





LEGISLATIVE ASSEMBLY
OF THE
PROVINCE OF ONTARIO

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

SESSION

MARCH 20 to JUNE 27, 1984
and

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and

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Bill 110

An Act respecting Technological Change in the Workplace

Mr. Cassidy

<i>1st Reading</i>	June 18th, 1984
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

Projet de loi 110

Loi concernant les changements technologiques au lieu de travail

M. Cassidy

<i>1^{re} lecture</i>	18 juin 1984
<i>2^e lecture</i>	
<i>3^e lecture</i>	
<i>sanction royale</i>	

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. The Act binds the Crown.

SECTION 3. Trade unions and employers may opt out of the Act only with the consent of the Ontario Labour Relations Board.

SECTION 4. Employees have the right to require the establishment of a joint technological change committee.

SECTION 5. The employer is required to report to the committee regularly, to notify the committee as soon as a decision to implement a technological change is made and to consult with the committee on alternative means of implementation of the change.

SECTION 6. Umbrella committees with a co-ordinating function may be established where employees work in more than one workplace, department or division of the employer.

SECTION 7. When a decision to implement a technological change is made, the joint technological change committee is responsible for developing a plan to notify employees, introduce the change in a manner that will minimize disruption and provide various compensating benefits for displaced employees. The employer is required to work with the committee and give it full access to staff, information and records. An umbrella committee may prepare a joint plan for several workplaces, departments or divisions where the employee representatives on the relevant committees require this.

SECTION 8. The minimum notice period before a technological change may be introduced is 180 days.

SECTION 9. Where the Ontario Labour Relations Board is satisfied that an employer has failed to report to the committee as required, failed to notify it of a proposed technological change, implemented a change before the minimum notice period has expired or substantially failed to implement a plan developed by a committee, the Board may order that implementation of the change be delayed for up to one year. The Board may also delay implementation where the committee has not produced a plan within 120 days of being notified of the change.

SECTION 10. A collective agreement may be reopened for bargaining over technological change if the trade union requests it. In that event the usual collective bargaining provisions, including the right to strike, would apply.

SECTION 11. Employees displaced by technological change are entitled to a week's severance pay for every year of employment with the employer.

SECTION 12. Dismissal, discipline or intimidation of employees because they seek to enforce this Act are prohibited.

SECTION 13. Contraventions of Board orders under section 9 and contraventions of section 12 are offences. The maximum fine is \$5,000 on a first conviction (\$10,000 for a corporation) and \$10,000 on subsequent convictions (\$20,000 for corporations). Each day that an employer fails to comply with a Board order under section 9 constitutes a separate offence.

NOTES EXPLICATIVES

ARTICLE 1 Cet article se passe d'explications.

ARTICLE 2 La loi lie la Couronne.

ARTICLE 3 Les syndicats et les employeurs peuvent choisir de ne pas être régis par la loi, seulement avec le consentement de la Commission des relations de travail de l'Ontario.

ARTICLE 4 Les employés ont le droit d'exiger qu'un comité paritaire des changements technologiques soit créé.

ARTICLE 5 L'employeur est tenu de présenter régulièrement des rapports au comité. Il est également tenu d'aviser le comité dès qu'une décision de mettre en place un changement technologique a été prise et d'entretenir avec lui des consultations sur d'autres façons de mettre en place le changement proposé.

ARTICLE 6 Des comités de coordination peuvent être créés si des employés travaillent dans plus d'un lieu de travail, plus d'une section ou plus d'une division.

ARTICLE 7 En cas de décision de mettre en place un changement technologique, le comité paritaire des changements technologiques est chargé d'élaborer un projet en vue d'en informer les employés, d'introduire le changement d'une façon qui minimisera les perturbations et d'offrir des avantages compensateurs aux employés déplacés. L'employeur est tenu de travailler avec le comité et de lui donner toutes possibilités de consulter son personnel, ses renseignements et ses dossiers. Un comité de coordination peut élaborer un projet commun à l'intention de plusieurs lieux de travail, sections ou divisions si les représentants des employés qui font partie des comités pertinents le demandent.

ARTICLE 8 Un préavis d'au moins cent quatre-vingts jours doit être donné avant l'introduction d'un changement technologique.

ARTICLE 9 Si la Commission des relations de travail de l'Ontario est convaincue que l'employeur n'a pas présenté les rapports prévus au comité, ne l'a pas informé du projet d'introduire un changement technologique, a mis en place un changement technologique avant l'expiration de la période minimale ou n'a pas, pour une grande part, mis en place le projet proposé par le comité, elle peut ordonner que la mise en place du changement soit différée pendant une année au plus. La Commission peut également retarder la mise en place d'un changement si le comité n'a pas produit de projet au cours des cent vingt jours qui suivent la date à laquelle il a été avisé du changement.

ARTICLE 10 Une convention collective peut être rouverte à des fins de négociation sur le changement technologique si le syndicat le demande. Dans ce cas, les conditions habituelles relatives à la négociation collective, y compris le droit de grève, s'applique.

ARTICLE 11 Les employés déplacés en raison d'un changement technologique ont droit à une indemnité de licenciement qui équivaut à une semaine de travail multipliée par le nombre d'années à l'emploi de l'employeur.

ARTICLE 12 Il est interdit de congédier ou d'intimider les employés ou de leur imposer une peine disciplinaire parce qu'ils ont cherché à faire respecter la présente loi.

ARTICLE 13 Constituent des infractions une dérogation à une directive que la Commission donne en vertu de l'article 9 et les dérogations à l'article 12. L'amende maximale est fixée à 5 000 \$ pour une première infraction (10 000 \$ pour une personne morale) et à 10 000 \$ pour une infraction subséquente (20 000 \$ pour une personne morale). Chaque jour où l'employeur ne respecte pas la directive de la Commission constitue une infraction distincte.

SECTION 14. Self-explanatory.

SECTION 15. A Technological Change Bureau is created to assist joint technological change committees and engage in research and public education.

SECTION 16. Self-explanatory.

ARTICLE 14 Cet article se passe d'explications.

ARTICLE 15 Le Bureau des changements technologiques est créé afin d'aider les comités paritaires des changements technologiques, de faire des recherches et d'éduquer le public.

ARTICLE 16 Cet article se passe d'explications.

Bill 110**1984**

**An Act respecting
Technological Change
in the Workplace**

Preamble

Whereas it is desirable to encourage employees and employers to respond to technological change, on the basis of meaningful consultation and full sharing of information, in a manner that will protect employees against adverse consequences while enhancing productivity and competitiveness;

Therefore, 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,R.S.O. 1980,
c. 228

(a) “Board” means the Ontario Labour Relations Board continued under the *Labour Relations Act*;

(b) “Bureau” means the Technological Change Bureau established under section 15;

(c) “committee” means a joint technological change committee established under subsection 4 (1);

R.S.O. 1980,
c. 137

(d) “employee” and “employer” have the same meanings as in the *Employment Standards Act*;

(e) “technological change” means the introduction into an employer’s business or undertaking of equipment, material or a process that is different from what was previously used in the business or undertaking and that significantly affects the terms and conditions or security of employment of any of the employer’s employees or results in a significant change in the manner in which the business or undertaking is carried on.

Application
to Crown

2. This Act applies to the Crown and to all Crown agencies.

Projet de loi 110**1984**

**Loi concernant
les changements technologiques
au lieu de travail**

Attendu qu'il est souhaitable d'encourager les employés et les employeurs à réagir aux changements technologiques, grâce à des consultations profitables et à un échange complet de renseignements, d'une façon qui protégera les employés contre des répercussions défavorables tout en augmentant la productivité et la compétitivité;

Préambule

Sa Majesté, de l'avis et du 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

«Bureau» Le Bureau des changements technologiques créé aux termes de l'article 15.

«Bureau»

«changement technologique» Introduction au lieu de travail ou à l'entreprise d'une méthode ou de matériel différents de ceux qui y étaient précédemment utilisés et qui modifient grandement les conditions d'emploi des employés ou leur sécurité ou qui entraînent des changements importants dans la façon dont le lieu de travail ou l'entreprise fonctionne.

«technological change»

«comité» Le comité paritaire des changements technologiques créé aux termes du paragraphe 4 (1).

«committee»

«Commission» La Commission des relations de travail de l'Ontario maintenue en fonctions en vertu de la *Loi sur les relations de travail*.

«Board»

L.R.O. 1980,
chap. 228

«employé» et «employeur» S'entendent au sens de la *Loi sur les normes d'emploi*.

«employee
employeur»
L.R.O. 1980,
chap. 137

2 La présente loi s'applique à la Couronne et à tous ses organismes.

Application à
la Couronne

Board may permit opting out

3. This Act applies despite any agreement to the contrary, unless the Board, on the joint application of the parties to a collective agreement, consents to the inclusion of a provision that this Act does not apply to the parties during the term of the collective agreement.

Right of employees to require committee

4.—(1) An employer shall establish and maintain a committee,

- (a) at the written request of ten employees; or
- (b) where a trade union represents the employees, at the trade union's written request.

Composition

(2) A committee shall consist of at least four persons, half of whom shall be selected by the employer and half of whom shall be selected by the employees they are to represent or, where a trade union represents the employees, by the trade union, and shall be employees who do not exercise managerial functions.

Non-voting trade union representatives

(3) Where a trade union represents the employees, the trade union may select not more than two persons who are not employees to be non-voting members of the committee.

Joint chair

(4) A committee shall be chaired jointly by an employee representative and an employer representative.

Meetings

- (5) A committee shall meet,
- (a) at least once in every three month period; and
 - (b) at the call of either holder of the chair.

Entitlement to time from work

(6) A member of a committee selected under subsection (2) is entitled to such time from work as is necessary to attend meetings of the committee and to carry out his or her duties under subsection 7 (1), and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the regular or premium rate as may be proper.

Duty of employer

5.—(1) Where a committee has been established under subsection 4 (1), the employer shall,

- (a) report to the committee,
 - (i) at the request of the employee representatives, and
 - (ii) at least once in every six month period,

3 La présente loi s'applique malgré une convention contraire à moins que la Commission, à la demande commune des parties à une convention collective, n'accepte l'inclusion d'une disposition portant que la présente loi ne s'applique pas aux parties pendant la durée de validité de la convention collective.

Application de la loi malgré une convention collective

4 (1) L'employeur crée un comité :

Création d'un comité

- a) à la demande écrite de dix employés;
- b) à la demande écrite du syndicat, si un syndicat représente les employés.

(2) Le comité se compose d'au moins quatre personnes, dont la moitié est nommée par l'employeur et l'autre moitié est choisie par les employés qu'elles représentent ou par le syndicat, si un syndicat représente les employés. Les membres du comité ne doivent pas occuper des fonctions directoriales.

Composition

(3) Si un syndicat représente les employés, le syndicat peut choisir au maximum deux personnes qui ne sont pas des employés à titre de membres du comité sans droit de vote.

Représentants du syndicat sans droit de vote

(4) La présidence du comité est assurée à la fois par un représentant des employés et un représentant de l'employeur.

Coprésidence

(5) Le comité se rencontre :

Réunions

- a) au moins une fois tous les trois mois;
- b) lorsque l'un des présidents convoque une réunion.

(6) Chaque membre du comité choisi conformément au paragraphe (2) a le droit de s'absenter de son travail pour assister aux réunions du comité et pour accomplir ses fonctions en application du paragraphe 7 (1). Pendant ces absences, il est réputé être demeuré à son travail et son employeur doit lui verser son taux normal de salaire ou son taux de majoration, selon le cas.

Droit de s'absenter

5 (1) Si un comité a été créé, l'employeur :

Devoirs de l'employeur

- a) lui présente un rapport :
 - (i) à la demande des représentants des employés,
 - (ii) au moins une fois tous les six mois,

on,

- (iii) the prospects for the employer's business or undertaking,
 - (iv) any changes in markets, corporate plans, technology or the environment that may affect the manner in which the business or undertaking is carried on, and
 - (v) any technological change or possible technological change that the employer is considering; and
- (b) consult with the committee on long-range strategy for the employer's business or undertaking, planning for the introduction and use of new technologies and the development and implementation of a human resources plan.

Idem

(2) Where a committee has been established under subsection 4 (1), the employer shall, as soon as he or she has made a decision to implement a technological change,

- (a) inform the committee fully of,
 - (i) the nature of the technological change,
 - (ii) its potential effect on the employers' employees, and
 - (iii) its potential contribution to the productivity and competitiveness of the employer's business or undertaking; and
- (b) consult with the committee with respect to alternative means of implementation in order to protect employees against adverse consequences while enhancing productivity and competitiveness.

Umbrella
committee

6.—(1) Where an employer's business or undertaking is carried on at more than one workplace or consists of more than one department or division,

- (a) subsection 4 (1) applies to each workplace, department or division; and
- (b) where committees have been established representing 50 per cent or more of the employer's employ-

sur :

- (iii) les prévisions en ce qui concerne son activité ou son entreprise,
 - (iv) les changements relatifs aux marchés, aux projets de l'entreprise, à la technologie ou à l'environnement qui sont susceptibles d'influer sur le fonctionnement de l'activité ou de l'entreprise,
 - (v) les changements technologiques, éventuels ou non, qu'il envisage;
- b) entretient des consultations avec le comité sur ses plans d'action à long terme concernant son activité ou son entreprise, le planification de l'introduction et de l'utilisation de nouvelles technologies, et l'élaboration et la mise en oeuvre d'un programme de ressources humaines.

(2) Si un comité a été créé en vertu du paragraphe 4 (1), l'employeur doit, dès qu'il a pris la décision de mettre en place un changement technologique :

- a) informer le comité à fond sur :
 - (i) la nature de ce changement,
 - (ii) ses répercussions éventuelles sur les employés,
 - (iii) sa contribution éventuelle à la productivité et à la compétitivité de l'activité ou de l'entreprise de l'employeur;
- b) entretenir des consultations avec le comité sur d'autres façons de mettre en place le changement technologique afin de protéger les employés contre des répercussions défavorables tout en augmentant la productivité et la compétitivité.

6 (1) Si l'employeur exerce son activité ou son entreprise à plus d'un endroit ou si son activité ou son entreprise comprend plus d'une section ou d'une division :

- a) le paragraphe 4 (1) s'applique à chaque lieu de travail, section ou division;
- b) et si des comités représentant 50 pour cent ou plus

Idem

Comité de coordination

ees, the employer shall establish and maintain an umbrella committee,

- (i) at the written request of employee representatives from two or more committees, or
- (ii) at the written request of a trade union or trade unions representing employees in two or more workplaces, departments or divisions.

Idem

(2) Subsections 4 (2), (3), (4), (5) and (6) and section 5 apply to an umbrella committee.

Duties of umbrella committee

(3) An umbrella committee shall,

- (a) consult with committees and with the employer on technological changes and possible technological changes affecting more than one workplace, department or division; and
- (b) assist committees in co-ordinating their work.

Duty of committee

7.—(1) Where an employer informs a joint committee of a decision to make a technological change, the committee shall develop a plan for,

- (a) informing all the employer's employees, especially those who may be directly affected by the technological change, of the decision;
- (b) implementing the technological change in a manner that will minimize displacement, reassignment, layoffs, transfers, downgrading and deskilling of employees; and
- (c) providing employees directly affected by the technological change with,
 - (i) preferential access to alternative employment with the employer, at the same or at another workplace,
 - (ii) training for alternative employment, at the employer's expense,
 - (iii) mobility allowances,
 - (iv) opportunities for job sharing,

des employés ont été créés, l'employeur crée un comité de coordination :

- (i) à la demande écrite des représentants des employés de deux comités ou plus,
- (ii) à la demande écrite d'un ou de plusieurs syndicats qui représentent les employés dans deux lieux de travail, sections ou divisions ou plus.

(2) Les paragraphes 4 (2) à (6) et l'article 5 s'appliquent au comité de coordination. Idem

(3) Le comité de coordination :

Fonctions du
comité de
coordination

- a) entretient des consultations avec les comités et l'employeur sur les changements technologiques, éventuels ou non, qui touchent plus d'un lieu de travail, plus d'une section ou plus d'une division;
- b) aide les comités à coordonner leur travail.

7 (1) Si l'employeur informe le comité paritaire de sa décision d'introduire un changement technologique, le comité élabore un projet en vue : Fonctions du
comité

- a) d'en informer les employés, et plus particulièrement ceux qui peuvent être directement touchés par le changement technologique;
- b) de mettre en place le changement technologique d'une façon qui minimisera le déplacement, la réaffectation, la mise à pied, le transfert, le déclassement et la banalisation des employés;
- c) d'accorder aux employés directement touchés par le changement technologique :
 - (i) la priorité en ce qui concerne l'obtention d'un-autre emploi auprès de l'employeur, au même lieu de travail ou à un autre,
 - (ii) des cours de formation pour un autre emploi aux frais de l'employeur,
 - (iii) des allocations de mobilité,
 - (iv) la possibilité de partager un emploi,

(v) opportunities for early retirement, and

(vi) any other assistance that the committee considers desirable to assist the employees' adjustment.

Employer
to consult
with
committee

(2) The employer shall consult with the committee in developing a plan under subsection (1), shall consider alternative means of implementation of the technological change and shall give the committee full access, on a confidential basis, to the employer's personnel records, to information about the technological change and to the technical or management staff or consultants responsible for planning or implementing the technological change.

Committee
may consult
with
employees

(3) The committee may consult with the employees directly affected by the technological change on changes in,

- (a) equipment and methods;
- (b) work practices and working hours;
- (c) training; and
- (d) products and services produced or delivered,

that may be desirable to maintain employment security and to enhance the productivity and competitiveness of the business or undertaking.

