeit not more than twenty days or 160 hours off, as the case may be.

Calculation

(2) Penalties imposed under clauses (1) (d), (e) and (f) shall be calculated in terms of days if the police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day.

Idem

(3) Instead of or in addition to a penalty described in subsection (1), the board may reprimand the police officer.

Notice of decision

(4) The board shall promptly give written notice of the decision, with reasons, to the parties and the Attorney General.

Appeal to Divisional Court

98.—(1) A party to a hearing before a board of inquiry may appeal to the Divisional Court within thirty days of receiving notice of the board's decision.

Grounds for appeal

(2) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

Attorney General

(3) The Attorney General is entitled to be heard, by counsel or otherwise, on the argument of the appeal.

POLICE COMPLAINTS COMMISSIONER

Appointment of Commissioner

99.—(1) The Lieutenant Governor in Council shall appoint a Police Complaints Commissioner, to hold office for a term not exceeding five years.

Reappointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding five years in each case.

Staff
R.S.O. 1980,
c. 418

(3) Such employees as are considered necessary for the purposes of this Part may be appointed under the *Public Service Act*.

Remuneration

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Records

(5) The Commissioner shall maintain copies of all records, reports and other materials received under this Part.

Monitoring handling of complaints

(6) The Commissioner shall monitor the handling of complaints by bureaus and chiefs of police.

Local offices

(7) The Commissioner may establish local offices.

(8) Anything that is given to or served upon the Commissioner under this Part may be given or served at one of the local offices. Idem

(9) The Commissioner shall report annually to the Attorney General. Annual report

(10) The Commissioner's accounts shall be audited annually by the Provincial Auditor. Audit

100.—(1) For the purposes of an investigation under section 88 or 89 or a review under section 91, the Commissioner may, if he or she has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, enter a police station after informing the chief of police and examine there documents and things related to the complaint. Powers on investigation or review

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation or review as if it were an inquiry under that Act. Powers on inquiry
R.S.O. 1980,
c. 411

(3) The Commissioner may, in writing, appoint a person to make any investigation or review the Commissioner is authorized to make and the person has all the powers and duties of the Commissioner relating to the investigation and the review. Appointment of person to make investigation or review

(4) The person shall be provided with a certificate of appointment containing his or her photograph, and while exercising any powers or performing any duties in respect of the investigation or review shall produce the certificate of appointment upon request. Identification

(5) The person shall report the results of the investigation or review to the Commissioner. Report

(6) No person shall obstruct the Commissioner or a person appointed under subsection (3) or withhold from the Commissioner or person or conceal or destroy any documents or things related to the investigation or review. Obstruction

(7) If a justice of the peace is satisfied, on an application made without notice by the Commissioner or a person appointed under subsection (3), that there are reasonable grounds to believe that there are in any place documents or things relating to an investigation or review, the justice of the peace may make an order authorizing the applicant, together with such persons as he or she calls on for assistance, to enter Search warrant

the place, by force if necessary, search for the documents or things and examine them.

Entry and search at night restricted

(8) The entry and search shall not be made between the hours of 9 p.m. and 6 a.m. unless the order so authorizes.

Removal of books, etc.

(9) The Commissioner may, upon giving a receipt, remove any documents or things examined under subsection (1) or (7) relating to the investigation or review, shall cause them to be copied with reasonable dispatch and shall then return them promptly to the person from whom they were removed.

Admissibility of copies

(10) A copy made as provided in subsection (9) and certified to be a true copy by the Commissioner is admissible in evidence in any proceeding and is proof, in the absence of evidence to the contrary, of the original document and its contents.

Appointment of expert

(11) The Commissioner may appoint an expert to examine documents or things examined under subsection (1) or (7).

Recommendations concerning police practices or procedures

101.—(1) The Commissioner may make recommendations with respect to the practices or procedures of a police force by sending the recommendations, with any supporting documents, to,

- (a) the Attorney General;
- (b) the Solicitor General;
- (c) the chief of police;
- (d) the association, if any; and
- (e) the police services board, in the case of a municipal police force.