Bureau
may assist

(4) The committee may request the assistance of the Bureau in developing a plan under subsection (1).

Plan may
deal with
more than
one change

(5) A plan under subsection (1) may deal with more than one technological change.

Joint plan
by umbrella
committee

(6) The employee representatives of two or more committees established by the same employer may require an umbrella committee established under clause 6 (1) (b) to develop a joint plan on behalf of those committees, and where an umbrella committee is required to develop a joint plan, subsections (1) to (5) apply to the umbrella committee with necessary modifications.

Minimum
notice
period

8. Where a committee has been established under subsection 4 (1), the employer shall not implement a technological change before a day 180 days after the day the committee was informed under clause 5 (2) (a).

- (v) la possibilité de prendre une préretraite,
- (vi) l'aide que le comité juge souhaitable afin d'aider l'employé à s'ajuster.

(2) L'employeur entretient des consultations avec le comité pendant l'élaboration de ce projet, étudie d'autres façons de mettre en place le changement technologique et lui accorde toutes possibilités pour pouvoir consulter, confidentiellement, les dossiers du personnel, les renseignements sur le changement technologique, le personnel technique ou administratif, ou les experts-conseils responsables de la planification ou de la mise en place du changement technologique.

Consultations
entre
l'employeur
et le comité

(3) Le comité peut entretenir des consultations avec les employés directement touchés par le changement technologique sur les changements concernant :

Consultations
avec les
employés

- a) le matériel et les méthodes;
- b) les usages relatifs au travail et les heures de travail;
- c) la formation;
- d) les produits fabriqués ou délivrés et les services rendus,

qui peuvent être souhaitables en vue de maintenir la sécurité d'emploi et d'augmenter la productivité et la compétitivité de l'activité ou de l'entreprise.

(4) Le comité peut demander au Bureau de l'aider à élaborer ce projet.

Aide du
Bureau

(5) Ce projet peut traiter de plus d'un changement technologique.

Plus d'un
changement

(6) Les représentants des employés de deux comités ou plus constitués par le même employeur peuvent exiger qu'un comité de coordination soit créé en vertu de l'alinéa 6 (1) b) en vue d'élaborer un projet commun pour le compte de ces comités. Dans ce cas, les paragraphes (1) à (5) s'appliquent, avec les modifications nécessaires, au comité de coordination.

Projet com-
mun du
comité de
coordination

8 Si un comité a été créé en vertu du paragraphe 4 (1), l'employeur ne met pas en place un changement technologique tant que cent quatre-vingts jours ne se sont pas écoulés après le jour où le comité a été informé en vertu de l'alinéa 5 (2) a).

Préavis

Board
may order
postponement of
technological
change

9.—(1) Where the Board is satisfied that an employer,

- (a) has not complied with section 5 or subsection 7 (2) in respect of a technological change;
- (b) has substantially failed to implement a plan developed by a committee under subsection 7 (1); or
- (c) has contravened section 8,

the Board may, upon the application of ten employees or, where a trade union represents the employees, upon the trade union's application, order that the implementation of the technological change be postponed for a period not exceeding twelve months from the date of the Board's order.

Idem

(2) Where a committee has not developed a plan under subsection 7 (1) by a day 120 days after the day the committee was informed under clause 5 (2) (a), the Board may, upon the application of ten employees or, where a trade union represents the employees, upon the trade union's application, order that the implementation of the technological change be postponed for a period not exceeding twelve months from the date of the Board's order.

Collective
agreement
may be
reopened
R.S.O.1980,
c. 228

10. Notwithstanding subsection 72 (1) of the *Labour Relations Act*, a collective agreement as defined in that Act may be reopened, at the request of the trade union that represents the employees, for bargaining over the implementation of technological change, and sections 15 to 34 of that Act, both inclusive, apply to the bargaining with necessary modifications.

Severance
pay

11.—(1) Where an employee's employment is terminated and the termination is caused by the employer's implementation of a technological change, the employer shall pay severance pay to the employee in an amount equal to the amount the employee would have received at the regular rate for a regular non-overtime work week multiplied by the number of years of employment with the employer.

Application

(2) Subsection (1) applies to,

- (a) a regular full-time employee and a regular part-time employee;
- (b) an employee whose employment is terminated as a result of a strike or lock-out;

- 9** (1) Si la Commission est convaincue que l'employeur :
- a) n'a pas respecté l'article 5 ou le paragraphe 7 (2) en ce qui concerne un changement technologique;
 - b) n'a pas, pour une grande part, mis en oeuvre le projet élaboré par un comité en vertu du paragraphe 7 (1);
 - c) a enfreint l'article 8,

Prorogation
du change-
ment

elle peut, à la demande de dix employés ou, si un syndicat représente les employés, à la demande du syndicat, ordonner que la mise en place du changement technologique soit différée d'au plus douze mois à partir de la date de l'ordonnance de la Commission.

(2) Si un comité n'a pas élaboré de projet en vertu du paragraphe 7 (1) au cours des cent vingt jours qui suivent la date à laquelle le comité a été informé en vertu de l'alinéa 5 (2) a), la Commission peut, à la demande de dix employés ou, si un syndicat représente les employés, à la demande du syndicat, ordonner que la mise en place du changement technologique soit différée d'au plus douze mois à partir de la date de l'ordonnance de la Commission.

Idem

10 Par dérogation au paragraphe 72 (1) de la *Loi sur les relations de travail* la convention collective au sens de cette loi peut être rouverte, à la demande du syndicat qui représente les employés, à des fins de négociation sur la mise en place du changement technologique. Les articles 15 à 34 inclusivement de cette loi s'appliquent au processus de négociation avec les modifications de circonstance.

Convention
collective
L.R.O. 1980,
chap. 228

11 (1) Si un employé est licencié à cause de la mise en place d'un changement technologique, l'employeur lui verse une indemnité de licenciement. Cette indemnité est égale au montant que l'employé aurait eu le droit de recevoir à son taux normal pour une semaine normale de travail sans heures supplémentaires multiplié par le nombre d'années à l'emploi de l'employeur.

Indemnité de
licenciement

(2) Le paragraphe (1) s'applique à :

- a) l'employé permanent à temps plein et à l'employé permanent à temps partiel;
- b) l'employé licencié en raison d'une grève ou d'un lock-out;

Champ
d'application

- (c) an employee who is temporarily absent due to illness or injury;
- (d) an employee who received or was entitled to receive notice of termination but who died before the employment was terminated or would have been terminated if notice of termination had been given;
- (e) an employee who loses his or her employment by another employee's exercise of a seniority right; and
- (f) an employee who, upon having his or her employment terminated, retires and is entitled to receive a reduced pension benefit.

Exceptions

(3) Subsection (1) does not apply to,

- (a) an employee who is entitled to severance pay under section 40a of the *Employment Standards Act*;
- (b) an employee who refuses an offer of reasonable alternative employment with the employer;
- (c) an employee who refuses to exercise seniority rights to obtain reasonable alternative employment;
- (d) an employee who refuses to waive any right to be recalled for employment;
- (e) an employee who, upon having his or her employment terminated, retires and receives an actuarially unreduced pension benefit;
- (f) an employee whose employer is engaged in the construction, alteration, maintenance or demolition of buildings, structures, roads, sewers, pipelines, mains, tunnels or other works where the employee works at the site thereof; or
- (g) an employee who is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

R.S.O. 1980,
c. 137

Severance
pay in
addition
to other
payment

(4) Severance pay under this section is payable to the employee, without set-off or deduction, in addition to any payment under,

- c) l'employé temporairement absent en raison d'une maladie ou d'une blessure;
- d) l'employé qui a reçu ou qui avait le droit de recevoir un préavis de licenciement mais qui est décédé avant la date de son licenciement ou la date à laquelle il aurait été licencié si ce préavis avait été donné;
- e) l'employé licencié en raison de l'exercice par un autre employé de son droit d'ancienneté;
- f) l'employé qui, lorsqu'il est licencié, prend sa retraite et a droit à une prestation de pension réduite.

(3) Le paragraphe (1) ne s'applique pas à :

Exceptions

- a) l'employé qui a droit à une indemnité de licenciement en vertu de l'article 40 a) de la *Loi sur les normes d'emploi*;
- b) l'employé qui refuse l'offre par son employeur d'un travail équivalent;
- c) l'employé qui refuse de faire valoir ses droits d'ancienneté pour obtenir un travail équivalent;
- d) l'employé qui refuse de renoncer au droit de réintégrer son emploi;
- e) l'employé qui, lorsqu'il est licencié, prend sa retraite et touche une prestation de retraite qui n'est pas réduite d'un point de vue actuariel;
- f) l'employé dont l'employeur se livre à l'édification, la réparation, l'entretien ou la démolition de bâtiments, de constructions, de routes, d'égouts, de pipelines, de canalisations, de tunnels ou autres ouvrages si l'employé travaille sur le chantier;
- g) l'employé qui travaille aux termes d'un arrangement en vertu duquel il peut choisir de travailler ou non si la demande lui en est faite.

L.R.O. 1980,
chap. 137

(4) Une indemnité de licenciement accordée en vertu du présent article est payable à l'employé, sans compensation ou retenues, en supplément de tout autre paiement en vertu :

Indemnité de licenciement en sus d'autres paiements

(a) the *Employment Standards Act*, except severance pay under section 40a of that Act; or

(b) the contract of employment,

except for,

(c) supplementary unemployment benefits payable to and received by the employee; or

(d) payments made to the employee under a contractual severance pay scheme under which payments for loss of employment based upon length of service are provided.

Prior
employment
included

(5) Employment before the coming into force of this section shall be taken into account in calculating the years of employment of an employee to whom this section applies.

Employment
not
included

(6) A year of employment for which an employee has been paid severance pay shall be excluded in any subsequent calculation of severance pay for that employee.

Application
of
R.S.O. 1980,
c. 137

(7) Severance pay under this section shall be deemed to be wages for the purposes of the *Employment Standards Act* and sections 45 to 56 of that Act, both inclusive, apply with necessary modifications.

No
discipline,
dismissal,
etc., by
employer

12.—(1) No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss;

(b) discipline or suspend or threaten to discipline or suspend;

(c) impose any penalty upon; or

(d) intimidate or coerce,

an employee because he or she has made an application or otherwise sought to enforce rights under this Act.

a) de la *Loi sur les normes d'emploi*, à l'exception d'une indemnité de licenciement accordée en vertu de l'article 40a de cette loi; L.R.O. 1980, chap. 137

b) du contrat d'emploi,

à l'exception :

c) des prestations d'assurance-chômage supplémentaires payables à l'employé et qu'il a touchées;

d) des paiements que l'employé a touchés en vertu d'un régime contractuel d'indemnités de licenciement qui prévoit que ces indemnités sont versées en fonction de l'ancienneté.

(5) Dans le calcul des années d'emploi d'un employé visé par le présent article, il faut tenir compte de la période d'emploi écoulée avant son entrée en vigueur. Années d'emploi antérieures

(6) Il ne faut pas tenir compte d'une année d'emploi pour laquelle un employé a touché une indemnité de licenciement dans le calcul subséquent de l'indemnité de licenciement de cet employé. Cas où une année d'emploi n'est pas incluse

(7) L'indemnité de licenciement est réputée un salaire pour l'application de la *Loi sur les normes d'emploi*. Les articles 45 à 56 inclusivement de cette loi s'appliquent avec les modifications de circonstance. Champ d'application du chap. 137 des L.R.O. de 1980

12 (1) Il est interdit à l'employeur ou à la personne qui agit en son nom : Interdiction pour l'employeur de congédier un employé, etc.

a) de congédier ou de menacer de congédier un employé;

b) d'imposer une peine disciplinaire à un employé ou de la suspendre ou de menacer de ce faire;

c) de prendre des sanctions à l'égard d'un employé;

d) d'intimider ou de contraindre un employé, parce que ce dernier a fait une demande ou a cherché autrement à faire valoir les droits que lui accorde la présente loi.

s. 24 (2-8),
of
R.S.O. 1980,
c. 321
to apply

(2) Subsections 24 (2) to (8), both inclusive, of the *Occupational Health and Safety Act* apply, with necessary modifications, to a contravention of subsection (1).

Offences

13.—(1) Every person who,

- (a) fails to comply with an order made by the Board under section 9; or
- (b) contravenes subsection 12 (1),

is guilty of an offence and on conviction is liable to a fine, upon a first conviction, of not more than \$5,000, and upon a subsequent conviction, of not more than \$10,000.

Continued
offence

(2) Each day that an employer fails to comply with an order made by the Board under section 9 constitutes a separate offence.

Corporations

(3) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed upon the corporation is, upon a first conviction, \$10,000, and upon a subsequent conviction, \$20,000.

Directors
and officers

(4) Where a corporation is convicted under subsection (1), each director or officer of the corporation who authorized, permitted or acquiesced in the offence is a party to the offence.

Adminis-
tration

14. The Minister of Labour is responsible for the administration of this Act.

Technological
Change
Bureau

15. There shall be a bureau in the Ministry of Labour to be called the Technological Change Bureau which shall,

- (a) assist committees, on their request, in developing plans and consulting with employers under section 7;
- (b) conduct research into,
 - (i) matters relating to the employment and economic effects and human impact of technological change,
 - (ii) the effects of technological change on the health and safety of employees, and

(2) Les paragraphes 24 (2) à (8) inclusivement de la *Loi sur la santé et la sécurité au travail* s'appliquent, avec les modifications de circonstance, à une infraction au paragraphe (1).

Application des par. 24 (2) à (8) du chap. 321 des L.R.O. de 1980
Infractions

13 (1) Quiconque :

- a) ne respecte pas la directive que la Commission donne en vertu de l'article 9;
- b) enfreint le paragraphe 12 (1),

est coupable d'infraction et passible, sur déclaration de culpabilité, pour une première infraction, d'une amende d'au plus 5 000 \$ et, pour une infraction subséquente, d'une amende d'au plus 10 000 \$.

(2) Chaque jour où l'employeur ne respecte pas la directive de la Commission constitue une infraction distincte.

Poursuite de l'infraction

(3) En case de déclaration de culpabilité d'une personne morale, la peine maximale qui peut lui être imposée est, pour une première infraction, 10 000 \$ et, pour une infraction subséquente, 20 000 \$.

Personne morale

(4) En cas de déclaration de culpabilité d'une personne morale, chaque administrateur ou dirigeant qui autorise ou permet cette infraction ou y donne son assentiment est complice.

Complicité de l'administrateur ou du dirigeant

14 Le ministre du Travail est responsable de l'application de la présente loi.

Application

15 Le ministère du Travail comprend le Bureau des changements technologiques dont la mission est la suivante :

Bureau des changements technologiques

- a) aider les comités, à leur demande, à élaborer des projets et à entretenir des consultations avec les employeurs en vertu de l'article 7;
- b) faire des recherches sur :
 - (i) des questions reliées aux conséquences que les changements technologiques entraînent sur l'emploi, l'économie et les humains,
 - (ii) les conséquences que les changements technologiques entraînent sur la santé et la sécurité des employés,

(iii) methods of minimizing the disruptive effect of technological change on workers and improving the effectiveness of adjustment policies; and

(c) promote awareness of the issues related to technological change by public education and other means.

Regulations:
retraining
fund

16. The Lieutenant Governor in Council may make regulations,

(a) establishing a fund for the retraining of employees displaced by the implementation of technological changes;

(b) requiring employers or a class or classes of employers to pay levies into the fund established under clause (a).

Commence-
ment

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

Short title

18. The short title of this Act is the *Technological Change Act, 1984*.

- (iii) des méthodes pour minimiser les conséquences perturbatrices des changements technologiques sur les travailleurs et pour améliorer l'efficacité des lignes directrices relatives à l'ajustement des employés;
- c) favoriser une prise de conscience des questions liées aux changements technologiques grâce à l'éducation du public et à d'autres moyens.

16 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements :
fonds de
recyclage

- a) créer un fonds destiné au recyclage des employés déplacés par la mise en place de changements technologiques;
- b) obliger des employeurs ou une catégorie d'employeurs à verser des contributions au fonds.

17 La présente loi entre en vigueur le jour que proclame le lieutenant-gouverneur.

Entrée en
vigueur

18 Le titre abrégé de la présente loi est *Loi de 1984 sur les changements technologiques*.

Titre abrégé







Bill 111

An Act to amend certain Acts in relation to Line Fences

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading June 19th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsections 1 and 2. The proposed definitions of “appeals division” and “referee” are complementary to the proposed changes to the appeals procedures under the Act which are set out in sections 7 and 12 of the Bill.

Subsection 3. The proposed subsection 1 (4) of the Act provides that a condominium corporation and not the unit owners shall be deemed to be the owner of land for the purposes of the Act. Any payments made by a condominium corporation as a result of the operation of the Act will be collected as common expenses.

SECTION 2. At present, fence-viewers may only be paid on a *per diem* basis. The proposed re-enactment of section 2 will enable local municipalities to fix the remuneration of the fence-viewers on a daily or hourly rate or for each attendance or reattendance.

SECTION 3. Under the proposed amendment to subsection 4 (1) of the Act, owner’s desiring fence-viewers to attend at their lands will be required to give notice in the prescribed form to the municipal clerk. At present, there is no requirement that the notice be in a particular form.

SECTION 4. The proposed section 4a authorizes the municipal clerk to postpone proceedings that require the attendance or reattendance of fence-viewers if in the clerk’s opinion weather conditions or ground conditions make it impracticable to attend or re-attend at an arbitration or other proceeding. In addition, municipalities will be authorized to postpone proceedings during the winter months.

SECTION 5. Subsection 7 (2) of the Act sets out certain matters that must be considered by the fence-viewers in making their award. The proposed re-enactment provides that the benefit to both owners of having the boundary between their lands marked by a fence must, in addition to the other matters set out, be considered by the fence-viewers.

SECTION 6. The proposed amendment to section 8 deems a copy of an award to have been received by the intended recipient seven days after it is mailed to the person.

SECTION 7. The re-enactment of section 9 abolishes the present appeal procedure before a judge of the small claims court and replaces it with an appeal to a referee. Under the proposed sections 25a and 25b of the Act, as set out in section 12 of the Bill, the Lieutenant Governor in Council will establish one or more appeals divisions in the province. There will be one referee and, if necessary, one or more deputy referees for each appeals division. The clerk of the local municipality in which the lands that are the subject of the appeal are situate will be the clerk for an appeal.

The appeal will be heard in a room supplied by the local municipality. The local municipality will supply stenographic and other support services related to an appeal. The Ministry of Municipal Affairs and Housing will supply additional support services.

SECTIONS 8 and 9. The re-enactment of subsection 13 (8) and the amendments to subsection 14 (1) delete references to “fees” and insert references to the “cost of the proceedings”. This is consistent with the language used in clause 7 (1) (e) of the Act.

SECTION 10. The proposed section 16a will allow a municipality to recover from the parties its reasonable administrative expenses in relation to proceedings under the Act.

SECTION 11. The amendment clarifies that the fence-viewers duties in relation to unopened road allowances are not extinguished by section 24 which provides that the Act does not apply to public highways.

SECTION 12. At present, section 24 provides that the Act does not apply to public highways. The re-enactment of section 24 extends this exclusion to reserves abutting public highways. The proposed subsection 24 (2) will permit a municipality to enter agree-

ments with abutting owners to erect fences to mark the boundary between a public highway and abutting lands.

Section 25 of the Act provides that the Act does not apply in a municipality if a by-law passed under paragraph 20 of section 210 of the *Municipal Act* is in force in a municipality. The re-enactment is complementary to an amendment to that paragraph of the *Municipal Act* which is set out in section 14 of the Bill and has the effect of restricting the exemption to only those lands in a municipality that are the subject of a by-law passed under the said paragraph 20.

The proposed sections 25a and 25b are described above (see section 7).

SECTION 13. The re-enactment of section 27 of the Act sets out new regulation making powers. The new powers are complementary to the amendments set out in sections 7, 8, 9, 10 and 12 of the Bill.

SECTION 14. Paragraph 20 of section 210 of the *Municipal Act* authorizes municipalities to pass by-laws related to the apportionment and recovery of the costs of line fences. The proposed amendment will permit a municipality to designate areas in the municipality where such a by-law is to operate.



Bill 111

1984

**An Act to amend
certain Acts in relation to Line Fences**

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

1.—(1) Clause 1 (1) (a) of the *Line Fences Act*, being chapter 242 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) “appeals division” means an appeals division established under this Act;
- (aa) “Minister” means the Minister of Municipal Affairs and Housing or such other member of the Executive Council to whom the administration of this Act is assigned.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

- (ca) “referee” means a referee appointed under this Act.

(3) Section 1 of the said Act is amended by adding thereto the following subsection:

(4) Where a declaration has been registered under the *Condominium Act*, the condominium corporation and not the owners of the individual units shall be deemed to be the owner of the land described in the declaration for the purposes of this Act and,

- (a) any payments the condominium corporation may be responsible for under this Act, including the costs of any proceeding, is a common expense for the purposes of the *Condominium Act*; and

Condominium
corporations
R.S.O. 1980,
c. 84

- (b) any payment to be made to the condominium corporation under this Act is an asset of the condominium corporation.

2. Section 2 of the said Act is repealed and the following substituted therefor:

Appointment
of
fence-viewers

2. The council of every local municipality shall by by-law appoint such number of fence-viewers as are required to carry out the provisions of this Act and the by-law shall fix the remuneration to be paid to the fence-viewers and the remuneration may be fixed on an hourly or daily rate or a rate for each attendance or reattendance by the fence-viewers.

3. Subsection 4 (1) of the said Act is amended by inserting after "notify" in the seventh line "in the prescribed form".

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

Postponement
of view

4a.—(1) Where a day has been named under this Act for an arbitration or other proceeding requiring the attendance or reattendance of the fence-viewers, other than an appeal before the referee, the clerk of the municipality may postpone the arbitration or other proceeding to another day if in the clerk's opinion weather conditions or ground conditions make it impracticable for the arbitration to be held on the day originally named for the attendance or reattendance and where there is a postponement, the clerk shall forthwith,

- (a) give notice of the postponement to the persons entitled to receive notice of the original attendance or reattendance; and
- (b) give new notices in the same manner to the persons who were entitled to receive notice of the original attendance or reattendance naming a day for the arbitration or other proceeding that is not later than fifteen days after the previous day so named.

Winter
months

(2) The council of every local municipality may provide by by-law that no arbitration or other proceeding requiring the attendance or reattendance of fence-viewers shall be scheduled between the 1st day of November and the 31st day of March in the next following year or during such shorter period between those dates as may be set out in the by-law.

Idem

(3) Where a by-law has been passed under subsection (2), a proceeding requiring the attendance or reattendance of fence-

viewers during the period set out in the by-law shall be postponed until the expiry of the period.

(4) A by-law passed under subsection (2) does not apply to an appeal before a referee. Idem

5. Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) In making the award, the fence-viewers shall have regard to the suitability of the fence to the needs of each of the adjoining owners or the occupants of their land, as the case may be, the nature of the terrain on which the fence is, or is to be located, the benefit to both owners of having the boundary between their lands marked by a fence and the nature of the fences in use in the locality and may have regard to any other factors that they consider relevant. Matters to be considered

6. Section 8 of the said Act is amended by adding thereto the following subsection:

(3) Unless otherwise proven, the copy of the award shall be deemed to have been received by those persons mentioned in subsection (1) seven days after the mailing of the award. When award received

7.—(1) Sections 9 and 10 of the said Act are repealed and the following substituted therefor:

9.—(1) An owner dissatisfied with the award may appeal therefrom to the referee for the appeals division in which the land is situate by serving on the owner or occupant of the adjoining land, within fifteen days of receiving a copy of the award made under section 7, a notice of appeal in the prescribed form and by filing a copy of the notice together with an affidavit of service of the notice in the prescribed form with, and by paying the prescribed fees to, the clerk of the local municipality in which the land is situate within that period. Appeal

(2) A notice under subsection (1) shall be served by the owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4. Service of notice

(3) Upon the filing of the copies of the notices and the affidavits and the payment of the fees mentioned in subsection (1), the clerk shall forthwith notify the referee for the appeals division of the appeal and the referee shall forthwith fix the time and place for the hearing of the appeal and advise the clerk of the time and place so fixed. Notice to referee, etc.

Notice of
hearing

(4) The clerk shall cause notice of the time and place of the appeal to be served on the person served with a notice under subsection (1) and on the owner giving notice under that subsection and a notice under this subsection shall be served in the same manner as a notice under section 4.

Powers of
referee

(5) The referee shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of the costs of the proceedings by either party and fix the amount of the costs.

Decision
of referee
to be final

(6) The decision of the referee is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

Indemnity
for costs

(7) The referee may at any time order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal.

Where land
in more than
one appeals
division

(8) Notwithstanding subsections (1) and (3), when the award affects land in two or more appeals divisions, the appeal may be to the referee of the appeals division in which any part of the land is situate and in such case the documents mentioned in subsection (1) shall be filed with the clerk of the municipality in the appeals division in which the appeal is to be heard.

Copy of
decision

(9) The clerk shall send by registered mail a copy of the referee's final decision and order, if any, in the proceedings to the parties at their last known addresses and to the Minister.

Payment to
Treasurer of
Ontario

(10) The fees mentioned in subsection (1) shall be paid over by the clerk to the Treasurer of Ontario.

(2) Where, before the coming into force of this section, copies of the notices of appeal and the affidavits mentioned in subsection 9 (1) of the said Act, as that subsection read immediately before the coming into force of this section, were filed with the clerk of the small claims court, the appeal shall be heard and disposed of in accordance with the said Act as it read immediately before the coming into force of this section.

8. Subsection 13 (8) of the said Act is repealed and the following substituted therefor:

Costs

(8) Where the fence-viewers make a determination under subsection (6), they shall specify the costs of the proceedings under this section and that the costs be paid by the adjoining

owner or the other owner or that a specified portion of the costs be paid by each of them.

9. Subsection 14 (1) of the said Act is amended by striking out “fees of the fence-viewers” in the twelfth line and inserting in lieu thereof “costs of the proceedings” and by striking out “fees” in the fourteenth line and inserting in lieu thereof “costs”.

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

16a.—(1) The council of every local municipality may by by-law fix its reasonable administrative fees to be paid to the municipality in relation to proceedings under this Act but, where maximum administrative fees are prescribed, the fees so fixed shall not exceed the maximum so prescribed.

Administrative fees of municipality

(2) Subsections 17 (2), (3) and (4) respecting the payment of fees to fence-viewers and for the collection of amounts paid on account thereof by the municipality apply with necessary modifications to the administrative fees payable to the municipality under subsection (1).

Idem

11. Subsection 18 (1) of the said Act is amended by adding at the commencement thereof “Notwithstanding section 24”.

12. Sections 24 and 25 of the said Act are repealed and the following substituted therefor:

24.—(1) Notwithstanding sections 22 and 23, this Act does not apply to any lands that constitute a public highway including lands abutting a public highway that are held as a reserve by a municipality or other public authority to separate lands abutting the reserve from the public highway.

Act does not apply to public highways

(2) Subsection (1) does not apply so as to prevent the entering into of agreements under subsection 22 (3) with respect to line fences to mark the boundary between a public highway or a reserve and adjoining lands.

Agreements under subs. 22 (3)

25. This Act does not apply to land, where the land is in an area that is subject to a by-law passed under paragraph 20 of section 210 of the *Municipal Act*.

Effect of by-law under section 210, par. 20 of R.S.O. 1980, c. 302

25a.—(1) The Lieutenant Governor in Council shall establish one or more appeals divisions, as the Lieutenant Governor in Council considers advisable, so that all lands in Ontario are in an appeals division.

Appeals divisions

Appointment
of referee

(2) The Lieutenant Governor in Council shall appoint a referee for the purposes of this Act for each appeals division.

Deputy
referees

(3) The Lieutenant Governor in Council may appoint one or more deputy referees for the purposes of this Act for each appeals division and a deputy referee has the same powers and duties as a referee and shall have jurisdiction in the appeals division named in the deputy referee's appointment.

Additional
jurisdiction

(4) A referee or deputy referee may be authorized by the Lieutenant Governor in Council to have jurisdiction in more than one appeals division.

Assignment
of hearings

(5) A deputy referee shall hear such appeals as are assigned to the deputy referee by the referee for the appeals division to which the deputy referee is appointed.

Remuneration

(6) Referees and deputy referees shall be paid such remuneration as may be prescribed together with reasonable expenses.

Clerk on
hearing of
appeals

25b.—(1) The clerk of the municipality in which an appeal is filed under section 9 shall be the clerk for the purposes of an appeal under that section.

Support
services

(2) The corporation of the municipality in which an appeal is filed under section 9 shall provide a suitable room for holding the hearing and shall provide all necessary stenographic and other support services as may be required for the purposes of the appeal.

Idem

(3) Support services not related to a specific appeal shall be supplied to the referees and deputy referees by the ministry of the Minister.

13. Section 27 of the said Act is repealed and the following substituted therefor:

Regulations

27. The Lieutenant Governor in Council may make regulations,

- (a) to provide for determining how costs of line fences marking the boundary between lands situate in territory without municipal organization shall be apportioned and for providing for the manner in which any amount so apportioned shall be recovered and providing for appeals to a referee in relation to such lands;

- (b) prescribing appeals divisions, the territorial limits of the divisions and the place at which any notices to be given to the referee for any such division may be served;
- (c) prescribing fees in relation to appeals before a referee;
- (d) prescribing maximum limits of administrative fees for the purposes of section 16a;
- (e) prescribing the remuneration to be paid to referees and deputy referees;
- (f) prescribing rules of procedure related to proceedings before a referee; and
- (g) prescribing what may be included in determining the costs of proceedings under this Act.

14. Paragraph 20 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (a) A by-law passed under this paragraph may be restricted in its application to such defined areas of the municipality as are set out in the by-law.

15. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

16. The short title of this Act is the *Line Fences Amendment Act, 1984*. Short title



Bill 112

An Act respecting the Sale and Repair of Motor Vehicles in Ontario

Mr. Samis

1st Reading June 20th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide protection for purchasers of used cars and consumers of car repair services. The Bill requires a motor vehicle dealer to affix a notice containing useful information for potential purchasers to every used motor vehicle offered for sale. The Bill sets out a statutory warranty covering the sale of used motor vehicles. The Bill also contains provisions requiring a motor vehicle repair station operator to provide to consumers an accurate estimate of the costs of repairs. This estimate, if accepted by the consumer, becomes binding on the repair station operator. The Bill also contains a statutory guarantee for repairs. The Bill is based upon provisions of the Quebec Consumer Protection Act.

Bill 112

1984

**An Act respecting the
Sale and Repair of Motor Vehicles in Ontario**

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

1. In this Act,

Interpretation

- (a) “motor vehicle” means an automobile, truck or other vehicle propelled or driven otherwise than by muscular power, including a motorcycle, but not including a motorized snow vehicle or a farm tractor or other self-propelled machinery primarily intended for farming or construction purposes;
- (b) “motor vehicle dealer” means a person who carries on the business of buying or selling motor vehicles, whether for his own account or the account of any other person, or who holds himself out as carrying on the business of buying or selling motor vehicles;
- (c) “motor vehicle repair station” means a premises maintained and operated for the purpose of carrying on the business of repairing motor vehicles;
- (d) “repair station operator” means a person who owns or operates a motor vehicle repair station, and includes a motor vehicle dealer.

2. A motor vehicle dealer shall affix a notice on every used motor vehicle that the dealer offers for sale and the notice shall be so affixed that it may be read entirely from outside the motor vehicle.

Notice

3. The notice shall disclose,

Content of notice

- (a) the price at which the used motor vehicle is offered for sale;

- (b) the number of miles or kilometres registered on the odometer and the number of miles or kilometres actually travelled by the motor vehicle, if different from that indicated on the odometer;
- (c) the model year ascribed by the manufacturer and the serial number, make, model and cubic capacity of the engine;
- (d) where applicable, the fact that the motor vehicle has been used as a taxicab, a driving school vehicle, a police car, an ambulance, a leased automobile, an automobile for customers or as a demonstrator and the identity of every business or of every public agency that owned the motor vehicle or leased it on a long-term basis;
- (e) where applicable, every repair done on the used motor vehicle since it has been in the possession of the dealer;
- (f) the class of the motor vehicle, as set out in section 7;
- (g) the nature of the warranty offered by the motor vehicle dealer;
- (h) that the motor vehicle dealer shall, at the request of the consumer, provide the consumer with the name and telephone number of the most recent owner of the motor vehicle.

Notice
part of
contract

4.—(1) A copy of the notice shall be attached to the contract.

Idem

(2) All the information disclosed on the notice except the price at which the motor vehicle is offered for sale and the terms of the warranty form an integral part of the contract.

Contract

5. The contract for the purchase and sale of a motor vehicle shall indicate,

- (a) the place and date of the contract;
- (b) the name and address of the consumer and of the motor vehicle dealer;
- (c) the price of the motor vehicle;
- (d) the terms of the warranty;

- (e) all other information required to be included on a sales or purchase order by or under the *Motor Vehicle Dealers Act*. R.S.O. 1980,
c. 299

6. The sale of a used motor vehicle carries with it a warranty that the motor vehicle will remain in good working condition, Warranty

- (a) for a period of six months or 10,000 kilometres, whichever occurs first, in the case of a class A motor vehicle;
- (b) for a period of three months or 5,000 kilometres, whichever occurs first, in the case of a class B motor vehicle;
- (c) for a period of one month or 1,700 kilometres, whichever occurs first, in the case of a class C motor vehicle.

7. For the purposes of section 6, Classes of
motor
vehicle

- (a) "class A motor vehicle" means a motor vehicle that is less than two years old and has been driven less than 40,000 kilometres;
- (b) "class B motor vehicle" means a motor vehicle that is less than three years old and has been driven less than 60,000 kilometres;
- (c) "class C motor vehicle" means a motor vehicle that is less than five years old and has been driven less than 80,000 kilometres;
- (d) "class D motor vehicle" means a motor vehicle that is not a class A, B or C motor vehicle.

8. The warranty provided for in section 6 does not apply to, Limitation
of warranty

- (a) normal maintenance service and the replacement of parts resulting from it;
- (b) interior upholstery or exterior decorative items;
- (c) damage resulting from abuse by the consumer after delivery of the motor vehicle;
- (d) any accessory designated by the regulations; and

- (e) any manufacturing defect that the motor vehicle dealer could not reasonably be expected to detect before selling the motor vehicle.

When effective

9. The warranty referred to in section 6 takes effect upon delivery of the used motor vehicle.

Written estimate required

10.—(1) Before carrying out any repairs to a motor vehicle, the operator of a motor vehicle repair station shall give the consumer a written estimate of the cost of the repairs, and upon acceptance by the consumer, the estimate is binding on the operator, and the consumer shall not be charged any amount for the repairs in excess of the amount of the estimate unless the consumer agrees to pay all or part of the increased amount.