Comments

(2) Within ninety days of receiving the recommendations, the chief of police, association and police services board shall send their comments to the Attorney General, the Solicitor General and the Commissioner.

Judicial review of Commissioner's decisions

102. The Commissioner's decisions under subsection 83 (5) (complaint to continue to be dealt with despite informal resolution), subsection 84 (6) (complaint to continue to be dealt with despite withdrawal) and clause 88 (1) (c) (decision to conduct investigation because of undue delay) shall be deemed to be made in the exercise of a statutory power of decision.

BOARDS OF INQUIRY

- 103.**—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry to conduct hearings in connection with complaints. Panel for boards of inquiry
- (2) One-third of the members of the panel shall be members of the Law Society of Upper Canada who are recommended for appointment by the Attorney General. Recommendations for appointment
- (3) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Police Association of Ontario. Idem
- (4) One-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are recommended for appointment by the Association of Municipalities of Ontario. Idem
- (5) The Attorney General may make the recommendations under subsection (3) or (4) if the Police Association of Ontario or the Association of Municipalities of Ontario, as the case may be, do not submit written recommendations to the Attorney General within the time that he or she specifies. Failure to make recommendations
- (6) Appointments to the panel shall be for a term not exceeding three years and a member may be reappointed for a further term or terms. Term
- (7) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board to which he or she was assigned before the expiration of the term. Continuance in office for uncompleted assignments
- (8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration
- (9) The Lieutenant Governor in Council shall appoint a person to be the chair of the panel. Chair
- (10) The chair shall cause to be prepared and published an annual summary of the decisions of boards, with reasons. Annual summary of decisions

GENERAL MATTERS

- 104.** No reference to a complaint, a hearing held under this Part or a disciplinary hearing conducted under section 60 as a result of the complaint shall be made in the police officer's employment record Police officer's employment record

cer's employment record, and the matter shall not be taken into account for any purpose related to his or her employment, unless,

- (a) the police officer is convicted of an offence in connection with the incident;
- (b) misconduct is proved on clear and convincing evidence at a hearing held under this Part or at a disciplinary hearing;
- (c) the chief of police admonishes the police officer in connection with the incident, in accordance with subsection 59 (1);
- (d) the police officer admits misconduct in the course of attempts to resolve the complaint informally; or
- (e) the police officer resigns before the complaint is finally disposed of.

Resignation
after hearing
ordered

105.—(1) This section applies to a police officer who resigns from the police force after a hearing is ordered under section 90 or 91.

Idem

(2) If the police officer resigns before a board of inquiry is constituted under section 93, the following rules apply:

1. No board of inquiry shall be constituted unless the police officer, within twelve months of the resignation, applies for employment with a police force or is employed by a police force.
2. In that case, the board acquires jurisdiction over the police officer despite the earlier resignation.

Idem

(3) If the police officer resigns after a board of inquiry is constituted, the following rules apply:

1. The board of inquiry loses jurisdiction over the police officer.
2. If the police officer, within twelve months of the resignation, applies for employment with a police force or is employed by a police force, the board's jurisdiction is revived.

Notice

106.—(1) A notice or other document required to be given or sent under this Part is sufficiently given if delivered

personally or sent by prepaid registered mail addressed to the person.

(2) Notice that is given by mail shall be deemed to be given on the fifth day after the day of mailing, unless the person to whom the notice is to be given establishes that he or she, acting in good faith, through absence, accident, illness or other cause beyond his or her control failed to receive the notice until a later date.

Notice by mail

107.—(1) The chief of police may authorize any police officer of the rank of inspector or higher (from another police force if there is none in the chief's own police force) to exercise any power or perform any duty of the chief of police referred to in this Part.

Delegation by chief of police

(2) The Commissioner may authorize any member of his or her staff to exercise any power or perform any duty of the Commissioner referred to in this Part.

Delegation by Commissioner

108.—(1) This section applies to every person engaged in the administration of this Part, including a member of a police force.

Application of section

(2) A person shall preserve secrecy in respect of all information obtained in the course of his or her duties and not contained in a record as defined in the *Freedom of Information and Protection of Privacy Act, 1987*, and shall not communicate such information to any other person except,

Confidentiality, exceptions 1987, c. 25

- (a) in accordance with subsection (3);
- (b) as may be required for law enforcement purposes; or
- (c) with the consent of the person, if any, to whom the information relates.