Exception

(2) An estimate is not required if the repairs are to be made without charge to the consumer.

Charge for estimate

(3) A repair station operator shall not charge a fee for making an estimate unless the operator advises the consumer of the charge before undertaking to make the estimate.

Cost of reassembly

11. Where, in order to make an estimate, it is necessary to disassemble all or part of a motor vehicle, the amount referred to in subsection 10 (1) shall include the cost of reassembly should the consumer decide not to have the repairs carried out and the costs of labour and of any component required to replace a part that is rendered unusable as a result of the disassembling.

Content of estimate

12. The estimate shall indicate,

- (a) the name and address of the consumer and repair station operator;
- (b) the make, model and registration number of the motor vehicle;
- (c) the nature and total cost of the repairs to be made;
- (d) a description of the parts to be installed, if any, specifying whether each part is new, used, retooled or reconditioned; and
- (e) the date and duration of the estimate.

Repairs not included in estimate

13.—(1) The repair station operator shall not carry out any repairs not provided for in the accepted estimate unless the operator obtains the express agreement of the consumer.

(2) Where the operator obtains the express agreement of the consumer to make additional repairs, the operator shall indicate the terms of the agreement in the estimate and the date of the agreement. Record of change in estimate

14. When a repair station operator has completed the repairs, the operator shall give the consumer a bill indicating, Content of repair bill

- (a) the name and address of the consumer and repair station operator;
- (b) the make, model and registration number of the motor vehicle;
- (c) the date of delivery of the motor vehicle to the consumer and the number of miles or kilometres registered on the odometer of the motor vehicle on that date;
- (d) the repairs carried out;
- (e) the part or parts installed, specifying whether each part is new, used, retooled or reconditioned and the price of the part;
- (f) the number of hours of labour billed, the hourly rate and the total cost of labour;
- (g) the total amount the consumer is charged under clauses (e) and (f); and
- (h) the terms of the warranty.

15. The repair station operator shall, if the consumer so requests, give to the consumer at the same time as the consumer takes delivery of the motor vehicle, the parts that have been replaced unless, Parts replaced

- (a) the repairs are made without charge to the consumer;
- (b) the part is exchanged for a retooled or reconditioned part; or
- (c) the replaced part is subject to a warranty contract under which the motor vehicle dealer must return the part to the manufacturer or to the distributor.

Guarantee
of repairs

16.—(1) Repairs are guaranteed for three months or 5,000 kilometres, whichever occurs first, and the guarantee takes effect upon the delivery of the motor vehicle.

Damage
caused by
consumer

(2) The guarantee under subsection (1) does not apply to damage resulting from damage caused by the consumer after the repairs are completed.

Consumer's
recourse not
prejudiced

17. Acceptance of the estimate or payment by the consumer does not prejudice his recourse against a repair station operator on the grounds of absence of prior authorization for the repairs, bad workmanship or the price exceeding the price indicated in the estimate.

Posting up
of sign

18. A repair station operator who carries out motor vehicle repairs shall post in a conspicuous place in his establishment a sign informing consumers of the principal provisions of this Act.

Repair
warranty

19. In the case of a warranty provided under this Act,

- (a) the motor vehicle dealer or the manufacturer shall assume the reasonable costs of towing or breakdown service for the motor vehicle, whether the towing or breakdown service is carried out by the motor vehicle dealer, the manufacturer or a third person; or
- (b) the motor vehicle dealer or the manufacturer shall carry out the repairs to the motor vehicle and assume their cost or shall permit the consumer to have the repairs carried out by a third person and shall assume their cost.

Subsequent
purchaser

20. The motor vehicle dealer or the manufacturer is liable for the performance of a warranty provided for by this Act or of any other warranty to a consumer who is the subsequent purchaser of the motor vehicle.

Parts and
labour
included

21. The warranty provided for by this Act includes parts and labour.

Regulations

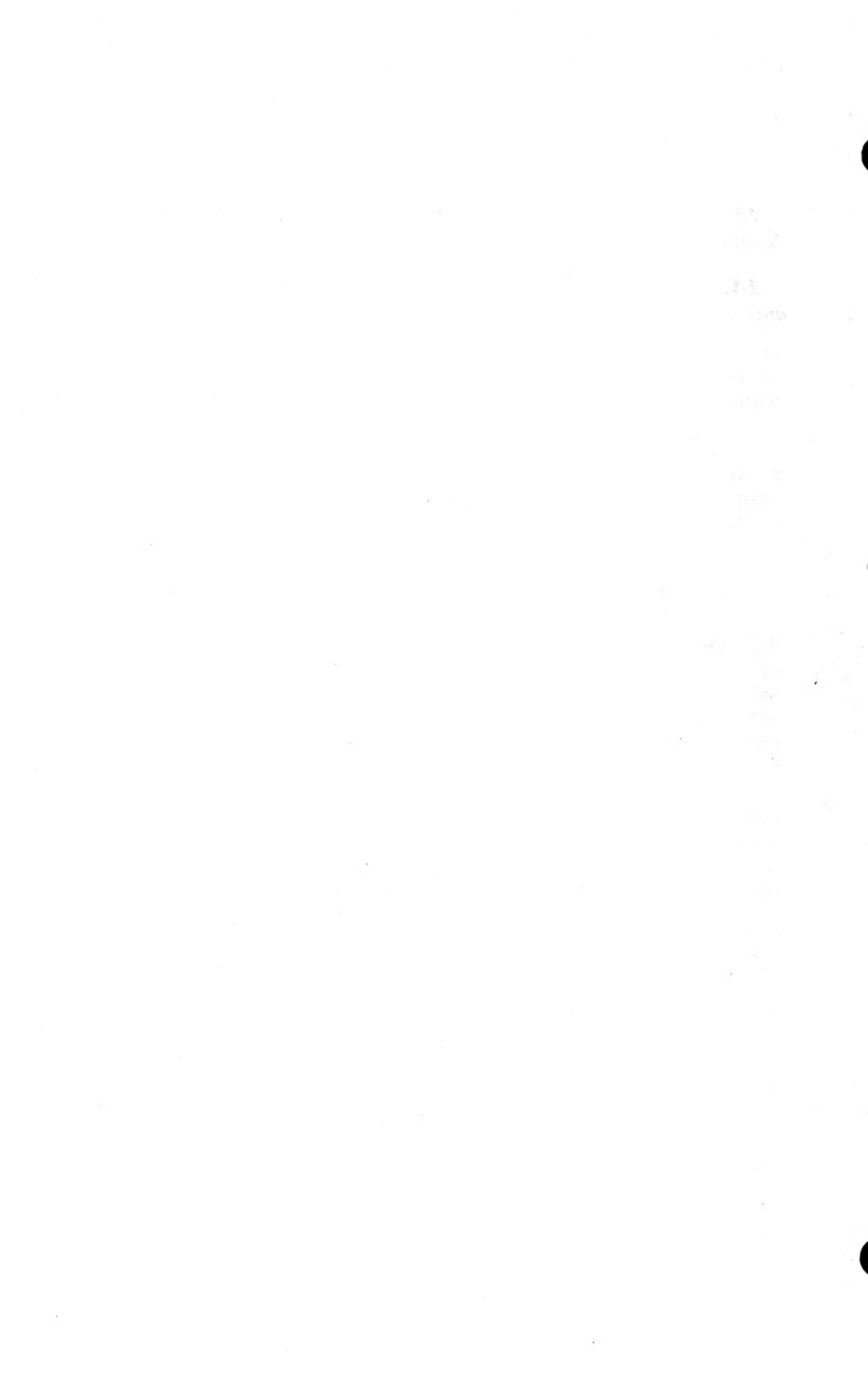
22. The Lieutenant Governor in Council may make regulations,

- (a) designating accessories for the purpose of clause 8 (d);
- (b) prescribing forms and providing for their use;

- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

23. This Act comes into force on the day it receives Royal Assent. Commence-
ment

24. The short title of this Act is the *Motor Vehicle Sales and Service Protection Act, 1984*. Short title







Bill 113

An Act to amend the Drainage Act

Mr. Swart

1st Reading June 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. New subsection (2a) is intended to ensure that petitioners are aware of petition procedures and the obligations of owners under the Act.

The Government of Ontario and its agencies are not eligible to petition as owners of land.

SECTION 3. The engineer's preliminary report is made compulsory and its contents are prescribed in greater detail.

Where a majority of owners of farmland in the area to be drained petition against the drainage works, the council is not permitted to proceed and the matter is dealt with by the Ontario Drainage Tribunal.

SECTION 4. New section 80a is intended to provide an alternative to the existing petition procedure.

SECTION 5. Self-explanatory.

SECTION 6. The Minister may bring unorganized territory under the Act.

Bill 113

1984

An Act to amend the Drainage Act

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

1. Section 1 of the *Drainage Act*, being chapter 126 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:

12a. "farmland" means land that,

- i. under a by-law passed under section 34 of the *Planning Act, 1983*, or under an order made under section 46 of that Act, is zoned for agricultural use, or 1983, c. 1
- ii. is assessed under the *Assessment Act* or is actually used as farm or agricultural land or as an orchard. R.S.O. 1980,
c. 31

2.—(1) Clauses 4 (1) (a) and (b) of the said Act are repealed and the following substituted therefor:

- (a) the majority in number of the owners, except the Crown in right of Ontario and any Crown agency, as shown by the last revised assessment roll of land in the area, including the owners of any roads in the area;
- (b) the owner or owners, as shown by the last revised assessment roll, of land in the area representing at least 60 per cent of the hectareage in the area that is farmland, except land owned by the Crown in right of Ontario or a Crown agency.

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

(2a) The clerk shall not accept the petition of an owner or owners under clause (1) (a) or (b) for filing unless the clerk is Duty of
clerk

satisfied that every owner whose signature appears on the petition,

- (a) has received a written summary of the petition procedures and the obligations of owners under this Act;
- (b) has had at least ten days to consider the summary; and
- (c) does not wish to withdraw from the petition.

Crown and
Crown
agency
may not be
petitioners

(6) The following persons are not eligible to be petitioners under clause (1) (a) or (b):

- 1. The Crown in right of Ontario.
- 2. A Crown agency.

3.—(1) Subsection 10 (1) of the said Act is repealed and the following substituted therefor:

Preliminary
report

(1) The council of the initiating municipality shall instruct the engineer to prepare a preliminary report containing,

- (a) a description of the area to be drained;
- (b) a sketched plan of the drainage works;
- (c) an estimate of the cost of the drainage works;
- (d) a statement of the wetlands classification, if any, of the area to be drained;
- (e) a statement of the environmental classification, if any, of the area to be drained;
- (f) the environmental appraisal, if any, or if there is no environmental appraisal, a brief statement of the anticipated effect of the drainage works on the local environment; and
- (g) the benefit cost statement, if any, or if there is no benefit cost statement, a brief statement of the anticipated benefits of the drainage works, expressed in dollars,

and the engineer shall forthwith prepare the preliminary report and file it with the council.

(2) Subsection 10 (5) of the said Act is repealed and the following substituted therefor:

(5) If at the end of the meeting the petition still complies with section 4, the council may instruct the engineer to proceed with the preparation of the report, unless a petition against the drainage works signed by,

Instruction
to engineer

- (a) the majority in number of the owners of farmland and roads, as shown by the last revised assessment roll of land in the area to be drained; or
- (b) the owner or owners, as shown by the last revised assessment roll, of farmland in the area representing at least 50 per cent of the hectareage in the area that is farmland,

is filed with the clerk of the local municipality, in which case the Tribunal shall hear the matter and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper.

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

80a.—(1) When a drainage work or watercourse is obstructed so that the free flow of water is impeded, an owner whose land is affected by the obstruction may notify the owner or occupant of the land where the obstruction is located that the obstruction is to be removed within a time at least thirty days after receipt of the notice.

Notice to
remove
obstruction

(2) If the obstruction referred to in a notice given under subsection (1) is not removed by the specified date, the person who gave the notice may request that the council of the local municipality remove the obstruction.

Request
that council
remove
obstruction

(3) A council that receives a request under subsection (2) shall promptly,

Duty of
council

- (a) cause the drainage superintendent or an engineer to investigate the matter and make a report to council, including a statement of the wetlands classification and environmental classification, if any, of the land; and

(b) consider whether there is cause for complaint and whether it is appropriate to remove the obstruction.

Notice by council

(4) If the council determines that there is cause for complaint and that it is appropriate to remove the obstruction, the council may give the owner or occupant of the land where the obstruction is located notice in writing to remove the obstruction within a specified time, and thereafter section 80 applies with necessary modifications.

5. Section 98 of the said Act is amended by adding thereto the following subsection:

Recommendations of environmental and agricultural organizations

(1a) In making appointments to the Tribunal under subsection (1) the Lieutenant Governor in Council shall obtain and consider the recommendations of environmental and agricultural organizations.

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

Minister may designate unorganized territory
Idem

123a.—(1) The Minister may designate a territory without municipal organization as a territory to which this Act applies.

(2) Where the Minister designates a territory under subsection (1), the territory shall be deemed to be a local municipality for the purposes of this Act and the Minister shall specify that,

R.S.O. 1980, c. 252

(a) a Local Services Board established under the *Local Services Boards Act*; or

(b) the Minister of Northern Affairs,

shall have the powers and duties of the council of the local municipality for the purposes of this Act.

Commencement

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

Short title

8. The short title of this Act is the *Drainage Amendment Act, 1984.*



Bill 114

An Act to amend the Education Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading June 25th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

Sections 29 and 30 of the Act, in Part II—School Attendance, deal with three situations:

1. The parent who neglects or refuses to cause a child to attend school.
2. The person who employs a child during school hours.
3. The child who refuses to attend school or who is habitually absent from school.

In the first situation, dealing with the parent, the Act provides for a fine or a personal bond or both. The Bill increases the maximum fine from \$100 to \$1,000, and the bond from \$200 to \$1,000.

Where the court considers probation to be the proper course, the court may include a provision that the parent undergo assessment, counselling and treatment, if both the parent and the counsellor agree to such a provision.

In the second situation, dealing with the employer, the Act provides for a fine of not more than \$100. The Bill increases this to not more than \$1,000.

In both the first and second situations, the court may direct that the person be discharged rather than convicted if the court is satisfied that to do so is in the best interests of the person and is not contrary to the public interest.

In the third situation, dealing with the child, the Act provides that refusal to attend school or habitual absence from school is an offence and the child is to be treated as a juvenile delinquent under the *Juvenile Delinquents Act* (Canada).

In place of that procedure, the Bill provides that the court may make any one or more of four types of orders and, for the purpose of obtaining assistance in deciding on the type of order, the court may order an assessment of the child or the child's parent or both. The court may also require the school board to report to the court on alternative programs provided by the board that may be better suited to the educational needs of the child.

The four types of orders that may be made by the court are:

1. An order to the child to attend school.
2. An order, with the consent of the child and the child's parent, requiring the child to undergo counselling and treatment.
3. An order requiring the child to comply with specified conditions, other than counselling and treatment, to ensure that the child attends school.
4. An order requiring the school board to place the child in a program that the child's parent and the child have agreed to accept, and requiring the child to participate in the program.

The Bill provides that the court that has jurisdiction is the provincial court (family division) or the Unified Family Court.

Bill 114

1984

An Act to amend the Education Act

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

1. Section 29 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 8, is repealed and the following substituted therefor:

29. In this section and in sections 29a to 29r,

Interpretation

- (a) “child” means a child who is required by subsection 20 (1) to attend school;
- (b) “court” means a provincial court (family division) or the Unified Family Court;
- (c) “parent”, in relation to a child, means,
 - (i) both parents, where both have lawful custody of the child,
 - (ii) one parent, where that parent is solely entitled to lawful custody of the child,
 - (iii) another individual, where the individual has lawful custody of the child,

and includes a person who has received the child into the person’s home as resident with the person or in the care of the person;

- (d) “school attendance proceeding” means a proceeding under sections 29 to 29r.

29a. A provincial court (family division) and the Unified Family Court shall be deemed to be and shall sit as provincial offences courts for the purpose of dealing with offences under sections 29 to 29r.

Jurisdiction

Commencement of proceedings **29b.** A proceeding under section 29f (liability of parent) or 29g (employment during school hours) shall be commenced only by a school attendance counsellor.

Principal's certificate as evidence **29c.** In proceedings under sections 29 to 29r, a certificate by the principal of a school as to the attendance or non-attendance of a child at the school is admissible in evidence as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the principal.

Age of child **29d.** In a proceeding under sections 29 to 29r, a child who appears to the court to be of compulsory school age shall, in the absence of evidence to the contrary, be deemed to be of compulsory school age.

Referral to Provincial School Attendance Counsellor **29e.**—(1) Where it appears to the court in a proceeding under sections 29 to 29r that a material issue in the proceeding is the question as to whether or not a child is excused under subsection 20 (2) from attendance at school, the court may refer the question to the Provincial School Attendance Counsellor.

Inquiry (2) The Provincial School Attendance Counsellor shall accept the referral, shall direct that an inquiry be made in accordance with section 23 in respect of the question and shall report thereon to the court.

Application of s. 23 (2) (3) Subsection 23 (2) applies with necessary modifications in respect of an inquiry under subsection (2) except that the Provincial School Attendance Counsellor shall not make an order under subsection 23 (2) directing that the child attend or be excused from attending school.

Report (4) A report under subsection (2) by the Provincial School Attendance Counsellor is proof of the contents thereof in the absence of evidence to the contrary and without proof of the appointment or signature of the Provincial School Attendance Counsellor.