(3) A person may communicate information obtained in the course of his or her duties,

Permitted disclosure

- (a) as may be required in connection with the administration of this Act and the regulations; or
- (b) to his or her counsel.

(4) No person shall be required to testify in a civil proceeding with regard to information obtained in the course of his or her duties, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Non-compellability

Inadmissibility of documents

(5) No document prepared under this Part as the result of a complaint and no statement referred to in subsection 96 (6) (statements made during attempt at informal resolution) is admissible in a civil proceeding, except at a hearing held under this Part or at a disciplinary hearing held under Part V.

Non-application of R.S.O. 1980, c. 325

109. The *Ombudsman Act* does not apply to anything done under this Part.

Agreement for contributions

110. The Attorney General may, with the approval of the Lieutenant Governor in Council, enter into an agreement with a municipality providing for its payment to the Treasurer of Ontario, on such conditions as may be agreed upon, of contributions in respect of the amounts required for the purposes of this Part.

Offence

111. A person who contravenes subsection 96 (4) (photography at hearing), 100 (6) (obstructing Commissioner) or 108 (2) (confidentiality) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Definition 1984, c. 63

112.—(1) In subsection (2), “former Act” means the *Metropolitan Toronto Police Force Complaints Act, 1984*.

Transition, complaints under former Act

(2) Despite the repeal of the former Act by subsection 148 (1), complaints made under the former Act before the day this Act comes into force shall be dealt with in accordance with the former Act, except that hearings before boards of inquiry that are constituted after the day this Act comes into force shall be conducted in accordance with this Part.

PART VII

SPECIAL INVESTIGATIONS

Special investigations unit

113.—(1) There shall be a special investigations unit of the Ministry of the Solicitor General.

Composition

(2) The unit shall consist of a director appointed by the Lieutenant Governor in Council on the recommendation of the Solicitor General and investigators appointed under the *Public Service Act*.

R.S.O. 1980, c. 418

Idem

(3) A person who is a police officer or former police officer shall not be appointed as director, and persons who are police officers shall not be appointed as investigators.

Peace officers

(4) The director and investigators are peace officers.

(5) The director may, on his or her own initiative, and shall, at the request of the Solicitor General or Attorney General, cause investigations to be conducted into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers.

Investigations

(6) An investigator shall not participate in an investigation that relates to members of a police force of which he or she was a member.

Restriction

(7) If there are reasonable grounds to do so in his or her opinion, the director shall cause informations to be laid against police officers in connection with the matters investigated and shall refer them to the Crown Attorney for prosecution.

Charges

(8) The director shall report the results of investigations to the Attorney General.

Report

(9) Members of police forces shall co-operate fully with the members of the unit in the conduct of investigations.

Co-operation of police forces

PART VIII

LABOUR RELATIONS

114. In this Part,

Definitions

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 131 (1);

“senior officer” means a member of a police force who has the rank of inspector or higher or is employed in a supervisory or confidential capacity.

115.—(1) This Part, except section 117, does not apply to the Ontario Provincial Police.

Exclusion of O.P.P.

(2) The working conditions and remuneration of the chief of police and deputy chief of police of a police force shall be determined under clause 31 (1) (d) (responsibilities of board) and not under this Part.

Exclusion of chief of police and deputy

116.—(1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter.

Hearing re person's status

(2) The Commission's decision is final.

Decision final

Membership
in trade
union
prohibited,
exception

117. A member of a police force shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities that do not contravene section 49 and the chief of police consents.

Categories

118.—(1) If a majority of the members of a police force, or an association that is entitled to give notices of desire to bargain, assigns the members of the police force to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police force.

Senior
officers

(2) If at least 50 per cent of the senior officers of a police force belong to an association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police force.

Restriction

(3) Bargaining, conciliation and arbitration may be carried on with more than two categories within a police force (apart from senior officers) only if the Commission has approved the creation of the categories.