Order under s. 23 (2) (5) An order under subsection 23 (2) made by the Provincial School Attendance Counsellor that a child attend school or that a child is excused from attendance at school is effective for one year after the date of the order as proof in the absence of evidence to the contrary that the child in relation to whom the order is made is required by section 20 to attend school or that the child is excused from attendance at school, as the case requires.

29f.—(1) A parent of a child who neglects or refuses to cause the child to attend school as required by section 20 is, unless the child is legally excused from attendance, guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Liability
of parent

(2) The court may, in addition to or instead of imposing a fine, require a person convicted of an offence under subsection (1) to submit to the Treasurer of Ontario a personal bond, in a form prescribed by the court, in the penal sum of \$1,000 with one or more sureties as required, conditioned that the person shall cause the child to attend school as required by this Part, and upon breach of the condition the bond is forfeit to the Crown.

Bond for
attendance

(3) A court that directs that a person convicted of an offence under subsection (1) comply with the conditions prescribed in a probation order as provided in section 72 of the *Provincial Offences Act* may, subject to the prerequisites set out in subsection (4), prescribe the additional condition that the person undergo such assessment, counselling and treatment, or any of them, as the court specifies in the probation order.

Order for
assessment,
counselling,
treatment
R.S.O. 1980,
c. 400

(4) The prerequisites referred to in subsection (3) are:

Prerequisites

1. The person convicted must be willing to undergo the assessment, counselling and treatment, or any of them, that are to be specified in the probation order.
2. The person or persons who are to perform the assessment, counselling and treatment must consent to do so.

29g.—(1) Every person who employs during school hours a child who is required to attend school under section 20 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Employment
during
school hours

(2) Where a corporation is convicted of an offence under subsection (1), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Idem,
officer or
director of
corporation

29h.—(1) Where a person pleads guilty to or is found guilty of an offence under subsection 29f (1) (liability of parent) or section 29g (employment during school hours), the court, in the circumstance mentioned in subsection (2),

Discharge

instead of convicting the person may direct by order that the person be discharged.

Prerequisite (2) The circumstance referred to in subsection (1) is that the court is satisfied that the discharge is in the best interests of the person and the discharge is not contrary to the public interest.

Effect of discharge (3) Where the court by order directs under subsection (1) that the person be discharged, the person, the prosecutor or the Attorney General by way of intervention may appeal from the order in the same manner as from a conviction or dismissal and the order is a bar to any subsequent charge relating to the offence to which the discharge relates.

Order to produce child before court **29i.**—(1) The court, on the application of a school attendance counsellor, may order the parent of a child to produce the child before the court at the time and place stated in the order for a hearing to determine whether or not the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2).

Grounds for application (2) A school attendance counsellor shall not apply to the court under subsection (1) unless,

(a) the appropriate supervisory officer to whom the school attendance counsellor is responsible gives approval in writing for the application; and

(b) the school attendance counsellor has reasonable and probable grounds to believe that the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2) and is doing so without the consent of the parent of the child.

Notice (3) An application under subsection (1) may be made without notice to the parent of the child.

Hearing **29j.** Where a child is brought before the court in accordance with an order under section 29i (order to produce child before court), the court shall hold a hearing to determine whether or not the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2).

Parties **29k.**—(1) The parties to a school attendance proceeding are the applicant, the child's parent and any other person that the court by order specifies has an interest in the proceeding.

(2) A child may be represented by counsel at any stage in a school attendance proceeding. Counsel
for child

(3) A child twelve years of age or more who is the subject of a school attendance proceeding is entitled to receive notice of the proceeding and to be present at the hearing, unless the court is satisfied that being present at the hearing would cause the child emotional harm and orders that the child not receive notice of the proceeding and not be permitted to be present at the hearing. Child twelve
or older

(4) A child less than twelve years of age who is the subject of a school attendance proceeding is not entitled to receive notice of the proceeding or to be present at the hearing, unless the court is satisfied that the child is capable of understanding the hearing and will not suffer emotional harm by being present at the hearing and the court orders that the child receive notice of the proceeding and be permitted to be present at the hearing. Child under
twelve

(5) A child who is entitled to notice of a school attendance proceeding or who is represented by counsel in a school attendance proceeding is entitled to participate in the proceeding and to appeal as if he or she were a party. Child's
participation

29l.—(1) For the purposes of a school attendance proceeding, the court may inquire into and satisfy itself as to all relevant matters. Inquiry
by court

(2) The court on its own initiative may summon a person to attend before the court, to testify and to produce any document or thing, and the court may issue a warrant for the arrest of the person for the purpose of compelling attendance. Compelling
attendance

29m.—(1) The court may adjourn a school attendance proceeding from time to time on its own initiative or on motion by a party with the consent of all other parties to the proceeding. Adjournment

(2) The court shall not adjourn a school attendance proceeding for more than thirty days unless, Length of
adjournment

(a) all the parties present consent; and

(b) the court is not aware that a party not present objects.

(3) The court shall state and record the reasons for the adjournment. Reasons for
adjournment

Terms or
conditions

(4) The court may impose such terms or conditions as the court considers proper in the circumstances upon any party to a school attendance proceeding as part of an order adjourning the proceeding.

Order for
assessment

29n.—(1) Where the court is of the opinion that an assessment of the child or of the child's parent or both will assist or is likely to assist the court in disposing of the school attendance proceeding, the court may make an order for assessment.

Contents
of order

(2) In an order for assessment, the court may order that within the time specified in the order the child or a parent or both attend before and undergo an assessment by a person specified in the order.

Qualifications
of assessor

(3) The person specified in the order to perform the assessment must be qualified, in the opinion of the court, to perform developmental, educational, emotional, medical, psychological or social assessments.

Consent to
perform
assessment

(4) The person who is to perform the assessment must consent to do so before being named in the order.

Report

(5) The person who performs the assessment shall make a written report on the assessment to the court within the time specified in the order.

Time for
report

(6) The court shall not specify a period of more than thirty days for the filing of the report with the court unless the court is of the opinion that a longer period is necessary for the performance of the assessment and the preparation of the report.

Copies of
report

(7) At least seven days before the court considers the report at a hearing, the court shall provide a copy of the report to,

- (a) the person assessed, subject to subsections (8) and (9);
- (b) the child's counsel, if any;
- (c) the parent appearing at the hearing, or the parent's counsel;
- (d) any other person who, in the opinion of the court, should receive a copy of the report for the purposes of the school attendance proceeding.

(8) Where the person assessed is a child less than twelve years of age, the child shall not receive a copy of the report unless the court considers it desirable that the child receive a copy of the report. Child under twelve

(9) Where the person assessed is a child twelve years of age or more, the child shall receive a copy of the report, except that where the court is satisfied that disclosure of all or part of the report to the child would cause the child emotional harm, the court may withhold all or part of the report from the child. Child twelve or older

29o.—(1) The court at any time during the course of a school attendance proceeding by order may require the board that operates the school that the child is required to attend to report in writing to the court upon the program or programs provided by the board, whether directly or by agreement with another board, that in the opinion of the board might be better suited to the educational needs of the child than the program in which the child has been placed. Report by board

(2) The court shall provide a copy of the report of the board to, Copies of report

- (a) the parent appearing at the hearing, or the parent's counsel;
- (b) the child, subject to subsection (3);
- (c) the child's counsel, if any;
- (d) any other person who, in the opinion of the court, should receive a copy of the report for the purposes of the school attendance proceeding.

(3) Subsections 29n (8) (child under twelve) and (9) (child twelve or older) apply with necessary modifications in respect of the giving of a copy of the report of the board to the child under clause (2) (b). Giving of report to child

(4) The child's parent shall consider the report of the board and shall inform the court whether or not the parent and the child are willing to accept placement of the child in a program mentioned in the report of the board. Decision by parent

29p. Where the court determines that the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2), the court may dispose of the matter by making an order, Disposition by court

- (a) requiring the child to attend school;
- (b) with the consent of the child and the child's parent, requiring the child to undergo such counselling or treatment as the court considers appropriate;
- (c) requiring the child to comply with the conditions, other than counselling or treatment, set out in the order that the court considers reasonable and desirable in order to ensure that the child attends school; or
- (d) requiring the board that operates the school that the child is required to attend to place the child in a program that the child's parent and the child have agreed to accept, and requiring the child to participate in the program,

or any combination of them.

Contempt
of orders
of court

29q.—(1) In addition to its powers in respect of contempt, every court may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of school attendance proceedings, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed thirty days.

Conditions of
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order.

Child under
twelve

(3) Subsection (1) does not apply in respect of a child less than twelve years of age.

Child twelve
or more
years of age

(4) Where a child twelve years of age or more is sentenced to a term of imprisonment under subsection (1),

(a) the child shall be held in a place of open custody specified by a provincial director; and

S.C. 1980-
81-82-83,
c. 110

(b) section 35 (temporary release) of the *Young Offenders Act* (Canada) applies with necessary modifications.

Interpretation

(5) In this section,

(a) "place of open custody" means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada);

- (b) "provincial director" means a person appointed by the Minister of Community and Social Services as a provincial director for the purposes of the *Young Offenders Act* (Canada).

S.C. 1980-81-82-83, c. 110

29r. An appeal from an order of a provincial court (family division) under sections 29i to 29q lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Appeal from provincial court (family division)

2. Section 30 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 9, is repealed.

3. Where a proceeding has been commenced under section 29 of the said Act before this Act comes into force, sections 29 and 30 of the said Act continue in force in respect of the proceeding as if this Act had not come into force.

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

Commencement

5. The short title of this Act is the *Education Amendment Act, 1984*.

Short title

Bill 115

An Act to amend the Employment Standards Act

Mr. Martel

1st Reading June 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prohibit an employer from requiring an employee to work more than five consecutive days without a day of rest.

Bill 115

1984

An Act to amend the Employment Standards Act

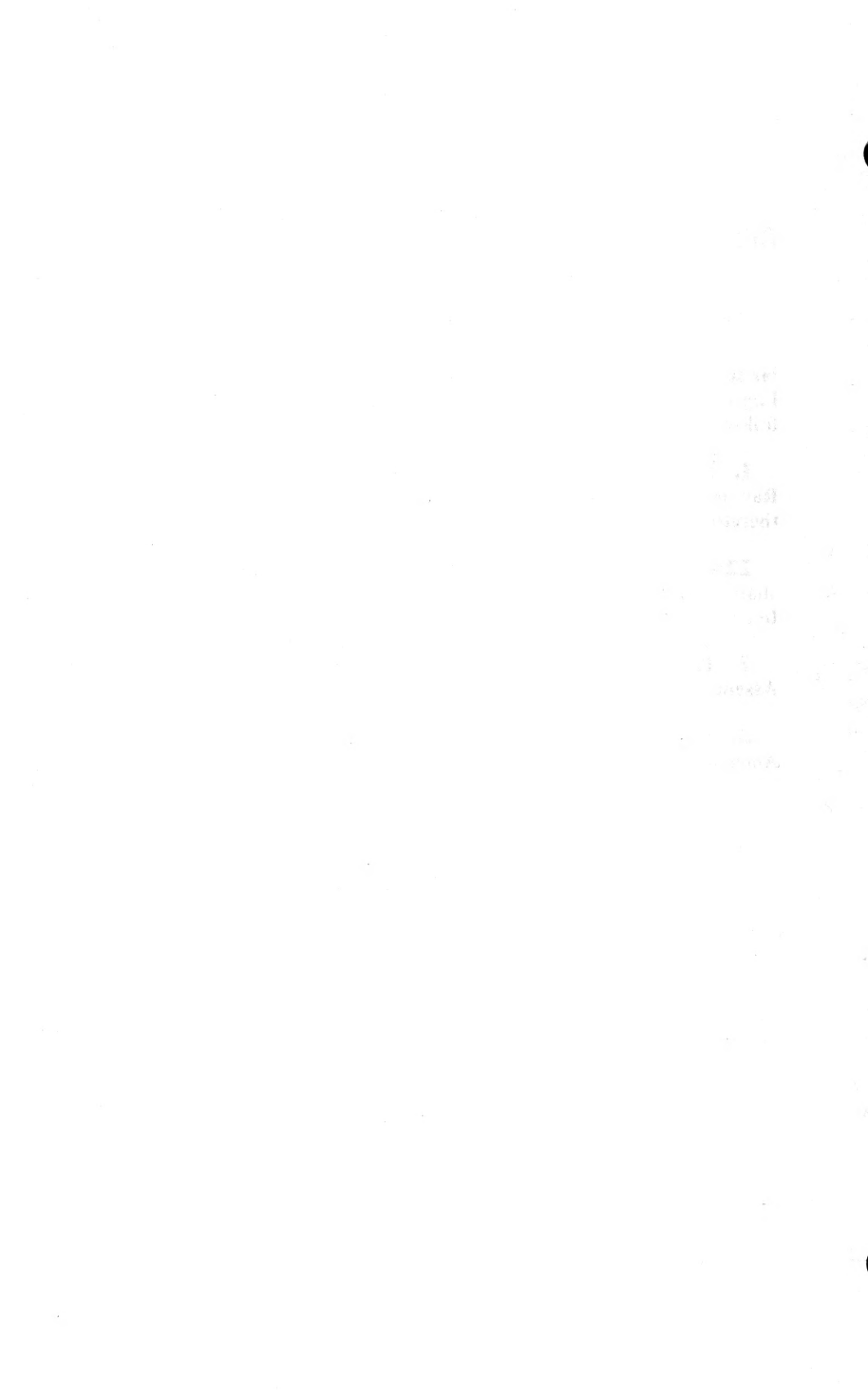
HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a. Notwithstanding anything in this Part, an employer shall not require an employee to perform work on more than five consecutive days without a day of rest. Maximum consecutive days of work

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, 1984*. Short title



Bill 116

An Act respecting Insured Services under the Ontario Health Insurance Plan

Mr. Martel

1st Reading June 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to declare that surgical procedures for breast reconstruction are insured services under the Ontario Health Insurance Plan.

Bill 116

1984

**An Act respecting Insured Services under the
Ontario Health Insurance Plan**

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

1. Notwithstanding any provision to the contrary in the *Health Insurance Act*, or the regulations made thereunder, the surgical procedures set out in the Schedule below are hereby declared to be medically necessary and constitute insured services for the purposes of the Ontario Health Insurance Plan established by that Act.

Breast reconstruction declared to be insured services
R.S.O. 1980, c. 197

SCHEDULE

Breast reconstruction

- breast skin reconstruction by flaps or grafts
- breast mound creation by prosthesis and/or soft tissue
- nipple reconstruction by grafts

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

Commencement

3. The short title of this Act is the *Insured Health Services Act, 1984*.

Short title

Bill 117

An Act to acquire the Assets of Inco Limited

Mr. Martel

1st Reading June 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

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

Bill 117

1984

An Act to acquire the Assets of Inco Limited

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

- 1.** In this Act, “Corporation” means The Ontario Nickel Corporation. Interpretation
- 2.**—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of “The Ontario Nickel Corporation”. The Ontario Nickel Corporation established
- (2) There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council. Board of Directors
- (3) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board. Chairman
- (4) The Corporation shall have a seal which shall be adopted by resolution or by-law. Seal
- 3.**—(1) The affairs of the Corporation are under the management and control of the Board of Directors. Management
- (2) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman. Chairman to preside
- (3) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board. Quorum
- (4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By-laws
- 4.** The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act* Powers of Board
R.S.O. 1980,
c. 95

R.S.O. 1980, c. 95 and section 23 of that Act, except clauses (l) (m), (p), (q), (r), (s), (t), (u) and (v), but otherwise the *Corporations Act* does not apply to the Corporation.

Objects

5. The objects of the Corporation are to,

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

Head office

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

Assets of Inco vest in the Corporation

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

Notice of arbitration

8.—(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Ontario Municipal Board.

Idem

R.S.O. 1980, c. 148

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

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

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

Idem

(2) Compensation for the assets referred to in section 7 is to be determined in accordance with sections 13, 14, 16, 17, subsection 19 (2) and section 20 of the *Expropriations Act* in the same manner as if they were land.

- (3) For the purposes of an arbitration under this Act, a reference to “expropriating authority” and to “statutory authority” in the *Expropriations Act* is a reference to the Corporation. Interpretation
R.S.O. 1980,
c. 148
- 10.** The compensation payable as a result of this Act stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets. Compensation
- 11.** The *Bulk Sales Act* does not apply to the transfer of assets provided for in this Act. R.S.O. 1980,
c. 52
does not
apply
Annual
report
- 12.** The Corporation shall, after the close of each fiscal year, deliver to the Minister of Natural Resources an annual report upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Annual
report
- 13.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 14.** The short title of this Act is the *Inco Limited Acquisition Act, 1984*. Short title





Bill 118

An Act to amend the Legislative Assembly Act

Mr. Ruston

1st Reading June 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides for a deduction of \$100 from a member's indemnity for each day of absence over ten days in a session from the Assembly while it is sitting, unless the absence is because of illness, pregnancy and childbirth, or official business.

Bill 118**1984****An Act to amend the Legislative Assembly Act**

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

1. Section 60 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 29, section 1, 1982, chapter 43, section 1 and 1983, chapter 50, section 1, is further amended by adding thereto the following subsection:

(3a) A deduction of one hundred dollars shall be made from the indemnity payable to a member under this section for every day beyond ten in a session on which the Assembly sits and on which the member is absent from the Assembly for reasons other than illness, pregnancy and childbirth, or official business.

Deduction
for absence

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

Commence-
ment

3. The short title of this Act is the *Legislative Assembly Amendment Act, 1984*.

Short title

1914

1914

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Bill 119

An Act to amend the Education Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading June 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The definition of "credit" is amended to include a reference to the Ontario secondary school diploma.

SECTION 2. The amendment corrects the reference to the *Workers' Compensation Act*.

SECTION 3. New section 8a is added to the Act to enable the Ministry to determine the disposition of financial assistance paid under the Act.

SECTION 4. Subsection 10 (8) of the Act authorizes the making of regulations. Clause (d) is re-enacted to remove the reference to documents "obtained outside Ontario".

SECTION 5. Subsection 15 (7) of the Act relates to inspection of private schools in respect of the standard of instruction. The subsection is amended to include a reference to the Ontario secondary school diploma.

SECTION 6. Section 59, in Part III (Public and Secondary Schools), of the Act relates to the composition of divisional boards.

Subsection 1. Subsection 59 (7) is re-enacted to relate the determination of numbers of members of the board to the year in which a regular election is to be held under the *Municipal Elections Act*.

Subsection 2. New subsection (34) is added to section 59 to provide for the situation where a new city is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act*.

SECTION 7. Section 113, in Part IV (Roman Catholic Separate Schools), of the Act relates to the composition of combined separate school boards.

Subsection 1. Subsection 113 (6) is re-enacted to relate the determination of numbers of members of the board to the year in which a regular election is to be held under the *Municipal Elections Act*.

Subsection 2. New subsection (24) is added to section 113 to provide for the situation where the boundaries of a separate school zone or of a municipality are to be altered on or before the 1st day of January next following a regular election under the *Municipal Elections Act*. New subsection (25) is added to section 113 to provide for the situation where a new city is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act*.

SECTION 8. Subsection 126 (1) of the Act refers to "a prescribed form". The amendment clarifies the reference.

SECTION 9. Form 2 of Part IV of the Act relates to section 126 as it was before the section was re-enacted in 1981.

SECTION 10. Subsection 150 (1) of the Act sets out powers of boards. Paragraph 38 is re-enacted to state only the power to conduct an education program.

SECTION 11. Subsection 158 (1) of the Act relates to sick leave credits. The subsection is re-enacted so that the half-year maximum payment on termination of employment is computed on the basis of the full-time annual rate of the earnings received by the employee for the last complete school year or the last twelve months in which the employee was employed by the board.

SECTION 12. The amendment adds to subsection 165 (3) of the Act a reference to subsection 165 (1a) which was enacted by the Statutes of Ontario, 1982, chapter 32, section 44.

SECTION 13. Subsection 170 (1) of the Act is re-enacted to clarify the right of a board to continue in possession of realty that was originally granted by the Crown for school purposes and that has reverted or may have reverted to the Crown although still in the possession of the board. The sale, lease or other disposition of the realty will continue to be subject to the approval of the Lieutenant Governor in Council.

SECTION 14. The amendment corrects an internal cross-reference.

SECTION 15. Section 215 of the Act relates to the duty of municipalities to levy, collect and pay over amounts to school boards. The due dates for instalments under the section are the 31st day of March, the 30th day of June, the 30th day of September and the 15th day of December.

New subsections 215 (9) and (10) require municipalities to deliver the instalments to the boards before noon on, or deposit the instalments in the boards' bank accounts for credit to the boards not later than, the due dates.

SECTION 16. Sections 250 and 251 of the Act require the appointment of a director of education where the school enrolment is 2,000 or more. Section 252 of the Act permits appointment of a supervisory officer, with the approval of the Minister, where school enrolment is less than 2,000. New section 252a prevents a board from abolishing such a position without the approval of the Minister.

The section also requires a board that has abolished such a position to re-establish the position upon being required to do so by the Minister.

SECTIONS 17-25. These sections contain amendments to Part XI (French Language Instruction) of the Act.

Section 17 contains amendments to section 258 of the Act related to elementary schools or classes. A definition of "French-speaking person" is added to subsection 258 (1) that conforms to section 23 of the *Canadian Charter of Rights and Freedoms*. Subsection 258 (2) states the principle that every French-speaking person who is qualified to be a resident pupil of a board has the right to receive instruction in a French-language instructional unit. Subsection 258 (3) requires boards to provide instruction in French-language instructional units, either by establishing and operating one or more such units or by entering into an agreement with another board. Subsection 258 (4) requires boards to provide meals, lodging and transportation to pupils required to travel more than twenty-four kilometres to a French-language instructional unit. Subsections 258 (5) and (6) provide for English as a subject of instruction in a French-language instructional unit. Subsection 258 (6) is re-enacted as subsection 258 (6a). The re-enactment is complementary to the amendments defining the term "French-speaking person". The subsection provides for the admission of pupils who are not French-speaking persons to French-language instructional units. Subsection 258 (8) provides the reciprocal rights of an English-speaking person who is qualified to be a resident pupil of a board.

Section 18 of the Bill amends section 260 of the Act. Section 260 contains definitions of terms in sections in Part XI that relate to secondary schools. Clause 260 (a) defines the term "board" as used in sections 261 to 277 of the Act. A definition of "French-speaking person" is added to section 260 that conforms to section 23 of the *Canadian Charter of Rights and Freedoms*.

Section 19 of the Bill re-enacts section 261 of the Act to set out provisions similar to new subsections 258 (2), (3) and (4) as set out in the Bill.

Section 20 of the Bill re-enacts subsection 268 (1) of the Act which sets out the right of the chairman of a French-language advisory committee to attend meetings of committees of the board. The subsection is re-enacted to make it clear that the reference to a committee of the board includes a committee of the whole board.

Section 21 of the Bill repeals section 271 of the Act which requires that English be a subject of instruction in grades 9 to 12 in a French-language school.

Section 22 of the Bill amends subsection 272 (1) of the Act to provide the same rights to an English-speaking pupil in relation to secondary school education as are provided by subsection 258 (8) as set out in this Bill.

Section 23 of the Bill amends subsection 273 (1) of the Act. The amendment is complementary to the definition of "French-speaking person" added to section 260 of the Act.

Sections 24 and 25 of the Bill relate to section 277 of the Act. That section provides for the settlement of differences between a board and a French-language advisory committee. Subsection 277 (1) requires the Languages of Instruction Commission, where mediation has failed to bring about an agreement, to consider the matter and recommend a course of action to the board. Subsection 277 (2) requires the board to report its decision in respect of the recommendation. This latter provision is expanded to require either a positive or negative resolution by the board, with notice to the Commission and, in the case of a negative resolution, to the Minister.

A board that makes a negative resolution is given the opportunity to reverse its decision (new section 277a).

The Commission is required to reconsider the matter if the board makes a negative resolution. The Commission must then report to the Minister with a recommendation and the Minister is required to consider the report and recommendation and make such order as the Minister considers appropriate. The order is enforceable as an order of the Supreme Court (new section 277b).

Bill 119

1984

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. Subparagraph ii of paragraph 10a of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 32, section 1, is repealed and the following substituted therefor:

- ii. is acceptable to the Minister as partial fulfilment of the requirements for the Ontario secondary school diploma, the secondary school graduation diploma or the secondary school honour graduation diploma, as the case may be.

2. Clause 8 (1) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 3, is amended by striking out "*Workmen's Compensation Act*" in the fourth line and inserting in lieu thereof "*Workers' Compensation Act*".

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

8a. The Minister may require a person or organization that has received financial assistance under this Act or the regulations to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

Accounting statement related to assistance by Ministry R.S.O. 1980, c. 405

4. Clause 10 (8) (d) of the said Act is repealed and the following substituted therefor:

- (d) prescribing the conditions under which fees shall be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of edu-

fees for evaluations

cational standing, and prescribing the amounts of the fees.

5. Subsection 15 (7) of the said Act is amended by inserting after “to” where it occurs the first time in the fourth line “the Ontario secondary school diploma”.

6.—(1) Subsection 59 (7) of the said Act is repealed and the following substituted therefor:

Application
of subs. (4-6)

R.S.O. 1980,
c. 308

(7) Determinations shall be made under subsections (4), (5) and (6) before the 1st day of September in each year in which a regular election is to be held under the *Municipal Elections Act*.

(2) Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16, is further amended by adding thereto the following subsection:

New city

(34) A new city that is to be erected effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of subsections (1) to (33), to have been erected, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

7.—(1) Subsection 113 (6) of the said Act is repealed and the following substituted therefor:

Application
of subs. (4)

R.S.O. 1980,
c. 308

(6) A determination shall be made under subsection (4) before the 1st day of September in each year in which a regular election is to be held under the *Municipal Elections Act*.

(2) Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37, is further amended by adding thereto the following subsections:

Change of
boundaries

(24) Where the boundaries of a county or district combined separate school zone or of a municipality are to be altered effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act*, the boundaries shall be deemed, for the purposes of subsections (1) to (23), to have been so altered, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

New city

(25) A new city that is to be erected effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes

of subsections (1) to (24), to have been erected, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

8. Subsection 126 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 21, is amended by striking out “prescribed form” in the first line and inserting in lieu thereof “form prescribed by the regulations”.

9. Form 2 of Part IV of the said Act is repealed.

10. Paragraph 38 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

38. with the approval of the Minister, conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not conduct an education program.
- programs in
detention
homes

11. Subsection 158 (1) of the said Act is repealed and the following substituted therefor:

(1) A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of an amount equal to one-half of the full-time annual rate of the earnings received by the employee,

Sick leave
credits

- (a) in the case of a person employed as a supervisory officer, under a teacher's contract or as an occasional or a temporary teacher, for the last complete school year in which the employee was employed by the board; or
- (b) in the case of a person other than a person described in clause (a), for the last twelve months during which the employee was employed by the board.

12. Subsection 165 (3) of the said Act is amended by striking out “subsection (1) or (2)” in the first and second lines and inserting in lieu thereof “subsection (1), (1a) or (2)”.

13. Subsection 170 (1) of the said Act is repealed and the following substituted therefor:

Disposal
of realty

(1) A board that is in possession of real property that was originally granted by the Crown for school purposes and that has reverted or may have reverted to the Crown may continue in possession of the real property for school purposes and when the board determines that the real property is no longer required for school purposes, the board may, with the approval of the Lieutenant Governor in Council and subject to such conditions as are prescribed by the Lieutenant Governor in Council, sell, lease or otherwise dispose of the real property.

14. Clause 182 (7) (c) of the said Act is amended by striking out “74 (4) (b)” in the third line and inserting in lieu thereof “74 (4) (a)”.

15. Section 215 of the said Act is amended by adding thereto the following subsections:

Transfer of
payments

(9) The council of each municipality shall cause each instalment that the council is required by subsections (1) to (8) to pay to a board to be delivered to the board not later than noon on, or deposited in the board's bank account for credit to the board not later than, the date on which the council is required by those subsections to pay the instalment.

Interpretation

(10) In this section, “bank account”, in relation to a board, means the account kept in a chartered bank of Canada in the name of the board and designated by the board for the purpose of this section.

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

Abolition
of position

252a.—(1) A board that is required by this Act to employ a director of education in any year or that appoints a director of education or a supervisory officer with the approval of the Minister shall not abolish the position of director of education or supervisory officer, as the case may be, without the approval of the Minister.

Idem

(2) Where, before this section comes into force, a board has abolished a position mentioned in subsection (1), the Minister may require the board to re-establish the position and the board shall comply with the requirement forthwith.

17.—(1) Subsection 258 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section,

- (a) "board" means a board of education, public school board or separate school board;
- (b) "French-language instructional unit" means a class, group of classes or school in which French is the language of instruction;
- (c) "French-speaking person" means a child of a person who has the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive primary and secondary school instruction in the French language in Ontario.

(2) Subsection 258 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 61, is repealed and the following substituted therefor:

(2) Every French-speaking person who is qualified under this Act to be a resident pupil of a board has the right to receive elementary school instruction in a French-language instructional unit operated or provided by the board.

Right to instruction in French-language instructional unit

(3) Subsections 258 (3) to (6) of the said Act are repealed and the following substituted therefor:

(3) Every board that has one or more resident pupils who exercise their right to receive instruction in a French-language instructional unit shall establish and operate one or more French-language instructional units for those pupils or shall enter into an agreement with another board to enable those pupils to receive instruction in a French-language instructional unit operated by the other board.

Duty of board to provide French-language instructional unit

(4) A board that provides a French-language instructional unit for elementary school instruction by means of an agreement with another board shall provide to each French-speaking resident pupil of the first-mentioned board who is a pupil in the French-language instructional unit and resides with the parent or other person who has lawful custody of the pupil more than twenty-four kilometres from the French-language instructional unit,

Meals, lodging and transportation

- (a) an allowance payable monthly in an amount set by the board for meals and lodging for each day of attendance as certified by the principal in respect of the French-language instructional unit and for transportation once a week from the pupil's residence to the lodging and return; or

- (b) daily transportation from the pupil's residence to the French-language instructional unit and return, where the parent or other person who has lawful custody of the pupil elects to have daily transportation.

English as
a subject of
instruction

- (5) English may be a subject of instruction in any grade in a French-language instructional unit mentioned in subsection (2).

Idem,
grades 5, 6,
7 and 8

- (6) English shall be a subject of instruction in grades 5, 6, 7 and 8 in every French-language instructional unit.

Admission
of pupils
other than
French-
speaking
pupils

- (6a) A board, on the request of the parent of a pupil of the board who is not a French-speaking person, or of a person who has lawful custody of a pupil of the board who is not a French-speaking person, or of a pupil of the board who is an adult and is not a French-speaking person, may admit the pupil to a French-language instructional unit if the admission is approved by majority vote of an admissions committee appointed by the board and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in the school and a French-speaking supervisory officer employed by the board or arranged for in accordance with subsection (7).

(4) Subsection 258 (8) of the said Act is repealed and the following substituted therefor:

English-
language
schools
or classes

- (8) Where a board provides one or more French-language elementary schools, a resident pupil of the board has the right to receive instruction in the English language and subsections (2), (3) and (4) apply with necessary modifications in respect of the resident pupil and the board.

18.—(1) Clause 260 (a) of the said Act is amended by adding at the end thereof “or a secondary school board formed under section 69”.

(2) Section 260 of the said Act is amended by adding thereto the following clause:

- (ca) “French-speaking person” means a child of a person who has the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive primary and secondary school instruction in the French language in Ontario.

19. Section 261 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 62, is repealed and the following substituted therefor:

261.—(1) Every French-speaking person who is qualified under this Act to be a resident pupil of a board has the right to receive secondary school instruction in a French-language instructional unit operated or provided by the board. Right to instruction in French-language instructional unit

(2) Every board that has one or more resident pupils who exercise their right to receive instruction in a French-language instructional unit shall establish and operate one or more French-language instructional units for those pupils or shall enter into an agreement with another board to enable those pupils to receive instruction in a French-language instructional unit operated by the other board. Duty of board to provide French-language instructional unit

(3) A board that provides a French-language instructional unit for secondary school instruction by means of an agreement with another board shall provide to each French-speaking resident pupil of the first-mentioned board who is a pupil in the French-language instructional unit and resides with the parent or other person who has lawful custody of the pupil more than twenty-four kilometres from the French-language instructional unit, Meals, lodging and transportation

- (a) an allowance payable monthly in an amount set by the board for meals and lodging for each day of attendance as certified by the principal in respect of the French-language instructional unit and for transportation once a week from the pupil's residence to the lodging and return; or
- (b) daily transportation from the pupil's residence to the French-language instructional unit and return, where the parent or other person who has lawful custody of the pupil elects to have daily transportation.

20. Subsection 268 (1) of the said Act is repealed and the following substituted therefor:

(1) The chairman of the committee or a member of the committee designated by the chairman of the committee has the right to attend a meeting of a committee of the board, including a committee of the whole board, and shall be given the opportunity to be heard at the meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of the committee of the board or the committee of the whole board, as the case may be. Attendance of committee chairman at board committee meeting

21. Section 271 of the said Act is repealed.

22. Subsection 272 (1) of the said Act is amended by striking out “number of pupils of the board elect” in the second and third lines and inserting in lieu thereof “pupil of the board elects”.

23. Subsection 273 (1) of the said Act is amended by striking out “an English-speaking pupil of the board” in the first and second lines and inserting in lieu thereof “a pupil of the board who is not a French-speaking person”.

24. Subsection 277 (2) of the said Act is repealed and the following substituted therefor:

Resolution
by board

(2) Within thirty days of the receipt by the board of the recommendation of the Commission, the board shall resolve either to implement the recommendation or not to implement the recommendation.

Notice to
Commission

(3) The board shall give to the Commission written notice of the resolution.

Where board
resolves not
to implement
recommen-
dation

(4) A board that resolves not to implement the recommendation shall also give to the Minister written notice of the resolution and shall give to the Minister and to the Commission written reasons for the decision.

Time for
notices
and reasons

(5) The board shall give the notices and reasons within the thirty day period mentioned in subsection (2).

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

Second
resolution

277a.—(1) A board that resolves not to implement the recommendation of the Commission may rescind the resolution and resolve to implement the recommendation.

Conflict
with by-law

(2) In the event of a conflict between subsection (1) and a by-law of the board, subsection (1) prevails.

Time for
second
resolution

(3) A board must act under subsection (1) within sixty days after receiving the recommendation of the Commission.

Reconsidera-
tion by
Commission

277b.—(1) Where a board does not resolve to implement the recommendation of the Commission within the period of time mentioned in section 277 or 277a, as the case requires, the Commission shall reconsider the matter and shall make a written report and recommendation to the Minister in respect of the matter.

(2) The Minister shall consider the report and recommendation of the Commission under subsection (1) and shall make such order to the board or the Commission, or both, to deal with the matter as the Minister considers appropriate in the circumstances.