Notice of
desire to
bargain

119.—(1) If no agreement exists or at any time after ninety days before an agreement would expire but for subsection 129 (1) or (2), a majority of the members of a police force may give the board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement.

Bargaining

(2) Within fifteen days after the notice of desire to bargain is given or within the longer period that the parties agree upon, the board shall meet with a bargaining committee of the members of the police force.

Idem

(3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with the remuneration, pensions, sick leave credit gratuities and grievance procedures of the members of the police force and, subject to section 126, their working conditions.

Filing of
agreement

(4) The board shall promptly file a copy of any agreement with the Arbitration Commission.

Association

(5) If at least 50 per cent of the members of the police force belong to an association, it shall give the notice of desire to bargain.

(6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the *Municipal Act*, it shall also be given to the Minister of Municipal Affairs, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan.

Pension plans under R.S.O.1980, c. 302

120.—(1) The members of the bargaining committee shall be members of the police force.

Bargaining committee

(2) One legal counsel and one other advisor for each of the bargaining committee and the board may participate in the bargaining sessions.

Counsel and advisors

(3) If the notice of desire to bargain is given by an association that is affiliated with a police organization, or if at least 50 per cent of the members of the police force belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

Police organization

(4) The chief of police or, if the parties consent, another person designated by the chief of police may also attend the parties' bargaining sessions in an advisory capacity.

Chief of police

121.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a notice of desire to bargain has been given.

Appointment of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Duty of conciliation officer

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

Extension of time

(4) When the conciliation officer reports to the Solicitor General that an agreement has been reached or that an agreement cannot be reached, the Solicitor General shall promptly inform the parties of the report.

Report

(5) Neither party shall give a notice requiring matters in dispute to be referred for arbitration under section 122 until the Solicitor General has informed the parties of the conciliation officer's report or informed them that he or she does not consider the case appropriate for the appointment of a conciliation officer.

No arbitration during conciliation

Arbitration

122.—(1) If matters remain in dispute after bargaining under section 119 and conciliation, if any, under section 121, a party may give the Solicitor General and the other party a written notice referring the matters to arbitration.

Composition of arbitration board

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General.

Time for arbitration

(3) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver its decision or award within sixty days after commencing the arbitration.

Representations by council

(4) The municipal council may make representations before the arbitration board if it is authorized to do so by a resolution.

Criteria

(5) In making an award, the arbitration board shall take into account the interest and welfare of the community served by the police force as well as any local factors affecting the community.

Filing of award

(6) The arbitration board shall promptly file a copy of its decision or award with the Arbitration Commission.

Costs and expenses

(7) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board.

123.—(1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

Dispute,
appointment
of concilia-
tion officer

(2) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Duty of
conciliation
officer

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

Extension of
time

(4) When the conciliation officer reports to the Solicitor General that the dispute has been resolved or that it cannot be resolved by conciliation, the Solicitor General shall promptly inform the parties of the report.

Report

(5) Neither party shall give a notice referring the dispute for arbitration until the Solicitor General has informed the parties of the conciliation officer's report.

No
arbitration
during concil-
iation

124.—(1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the Solicitor General and the other party a written notice referring the dispute to arbitration.

Arbitration
after concil-
iation fails

(2) The procedure provided by subsection (1) is available in addition to any grievance or arbitration procedure provided by the agreement, decision or award.

Idem

(3) The following rules apply to the composition of the arbitration board:

Composition
of arbitration
board

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.
2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.
3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General.

Time for
arbitration

(4) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time.

Filing of
decision

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration Commission.

Costs and
expenses

(6) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.
2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.
3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board.

Enforcement

(7) After the day that is thirty days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the decision, in the prescribed form, in the office of the Registrar of the Supreme Court.