Order by
Minister

(3) The report and recommendation of the Commission are not binding upon the Minister, and the Minister is not required to give to any person an opportunity to make submissions or to be heard before making an order under subsection (2).

Report and
recommen-
dation
not binding
on Minister

(4) An order by the Minister under subsection (2), exclusive of the reasons, if any, therefor may be filed in the office of the Registrar of the Supreme Court, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as an order of that court.

Enforcement
of order

(5) An order by the Minister under subsection (2),

Service
of order

(a) to a board is effective according to its terms when a copy is served upon the secretary of the board; and

(b) to the Commission is effective according to its terms when a copy is served upon the chairman of the Commission.

26.—(1) This Act, except sections 17, 18, 19, 21, 22 and 23, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 17, 18, 19, 21, 22 and 23 come into force on the 1st day of September, 1985.

Idem

27. The short title of this Act is the *Education Amendment Act, 1984*.

Short title





Bill 119

An Act to amend the Education Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading June 27th, 1984

2nd Reading October 23rd, 1984

3rd Reading

Royal Assent

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

EXPLANATORY NOTES

SECTION 1. The definition of "credit" is amended to include a reference to the Ontario secondary school diploma.

SECTION 2. The amendment corrects the reference to the *Workers' Compensation Act*.

SECTION 3. New section 8a is added to the Act to enable the Ministry to determine the disposition of financial assistance paid under the Act.

SECTION 4. Subsection 10 (8) of the Act authorizes the making of regulations. Clause (d) is re-enacted to remove the reference to documents "obtained outside Ontario".

SECTION 5. Subsection 15 (7) of the Act relates to inspection of private schools in respect of the standard of instruction. The subsection is amended to include a reference to the Ontario secondary school diploma.

SECTION 6. Section 59, in Part III (Public and Secondary Schools), of the Act relates to the composition of divisional boards.

Subsection 1. Subsection 59 (7) is re-enacted to relate the determination of numbers of members of the board to the year in which a regular election is to be held under the *Municipal Elections Act*.

Subsection 2. New subsection (34) is added to section 59 to provide for the situation where a new city is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act*.

Subsection 3. Subsection 59 (9) of the Act relates to the distribution of members to be elected by public school electors in county or district municipalities. The amendment removes the statement of the period of time during which the determination is effective.

SECTION 7. Section 113, in Part IV (Roman Catholic Separate Schools), of the Act relates to the composition of combined separate school boards.

Subsection 1. Subsection 113 (6) is re-enacted to relate the determination of numbers of members of the board to the year in which a regular election is to be held under the *Municipal Elections Act*.

Subsection 2. New subsection (24) is added to section 113 to provide for the situation where the boundaries of a separate school zone or of a municipality are to be altered on or before the 1st day of January next following a regular election under the *Municipal Elections Act*. New subsection (25) is added to section 113 to provide for the situation where a new city is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act*.

SECTION 8. Subsection 126 (1) of the Act refers to "a prescribed form". The amendment clarifies the reference.

SECTION 9. Form 2 of Part IV of the Act relates to section 126 as it was before the section was re-enacted in 1981.

SECTION 10. Subsection 150 (1) of the Act sets out powers of boards. Paragraph 38 is re-enacted to state only the power to conduct an education program.

SECTION 11. Section 158 of the Act relates to sick leave credits. The amendment adds new subsection (1b) which deals with the maximum amount receivable on termination by an employee who has changed from full-time to part-time employment.

SECTION 12. The amendment adds to subsection 165 (3) of the Act a reference to sub-

section 165 (1a) which was enacted by the Statutes of Ontario, 1982, chapter 32, section 44.

SECTION 13. Subsection 170 (1) of the Act is re-enacted to clarify the right of a board to continue in possession of realty that was originally granted by the Crown for school purposes and that has reverted or may have reverted to the Crown although still in the possession of the board. The sale, lease or other disposition of the realty will continue to be subject to the approval of the Lieutenant Governor in Council.

SECTION 14. The amendment corrects an internal cross-reference.

SECTION 15. Section 215 of the Act relates to the duty of municipalities to levy, collect and pay over amounts to school boards. The due dates for instalments under the section are the 31st day of March, the 30th day of June, the 30th day of September and the 15th day of December.

New subsections 215 (9) and (10) require municipalities to deliver the instalments to the boards before noon on, or deposit the instalments in the boards' bank accounts for credit to the boards not later than, the due dates.

New subsection 215 (11) requires municipalities to pay instalments to boards on the first business day before a due date if the boards' offices are not open for business on the due date.

SECTION 16. Sections 250 and 251 of the Act require the appointment of a director of education where the school enrolment is 2,000 or more. Section 252 of the Act permits appointment of a supervisory officer, with the approval of the Minister, where school enrolment is less than 2,000. New section 252a prevents a board from abolishing such a position without the approval of the Minister.

The section also requires a board that has abolished such a position to re-establish the position upon being required to do so by the Minister.

SECTIONS 17-25. These sections contain amendments to Part XI (French Language Instruction) of the Act.

Section 17 contains amendments to section 258 of the Act related to elementary schools or classes. A definition of "French-speaking person" is added to subsection 258 (1) that conforms to section 23 of the *Canadian Charter of Rights and Freedoms*. Subsection 258 (2) states the principle that every French-speaking person who is qualified to be a resident pupil of a board has the right to receive instruction in a French-language instructional unit. Subsection 258 (3) requires boards to provide instruction in French-language instructional units, either by establishing and operating one or more such units or by entering into an agreement with another board. Subsection 258 (4) requires boards to provide meals, lodging and transportation to pupils required to travel more than twenty-four kilometres to a French-language instructional unit. Subsections 258 (5) and (6) provide for English as a subject of instruction in a French-language instructional unit. Subsection 258 (6) is re-enacted as subsection 258 (6a). The re-enactment is complementary to the amendments defining the term "French-speaking person". The subsection provides for the admission of pupils who are not French-speaking persons to French-language instructional units. Subsection 258 (8) provides the reciprocal rights of an English-speaking person who is qualified to be a resident pupil of a board.

Section 18 of the Bill amends section 260 of the Act. Section 260 contains definitions of terms in sections in Part XI that relate to secondary schools. Clause 260 (a) defines the term "board" as used in sections 261 to 277 of the Act. A definition of "French-speaking person" is added to section 260 that conforms to section 23 of the *Canadian Charter of Rights and Freedoms*.

Section 19 of the Bill re-enacts section 261 of the Act to set out provisions similar to new subsections 258 (2), (3) and (4) as set out in the Bill.

Section 20 of the Bill re-enacts subsection 268 (1) of the Act which sets out the right of the chairman of a French-language advisory committee to attend meetings of committees of the board. The subsection is re-enacted to make it clear that the reference to a committee of the board includes a committee of the whole board.

Section 21 of the Bill repeals section 271 of the Act which requires that English be a subject of instruction in grades 9 to 12 in a French-language school.

Section 22 of the Bill amends subsection 272 (1) of the Act to provide the same rights to an English-speaking pupil in relation to secondary school education as are provided by subsection 258 (8) as set out in this Bill.

Section 23 of the Bill amends subsection 273 (1) of the Act. The amendment is complementary to the definition of "French-speaking person" added to section 260 of the Act.

Sections 24 and 25 of the Bill relate to section 277 of the Act. That section provides for the settlement of differences between a board and a French-language advisory committee. Subsection 277 (1) requires the Languages of Instruction Commission, where mediation has failed to bring about an agreement, to consider the matter and recommend a course of action to the board. Subsection 277 (2) requires the board to report its decision in respect of the recommendation. This latter provision is expanded to require either a positive or negative resolution by the board, with notice to the Commission and, in the case of a negative resolution, to the Minister.

A board that makes a negative resolution is given the opportunity to reverse its decision (new section 277a).

The Commission is required to reconsider the matter if the board makes a negative resolution. The Commission must then report to the Minister with a recommendation and the Minister is required to consider the report and recommendation and make such order as the Minister considers appropriate. The order is enforceable as an order of the Supreme Court (new section 277b).

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1984

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1. Subparagraph ii of paragraph 10a of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 32, section 1, is repealed and the following substituted therefor:

- ii. is acceptable to the Minister as partial fulfilment of the requirements for the Ontario secondary school diploma, the secondary school graduation diploma or the secondary school honour graduation diploma, as the case may be.

2. Clause 8 (1) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 3, is amended by striking out "*Workmen's Compensation Act*" in the fourth line and inserting in lieu thereof "*Workers' Compensation Act*".

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

8a. The Minister may require a person or organization that has received financial assistance under this Act or the regulations to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

Accounting statement related to assistance by Ministry R.S.O. 1980, c. 405

4. Clause 10 (8) (d) of the said Act is repealed and the following substituted therefor:

- (d) prescribing the conditions under which fees shall be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of edu-

fees for evaluations

ational standing, and prescribing the amounts of the fees.

5. Subsection 15 (7) of the said Act is amended by inserting after “to” where it occurs the first time in the fourth line “the Ontario secondary school diploma”.

6.—(1) Subsection 59 (7) of the said Act is repealed and the following substituted therefor:

Application
of subs. (4-6)

R.S.O. 1980,
c. 308

(7) Determinations shall be made under subsections (4), (5) and (6) before the 1st day of September in each year in which a regular election is to be held under the *Municipal Elections Act*.

(2) Subsection 59 (9) of the said Act is amended by striking out “and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection (3) or the boundaries of one or more county or district municipalities within the school division are altered or are to be altered effective on or before the 1st day of January next following the election” in the twenty-sixth to the thirty-second lines.

(3) Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16, is further amended by adding thereto the following subsection:

New city

(34) A new city that is to be erected effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of subsections (1) to (33), to have been erected, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

7.—(1) Subsection 113 (6) of the said Act is repealed and the following substituted therefor:

Application
of subs. (4)

R.S.O. 1980,
c. 308

(6) A determination shall be made under subsection (4) before the 1st day of September in each year in which a regular election is to be held under the *Municipal Elections Act*.

(2) Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37, is further amended by adding thereto the following subsections:

Change of
boundaries

(24) Where the boundaries of a county or district combined separate school zone or of a municipality are to be altered effective on or before the 1st day of January next following a

regular election under the *Municipal Elections Act*, the boundaries shall be deemed, for the purposes of subsections (1) to (23), to have been so altered, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

(25) A new city that is to be erected effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of subsections (1) to (24), to have been erected, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election. New city

8. Subsection 126 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 21, is amended by striking out “prescribed form” in the first line and inserting in lieu thereof “form prescribed by the regulations”.

9. Form 2 of Part IV of the said Act is repealed.

10. Paragraph 38 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

38. with the approval of the Minister, conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not conduct an education program. programs in
detention
homes

11.—(1) Subsection 158 (1) of the said Act is amended by inserting after “and” in the sixth line “subject to subsection (1b)”.

(2) Section 158 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 42, is further amended by adding thereto the following subsection:

(1b) Where, pursuant to a collective agreement, or a policy of the board, an employee to whom subsection (1) applies has elected to accept a reduction in employment from full-time to part-time employment in respect of one or more years or school years, as the case may be, including the year or school year immediately preceding his termination of employment by reason of retirement, the limitation upon the amount of the gratuity payable under subsection (1) does not apply to the employee and, in lieu thereof, the maximum amount receivable by the employee shall not be in excess of an amount equal to one-half of the full-time annual rate of the earnings Idem

received by the employee for the last complete year or school year, as the case may be, in which the employee was employed by the board. ▲

12. Subsection 165 (3) of the said Act is amended by striking out “subsection (1) or (2)” in the first and second lines and inserting in lieu thereof “subsection (1), (1a) or (2)”.

13. Subsection 170 (1) of the said Act is repealed and the following substituted therefor:

Disposal
of realty

(1) A board that is in possession of real property that was originally granted by the Crown for school purposes and that has reverted or may have reverted to the Crown may continue in possession of the real property for school purposes and when the board determines that the real property is no longer required for school purposes, the board may, with the approval of the Lieutenant Governor in Council and subject to such conditions as are prescribed by the Lieutenant Governor in Council, sell, lease or otherwise dispose of the real property.

14. Clause 182 (7) (c) of the said Act is amended by striking out “74 (4) (b)” in the third line and inserting in lieu thereof “74 (4) (a)”.

15. Section 215 of the said Act is amended by adding thereto the following subsections:

Transfer of
payments

(9) The council of each municipality shall cause each instalment that the council is required by subsections (1) to (8) to pay to a board to be delivered to the board not later than noon on, or deposited in the board's bank account for credit to the board not later than, the date on which the council is required by those subsections to pay the instalment.

Interpretation

(10) In this section, “bank account”, in relation to a board, means the account kept in a chartered bank of Canada in the name of the board and designated by the board for the purpose of this section.

Business
days

(11) The council of a municipality that is required by subsections (1) to (10) to pay an instalment on a date that falls on a Saturday, a Sunday or any other day on which the offices of the board are not open for business shall comply with subsection (9) on the day on which the offices of the board are open for business next preceding the instalment due date. ▲

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

252a.—(1) A board that is required by this Act to employ a director of education in any year or that appoints a director of education or a supervisory officer with the approval of the Minister shall not abolish the position of director of education or supervisory officer, as the case may be, without the approval of the Minister. Abolition of position

(2) Where, before this section comes into force, a board has abolished a position mentioned in subsection (1), the Minister may require the board to re-establish the position and the board shall comply with the requirement forthwith. Idem

17.—(1) Subsection 258 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section, Interpretation

- (a) “board” means a board of education, public school board or separate school board;
- (b) “French-language instructional unit” means a class, group of classes or school in which French is the language of instruction;
- (c) “French-speaking person” means a child of a person who has the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive primary and secondary school instruction in the French language in Ontario.

(2) Subsection 258 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 61, is repealed and the following substituted therefor:

(2) Every French-speaking person who is qualified under this Act to be a resident pupil of a board has the right to receive elementary school instruction in a French-language instructional unit operated or provided by the board. Right to instruction in French-language instructional unit

(3) Subsections 258 (3) to (6) of the said Act are repealed and the following substituted therefor:

(3) Every board that has one or more resident pupils who exercise their right to receive instruction in a French-language instructional unit shall establish and operate one or more French-language instructional units for those pupils or shall enter into an agreement with another board to enable those pupils to receive instruction in a French-language instructional unit operated by the other board. Duty of board to provide French-language instructional unit

Meals,
lodging and
transportation

(4) A board that provides a French-language instructional unit for elementary school instruction by means of an agreement with another board shall provide to each French-speaking resident pupil of the first-mentioned board who is a pupil in the French-language instructional unit and resides with the parent or other person who has lawful custody of the pupil more than twenty-four kilometres from the French-language instructional unit,

- (a) an allowance payable monthly in an amount set by the board for meals and lodging for each day of attendance as certified by the principal in respect of the French-language instructional unit and for transportation once a week from the pupil's residence to the lodging and return; or
- (b) daily transportation in a manner determined by the board from the pupil's residence to the French-language instructional unit and return, where the parent or other person who has lawful custody of the pupil elects to have daily transportation.

English as
a subject of
instruction

(5) English may be a subject of instruction in any grade in a French-language instructional unit mentioned in subsection (2).

Idem,
grades 5, 6,
7 and 8

(6) English shall be a subject of instruction in grades 5, 6, 7 and 8 in every French-language instructional unit.

Admission
of pupils
other than
French-
speaking
pupils

(6a) A board, on the request of the parent of a pupil of the board who is not a French-speaking person, or of a person who has lawful custody of a pupil of the board who is not a French-speaking person, or of a pupil of the board who is an adult and is not a French-speaking person, may admit the pupil to a French-language instructional unit if the admission is approved by majority vote of an admissions committee appointed by the board and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in the school and a French-speaking supervisory officer employed by the board or arranged for in accordance with subsection (7).

(4) Subsection 258 (8) of the said Act is repealed and the following substituted therefor:

English-
language
schools
or classes

(8) Where a board provides one or more French-language elementary schools, a resident pupil of the board has the right to receive instruction in the English language and subsections (2), (3) and (4) apply with necessary modifications in respect of the resident pupil and the board.

18.—(1) Clause 260 (a) of the said Act is amended by adding at the end thereof “or a secondary school board formed under section 69”.

(2) Section 260 of the said Act is amended by adding thereto the following clause:

- (ca) “French-speaking person” means a child of a person who has the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive primary and secondary school instruction in the French language in Ontario.

19. Section 261 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 62, is repealed and the following substituted therefor:

261.—(1) Every French-speaking person who is qualified under this Act to be a resident pupil of a board has the right to receive secondary school instruction in a French-language instructional unit operated or provided by the board.

Right to instruction in French-language instructional unit

(2) Every board that has one or more resident pupils who exercise their right to receive instruction in a French-language instructional unit shall establish and operate one or more French-language instructional units for those pupils or shall enter into an agreement with another board to enable those pupils to receive instruction in a French-language instructional unit operated by the other board.

Duty of board to provide French-language instructional unit

(3) A board that provides a French-language instructional unit for secondary school instruction by means of an agreement with another board shall provide to each French-speaking resident pupil of the first-mentioned board who is a pupil in the French-language instructional unit and resides with the parent or other person who has lawful custody of the pupil more than twenty-four kilometres from the French-language instructional unit,

Meals, lodging and transportation

- (a) an allowance payable monthly in an amount set by the board for meals and lodging for each day of attendance as certified by the principal in respect of the French-language instructional unit and for transportation once a week from the pupil's residence to the lodging and return; or
- (b) daily transportation in a manner determined by the board from the pupil's residence to the French-language instructional unit and return, where the par-

ent or other person who has lawful custody of the pupil elects to have daily transportation.