(8) The decision shall be entered in the same way as a judgment of the Supreme Court and may be enforced as such. Idem

125. The parties may agree to extend any period of time mentioned in this Part. Extension of time

126. Agreements and awards made under this Part do not affect the working conditions of the members of the police force in so far as those working conditions are determined by sections 42 to 49, subsection 50 (3) and Parts V, VI and VII of this Act and by the regulations. Restriction

127. The *Arbitrations Act* does not apply to arbitrations conducted under this Part. Non-application of R.S.O. 1980, c. 25

128. Agreements, decisions and awards made under this Part bind the board and the members of the police force. Agreements, decisions and awards binding

129.—(1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced. Duration of agreements, decisions and awards

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the year in which they come into effect and thereafter shall continue in effect until replaced. Longer duration if parties agree

130.—(1) If, when the council is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the council shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate. Provision for expenditures

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipal council may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made. Coming into effect

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2). Exception

131.—(1) The commission known as the Ontario Police Arbitration Commission is continued. Arbitration Commission continued

- Composition (2) The Arbitration Commission shall be composed of the following members, appointed by the Lieutenant Governor in Council:
1. Two representatives of boards, recommended for appointment by the Municipal Police Authorities.
 2. Two representatives of members of associations, recommended for appointment by the Police Association of Ontario.
 3. A chair.
- Terms of office (3) The representatives of boards and members of associations shall hold office for two-year terms and may be re-appointed; the chair shall hold office during pleasure.
- Staff (4) Such employees as are necessary for the proper conduct of the Arbitration Commission's work may be appointed under the *Public Service Act*.
- R.S.O. 1980, c. 418
- Responsibilities of Arbitration Commission (5) The Arbitration Commission has the following responsibilities:
1. Maintaining a register of arbitrators who are available for appointment.
 2. Assisting arbitrators by making administrative arrangements in connection with arbitrations.
 3. Fixing the fees of arbitrators appointed by the Solicitor General under section 124.
 4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards.
 5. Sponsoring research on the subject of agreements, arbitrations and awards.
 6. Maintaining a file of agreements, decisions and awards made under this Part.
- Regulations (6) Subject to the approval of the Lieutenant Governor in Council, the Arbitration Commission may make regulations,
- (a) governing the conduct of arbitrations and prescribing procedures for them;
 - (b) prescribing forms and providing for their use.

(7) The persons who are members of the Arbitration Commission on the day this Act comes into force shall continue to hold office until their terms expire, and may be reappointed in accordance with subsection (2). Transition

PART IX

REGULATIONS AND MISCELLANEOUS

132.—(1) This section applies to personal property of all kinds, except firearms and money, that comes into the possession of a police force under either of the following circumstances: Property in possession of police force

1. The property was stolen from its owner or was found abandoned in a public place, and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police force in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

(2) The chief of police may cause the property to be sold, and the board may use the proceeds for any purpose that it considers in the public interest. Sale

(3) If the property is perishable, it may be sold at any time without notice. Perishable property

(4) If the property is not perishable, the following rules apply to its sale: Non-perishable property

1. The property may be sold when it has been in the possession of the police force for at least one month, in the case of a motor vehicle as defined in the *Highway Traffic Act* or a bicycle, or for at least three months, in the case of other property.
2. The sale shall be by public auction.
3. At least ten days notice of the time and place of the public auction shall be given by publication in a newspaper of general circulation in the municipality.
4. The sale may be adjourned, repeatedly if necessary, until the property is sold.

R.S.O. 1980.
c. 198

Claim of
owner of
property

(5) If a motor vehicle, bicycle or other property has been sold before it has been in the possession of the police force for three months and if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale.

Register of
property

(6) The chief of police shall ensure that the police force keeps a register of property and that the following rules are followed:

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

Exception

R.S.O. 1980,
c. 198

(7) This section does not apply to a motor vehicle that is impounded under section 192 of the *Highway Traffic Act*.

Money

133.—(1) This section applies to money that comes into the possession of a police force under the circumstances described in paragraph 1 or 2 of subsection 132 (1).

Accounting

(2) The money shall be accounted for according to the prescribed method.

Use of
money

(3) If three months have elapsed after the day the money came into the possession of the police force and the owner has not claimed it, the board may use it for any purpose that it considers in the public interest.

Firearms

134.—(1) This section applies to firearms that are in the possession of a police force because they have been found, turned in or seized.

Safe-keeping.
return to
owner

(2) The chief of police shall ensure that firearms are securely stored, and that they are returned to their owners if there is a court order or other legal requirement to that effect.

Destruction

(3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement governing how the firearm is to be dealt with, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies.

(4) If the chief of police considers the firearm unique, an antique, or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences. Firearm of special interest

(5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there. Idem

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly. Idem

(7) The chief of police may dispose of a firearm to which subsection (6) applies otherwise than by having it destroyed if he or she first obtains the Solicitor General's approval of the method of disposal. Disposal otherwise than by destruction

(8) The chief of police shall ensure that the police force keeps a register of firearms and that the following rules are followed: Register of firearms

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the board or of a member of the police force, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.
4. On or before the 31st day of January in each year, a statement shall be filed with the Commission listing the firearms that have come into the possession of the police force during the preceding calendar year, indicating which firearms are still being retained and which have been disposed of, and giving the particulars of disposition.

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

1. prescribing standards for police services;

2. prescribing procedures for the inspection and review by the Solicitor General of police forces;
3. requiring municipalities to provide police detention facilities, governing those facilities and providing for their inspection;
4. providing for financial aid to police training schools;
5. prescribing the minimum amount of remuneration to be paid by municipalities to the members of boards who are appointed by the Lieutenant Governor in Council or Solicitor General;
6. prescribing the procedures to be followed by boards and the places at which their meetings shall be held;
7. prescribing the forms of oaths or affirmations of office and secrecy for the purposes of section 32 (members of boards), section 45 (police officers), subsection 52 (6) (auxiliary members of police forces), subsection 53 (9) (special constables) and subsection 54 (8) (First Nations Constables);
8. respecting the government, operation and administration of police forces;
9. governing the qualifications for the appointment of persons to police forces and for their promotion;
10. prescribing groups of persons for the purposes of subsection 48 (1) (employment equity plans);
11. prescribing matters to be contained in employment equity plans;
12. respecting the political activities in which municipal police officers are permitted to engage;
13. establishing the ranks that shall be held by members of municipal police forces;
14. prescribing the minimum salary or other remuneration and allowances to be paid to members of municipal police forces;
15. regulating or prohibiting the use of any equipment by a police force or any of its members;

16. regulating the use of force by members of police forces;
17. prescribing standards of dress for police officers on duty and prescribing requirements respecting police uniforms;
18. prescribing courses of training for members of police forces and prescribing standards in that connection;
19. governing the conduct, duties, suspension and dismissal of members of police forces;
20. describing the circumstances under which members of police forces are permitted and not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;
21. prescribing the records, returns, books and accounts to be kept by police forces and their members;
22. prescribing the method of accounting for fees and costs that come into the hands of members of police forces;
23. prescribing a code of conduct in which offences constituting misconduct are described for the purposes of section 56;
24. providing for the payment of fees and expenses to witnesses at hearings conducted under Part V or VI;
25. prescribing procedures for the investigation of complaints under Part VI;
26. assigning further duties to the Police Complaints Commissioner;
27. prescribing the method of accounting for money to which section 133 applies;
28. prescribing forms and providing for their use;
29. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed;
30. respecting any matter that is necessary or advisable to implement this Act effectively.

Idem (2) A regulation made under subsection (1) may be general or particular in its application.

Crown bound **136.** This Act binds the Crown in right of Ontario.

PART X

CONSEQUENTIAL AMENDMENTS AND REPEALS

137. Section 66 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Non-application of 1990, c. 10

66.—(1) The *Police Services Act, 1990*, being chapter 10, except section 15 (municipal by-law enforcement officers), does not apply to the District Corporation or to an area municipality.

Non-application of R.S.O. 1980, c. 302, ss. 202, 203

(2) Sections 202 and 203 of the *Municipal Act* do not apply to an area municipality.

138.—(1) Section 174 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

174. In this Part, “Metropolitan Board” means The Municipality of Metropolitan Toronto Police Services Board.

(2) Subsections 175 (1) and (2) of the said Act are repealed.

(3) Subsection 177 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10 and amended by 1988, chapter 12, section 1, is repealed and the following substituted therefor:

Composition of Metropolitan Board 1990, c. 10

(1) The Metropolitan Council shall be deemed to have applied to the Lieutenant Governor in Council for an increase in the size of its board under subsection 27 (9) of the *Police Services Act, 1990* and the Lieutenant Governor in Council shall be deemed to have approved the application.

(4) Section 178 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, is repealed.

139.—(1) Section 73 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

73. In this Part, "Durham Police Board" means The Regional Municipality of Durham Police Services Board. Definition

(2) Section 74 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 1, is repealed.

(3) Subsection 75 (1) of the said Act is repealed and the following substituted therefor:

(1) The Durham Police Board and the members of the Durham Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

140.—(1) Section 68 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

68. In this Part, "Haldimand-Norfolk Police Board" means The Regional Municipality of Haldimand-Norfolk Police Services Board. Definition

(2) Section 69 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 2, is repealed.

(3) Subsections 70 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) The Haldimand-Norfolk Police Board and the members of the Haldimand-Norfolk Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

(2) Despite subsection 31 (1) of the *Police Services Act, 1990*, the Haldimand-Norfolk Police Board is responsible for providing police services only for those portions of the Regional Area in which a local municipality maintained a police force on the 31st day of March, 1974. Jurisdiction
1990, c. 10

(3) With the Solicitor General's approval, the Haldimand-Norfolk Police Board may assume responsibility for providing police services for additional portions of the Regional Area. Idem

141.—(1) Section 79 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

79. In this Part, "Halton Police Board" means The Regional Municipality of Halton Police Services Board.

(2) Section 80 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 3, is repealed.

(3) Subsection 81 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Halton Police Board and the members of the Halton Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

142.—(1) Section 90 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

90. In this Part, "Hamilton-Wentworth Police Board" means The Regional Municipality of Hamilton-Wentworth Police Services Board.

(2) Section 91 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 4, is repealed.

(3) Subsection 92 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Hamilton-Wentworth Police Board and the members of the Hamilton-Wentworth Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

143.—(1) Section 116 of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

116. In this Part, "Niagara Police Board" means The Regional Municipality of Niagara Police Services Board.

(2) Section 117 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 5, is repealed.

(3) Subsection 118 (1) of the said Act is repealed and the following substituted therefor:

By-law enforcement

(1) The Niagara Police Board and the members of the Niagara Regional Police Force have the same duties with

respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

144.—(1) Section 74 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

74. In this Part, "Peel Police Board" means The Regional Municipality of Peel Police Services Board. Definition

(2) Section 75 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 6, is repealed.

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

(1) The Peel Police Board and the members of the Peel Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

145.—(1) Section 38 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

38. In this Part, "Sudbury Police Board" means The Regional Municipality of Sudbury Police Services Board. Definition

(2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 57, section 7, is repealed.

(3) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:

(1) The Sudbury Police Board and the members of the Sudbury Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation. By-law enforcement

146.—(1) Section 109 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

109. In this Part, "Waterloo Police Board" means The Regional Municipality of Waterloo Police Services Board. Definition

(2) Section 110 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 8, is repealed.

(3) Subsection 111 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The Waterloo Police Board and the members of the Waterloo Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

147.—(1) Section 111 of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Definition

111. In this Part, "York Police Board" means The Regional Municipality of York Police Services Board.

(2) Section 112 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 56, section 9, is repealed.

(3) Subsection 113 (1) of the said Act is repealed and the following substituted therefor:

By-law
enforcement

(1) The York Police Board and the members of the York Regional Police Force have the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Regional Corporation.

148.—(1) The following are repealed:

1. The *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, except section 57a, as enacted by the Statutes of Ontario, 1989, chapter 24, section 1.
2. The *Police Amendment Act, 1981*, being chapter 55.
3. The *Police Amendment Act, 1983*, being chapter 57.
4. Section 201 of the *Courts of Justice Act, 1984*, being chapter 11.
5. Section 53 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.
6. The *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63.
7. The *Metropolitan Toronto Police Force Complaints Amendment Act, 1986*, being chapter 31.

(2) The title of the *Police Act* is repealed and the following substituted therefor:

COURT SECURITY ACT

(3) Section 57a of the *Court Security Act* is amended by striking out "or council" in the first line.

149. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

150. The short title of this Act is the *Police Services Act, 1990*. Short title