20. Subsection 268 (1) of the said Act is repealed and the following substituted therefor:

Attendance
of committee
chairman at
board
committee
meeting

(1) The chairman of the committee or a member of the committee designated by the chairman of the committee has the right to attend a meeting of a committee of the board, including a committee of the whole board, and shall be given the opportunity to be heard at the meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of the committee of the board or the committee of the whole board, as the case may be.

21. Section 271 of the said Act is repealed.

22. Subsection 272 (1) of the said Act is amended by striking out “number of pupils of the board elect” in the second and third lines and inserting in lieu thereof “pupil of the board elects”.

23. Subsection 273 (1) of the said Act is amended by striking out “an English-speaking pupil of the board” in the first and second lines and inserting in lieu thereof “a pupil of the board who is not a French-speaking person”.

24. Subsection 277 (2) of the said Act is repealed and the following substituted therefor:

Resolution
by board

(2) Within thirty days of the receipt by the board of the recommendation of the Commission, the board shall resolve either to implement the recommendation or not to implement the recommendation.

Notice to
Commission

(3) The board shall give to the Commission written notice of the resolution.

Where board
resolves not
to implement
recommen-
dation

(4) A board that resolves not to implement the recommendation shall also give to the Minister written notice of the resolution and shall give to the Minister and to the Commission written reasons for the decision.

Time for
notices
and reasons

(5) The board shall give the notices and reasons within the thirty day period mentioned in subsection (2).

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

277a.—(1) A board that resolves not to implement the recommendation of the Commission may rescind the resolution and resolve to implement the recommendation. Second resolution

(2) In the event of a conflict between subsection (1) and a by-law of the board, subsection (1) prevails. Conflict with by-law

(3) A board must act under subsection (1) within sixty days after receiving the recommendation of the Commission. Time for second resolution

277b.—(1) Where a board does not resolve to implement the recommendation of the Commission within the period of time mentioned in section 277 or 277a, as the case requires, the Commission shall reconsider the matter and shall make a written report and recommendation to the Minister in respect of the matter. Reconsideration by Commission

(2) The Minister shall consider the report and recommendation of the Commission under subsection (1) and shall make such order to the board or the Commission, or both, to deal with the matter as the Minister considers appropriate in the circumstances. Order by Minister

(3) The report and recommendation of the Commission are not binding upon the Minister, and the Minister is not required to give to any person an opportunity to make submissions or to be heard before making an order under subsection (2). Report and recommendation not binding on Minister

(4) An order by the Minister under subsection (2), exclusive of the reasons, if any, therefor may be filed in the office of the Registrar of the Supreme Court, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as an order of that court. Enforcement of order

(5) An order by the Minister under subsection (2), Service of order

(a) to a board is effective according to its terms when a copy is served upon the secretary of the board; and

(b) to the Commission is effective according to its terms when a copy is served upon the chairman of the Commission.

26.—(1) This Act, except sections 17, 18, 19, 21, 22 and 23, comes into force on the day it receives Royal Assent. Commencement

Idem

(2) Sections 17, 18, 19, 21, 22 and 23 come into force on the 1st day of September, 1985.

Short title

27. The short title of this Act is the *Education Amendment Act, 1984*.

Bill 119

*(Chapter 60
Statutes of Ontario, 1984)*

An Act to amend the Education Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

<i>1st Reading</i>	June 27th, 1984
<i>2nd Reading</i>	October 23rd, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 119

1984

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. Subparagraph ii of paragraph 10a of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 32, section 1, is repealed and the following substituted therefor:

- ii. is acceptable to the Minister as partial fulfilment of the requirements for the Ontario secondary school diploma, the secondary school graduation diploma or the secondary school honour graduation diploma, as the case may be.

2. Clause 8 (1) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 3, is amended by striking out "*Workmen's Compensation Act*" in the fourth line and inserting in lieu thereof "*Workers' Compensation Act*".

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

8a. The Minister may require a person or organization that has received financial assistance under this Act or the regulations to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

Accounting statement related to assistance by Ministry R.S.O. 1980, c. 405

4. Clause 10 (8) (d) of the said Act is repealed and the following substituted therefor:

- (d) prescribing the conditions under which fees shall be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of edu-

fees for evaluations

cational standing, and prescribing the amounts of the fees.

5. Subsection 15 (7) of the said Act is amended by inserting after "to" where it occurs the first time in the fourth line "the Ontario secondary school diploma".

6.—(1) Subsection 59 (7) of the said Act is repealed and the following substituted therefor:

Application
of subs. (4-6)

R.S.O. 1980,
c. 308

(7) Determinations shall be made under subsections (4), (5) and (6) before the 1st day of September in each year in which a regular election is to be held under the *Municipal Elections Act*.

(2) Subsection 59 (9) of the said Act is amended by striking out "and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection (3) or the boundaries of one or more county or district municipalities within the school division are altered or are to be altered effective on or before the 1st day of January next following the election" in the twenty-sixth to the thirty-second lines.

(3) Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16, is further amended by adding thereto the following subsection:

New city

(34) A new city that is to be erected effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of subsections (1) to (33), to have been erected, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

7.—(1) Subsection 113 (6) of the said Act is repealed and the following substituted therefor:

Application
of subs. (4)

R.S.O. 1980,
c. 308

(6) A determination shall be made under subsection (4) before the 1st day of September in each year in which a regular election is to be held under the *Municipal Elections Act*.

(2) Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37, is further amended by adding thereto the following subsections:

Change of
boundaries

(24) Where the boundaries of a county or district combined separate school zone or of a municipality are to be altered effective on or before the 1st day of January next following a

regular election under the *Municipal Elections Act*, the boundaries shall be deemed, for the purposes of subsections (1) to (23), to have been so altered, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election.

(25) A new city that is to be erected effective on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of subsections (1) to (24), to have been erected, but this subsection does not apply in respect of determining the persons responsible for performing duties in connection with the regular election. New city

8. Subsection 126 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 21, is amended by striking out "prescribed form" in the first line and inserting in lieu thereof "form prescribed by the regulations".

9. Form 2 of Part IV of the said Act is repealed.

10. Paragraph 38 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

38. with the approval of the Minister, conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not conduct an education program. programs in
detention
homes

11.—(1) Subsection 158 (1) of the said Act is amended by inserting after "and" in the sixth line "subject to subsection (1b)".

(2) Section 158 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 42, is further amended by adding thereto the following subsection:

(1b) Where, pursuant to a collective agreement, or a policy of the board, an employee to whom subsection (1) applies has elected to accept a reduction in employment from full-time to part-time employment in respect of one or more years or school years, as the case may be, including the year or school year immediately preceding his termination of employment by reason of retirement, the limitation upon the amount of the gratuity payable under subsection (1) does not apply to the employee and, in lieu thereof, the maximum amount receivable by the employee shall not be in excess of an amount equal to one-half of the full-time annual rate of the earnings Idem

received by the employee for the last complete year or school year, as the case may be, in which the employee was employed by the board.

12. Subsection 165 (3) of the said Act is amended by striking out “subsection (1) or (2)” in the first and second lines and inserting in lieu thereof “subsection (1), (1a) or (2)”.

13. Subsection 170 (1) of the said Act is repealed and the following substituted therefor:

Disposal
of realty

(1) A board that is in possession of real property that was originally granted by the Crown for school purposes and that has reverted or may have reverted to the Crown may continue in possession of the real property for school purposes and when the board determines that the real property is no longer required for school purposes, the board may, with the approval of the Lieutenant Governor in Council and subject to such conditions as are prescribed by the Lieutenant Governor in Council, sell, lease or otherwise dispose of the real property.

14. Clause 182 (7) (c) of the said Act is amended by striking out “74 (4) (b)” in the third line and inserting in lieu thereof “74 (4) (a)”.

15. Section 215 of the said Act is amended by adding thereto the following subsections:

Transfer of
payments

(9) The council of each municipality shall cause each instalment that the council is required by subsections (1) to (8) to pay to a board to be delivered to the board not later than noon on, or deposited in the board's bank account for credit to the board not later than, the date on which the council is required by those subsections to pay the instalment.

Interpretation

(10) In this section, “bank account”, in relation to a board, means the account kept in a chartered bank of Canada in the name of the board and designated by the board for the purpose of this section.

Business
days

(11) The council of a municipality that is required by subsections (1) to (10) to pay an instalment on a date that falls on a Saturday, a Sunday or any other day on which the offices of the board are not open for business shall comply with subsection (9) on the day on which the offices of the board are open for business next preceding the instalment due date.

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

252a.—(1) A board that is required by this Act to employ a director of education in any year or that appoints a director of education or a supervisory officer with the approval of the Minister shall not abolish the position of director of education or supervisory officer, as the case may be, without the approval of the Minister. Abolition of position

(2) Where, before this section comes into force, a board has abolished a position mentioned in subsection (1), the Minister may require the board to re-establish the position and the board shall comply with the requirement forthwith. Idem

17.—(1) Subsection 258 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section, Interpretation

- (a) “board” means a board of education, public school board or separate school board;
- (b) “French-language instructional unit” means a class, group of classes or school in which French is the language of instruction;
- (c) “French-speaking person” means a child of a person who has the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive primary and secondary school instruction in the French language in Ontario.

(2) Subsection 258 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 61, is repealed and the following substituted therefor:

(2) Every French-speaking person who is qualified under this Act to be a resident pupil of a board has the right to receive elementary school instruction in a French-language instructional unit operated or provided by the board. Right to instruction in French-language instructional unit

(3) Subsections 258 (3) to (6) of the said Act are repealed and the following substituted therefor:

(3) Every board that has one or more resident pupils who exercise their right to receive instruction in a French-language instructional unit shall establish and operate one or more French-language instructional units for those pupils or shall enter into an agreement with another board to enable those pupils to receive instruction in a French-language instructional unit operated by the other board. Duty of board to provide French-language instructional unit

Meals,
lodging and
transportation

(4) A board that provides a French-language instructional unit for elementary school instruction by means of an agreement with another board shall provide to each French-speaking resident pupil of the first-mentioned board who is a pupil in the French-language instructional unit and resides with the parent or other person who has lawful custody of the pupil more than twenty-four kilometres from the French-language instructional unit,

- (a) an allowance payable monthly in an amount set by the board for meals and lodging for each day of attendance as certified by the principal in respect of the French-language instructional unit and for transportation once a week from the pupil's residence to the lodging and return; or
- (b) daily transportation in a manner determined by the board from the pupil's residence to the French-language instructional unit and return, where the parent or other person who has lawful custody of the pupil elects to have daily transportation.

English as
a subject of
instruction

(5) English may be a subject of instruction in any grade in a French-language instructional unit mentioned in subsection (2).

Idem,
grades 5, 6,
7 and 8

(6) English shall be a subject of instruction in grades 5, 6, 7 and 8 in every French-language instructional unit.

Admission
of pupils
other than
French-
speaking
pupils

(6a) A board, on the request of the parent of a pupil of the board who is not a French-speaking person, or of a person who has lawful custody of a pupil of the board who is not a French-speaking person, or of a pupil of the board who is an adult and is not a French-speaking person, may admit the pupil to a French-language instructional unit if the admission is approved by majority vote of an admissions committee appointed by the board and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in the school and a French-speaking supervisory officer employed by the board or arranged for in accordance with subsection (7).

(4) Subsection 258 (8) of the said Act is repealed and the following substituted therefor:

English-
language
schools
or classes

(8) Where a board provides one or more French-language elementary schools, a resident pupil of the board has the right to receive instruction in the English language and subsections (2), (3) and (4) apply with necessary modifications in respect of the resident pupil and the board.

18.—(1) Clause 260 (a) of the said Act is amended by adding at the end thereof “or a secondary school board formed under section 69”.

(2) Section 260 of the said Act is amended by adding thereto the following clause:

- (ca) “French-speaking person” means a child of a person who has the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive primary and secondary school instruction in the French language in Ontario.

19. Section 261 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 62, is repealed and the following substituted therefor:

261.—(1) Every French-speaking person who is qualified under this Act to be a resident pupil of a board has the right to receive secondary school instruction in a French-language instructional unit operated or provided by the board.

Right to instruction in French-language instructional unit

(2) Every board that has one or more resident pupils who exercise their right to receive instruction in a French-language instructional unit shall establish and operate one or more French-language instructional units for those pupils or shall enter into an agreement with another board to enable those pupils to receive instruction in a French-language instructional unit operated by the other board.

Duty of board to provide French-language instructional unit

(3) A board that provides a French-language instructional unit for secondary school instruction by means of an agreement with another board shall provide to each French-speaking resident pupil of the first-mentioned board who is a pupil in the French-language instructional unit and resides with the parent or other person who has lawful custody of the pupil more than twenty-four kilometres from the French-language instructional unit,

Meals, lodging and transportation

- (a) an allowance payable monthly in an amount set by the board for meals and lodging for each day of attendance as certified by the principal in respect of the French-language instructional unit and for transportation once a week from the pupil's residence to the lodging and return; or
- (b) daily transportation in a manner determined by the board from the pupil's residence to the French-language instructional unit and return, where the par-

ent or other person who has lawful custody of the pupil elects to have daily transportation.

20. Subsection 268 (1) of the said Act is repealed and the following substituted therefor:

Attendance of committee chairman at board committee meeting

(1) The chairman of the committee or a member of the committee designated by the chairman of the committee has the right to attend a meeting of a committee of the board, including a committee of the whole board, and shall be given the opportunity to be heard at the meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of the committee of the board or the committee of the whole board, as the case may be.

21. Section 271 of the said Act is repealed.

22. Subsection 272 (1) of the said Act is amended by striking out "number of pupils of the board elect" in the second and third lines and inserting in lieu thereof "pupil of the board elects".

23. Subsection 273 (1) of the said Act is amended by striking out "an English-speaking pupil of the board" in the first and second lines and inserting in lieu thereof "a pupil of the board who is not a French-speaking person".

24. Subsection 277 (2) of the said Act is repealed and the following substituted therefor:

Resolution by board

(2) Within thirty days of the receipt by the board of the recommendation of the Commission, the board shall resolve either to implement the recommendation or not to implement the recommendation.

Notice to Commission

(3) The board shall give to the Commission written notice of the resolution.

Where board resolves not to implement recommendation

(4) A board that resolves not to implement the recommendation shall also give to the Minister written notice of the resolution and shall give to the Minister and to the Commission written reasons for the decision.

Time for notices and reasons

(5) The board shall give the notices and reasons within the thirty day period mentioned in subsection (2).

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

277a.—(1) A board that resolves not to implement the recommendation of the Commission may rescind the resolution and resolve to implement the recommendation. Second resolution

(2) In the event of a conflict between subsection (1) and a by-law of the board, subsection (1) prevails. Conflict with by-law

(3) A board must act under subsection (1) within sixty days after receiving the recommendation of the Commission. Time for second resolution

277b.—(1) Where a board does not resolve to implement the recommendation of the Commission within the period of time mentioned in section 277 or 277a, as the case requires, the Commission shall reconsider the matter and shall make a written report and recommendation to the Minister in respect of the matter. Reconsideration by Commission

(2) The Minister shall consider the report and recommendation of the Commission under subsection (1) and shall make such order to the board or the Commission, or both, to deal with the matter as the Minister considers appropriate in the circumstances. Order by Minister

(3) The report and recommendation of the Commission are not binding upon the Minister, and the Minister is not required to give to any person an opportunity to make submissions or to be heard before making an order under subsection (2). Report and recommendation not binding on Minister

(4) An order by the Minister under subsection (2), exclusive of the reasons, if any, therefor may be filed in the office of the Registrar of the Supreme Court, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as an order of that court. Enforcement of order

(5) An order by the Minister under subsection (2), Service of order

(a) to a board is effective according to its terms when a copy is served upon the secretary of the board; and

(b) to the Commission is effective according to its terms when a copy is served upon the chairman of the Commission.

26.—(1) This Act, except sections 17, 18, 19, 21, 22 and 23, comes into force on the day it receives Royal Assent. Commencement

Idem

(2) Sections 17, 18, 19, 21, 22 and 23 come into force on the 1st day of September, 1985.

Short title

27. The short title of this Act is the *Education Amendment Act, 1984*.

Bill 120

An Act to amend the Municipal Act

Mr. Cureatz

1st Reading June 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would authorize municipalities to pass by-laws requiring the installation and use of specified security devices in shops that are open between 10 p.m. and 5 a.m.

Bill 120

1984

An Act to amend the Municipal Act

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

1. Section 211 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

- (8a) The council of a city, town or village may by by-law, Security devices in all-night shops
- (a) require that specified security devices be installed in all or any class or classes of shops that are open for the serving of customers during any time or hours between 10 o'clock in the afternoon of any day and 5 o'clock in the forenoon of the following day;
 - (b) require that the security devices be used during those hours; and
 - (c) specify the security devices.

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

3. The short title of this Act is the *Municipal Amendment Act, 1984*. Short title

Bill 121

An Act to amend the Ministry of Health Act

Ms Copps

1st Reading June 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to ensure that hospitals and clinics in Ontario comply with and promote the World Health Organization Code of Marketing of Breast Milk Substitutes.

Bill 121**1984****An Act to amend the Ministry of Health Act**

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

1. Subsection 6 (1) of the *Ministry of Health Act*, being chapter 280 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (k) to ensure that,
- (i) all educational or informative literature, equipment and materials related to infant nutrition that are distributed through or used in hospitals or health facilities comply with the World Health Organization Code of Marketing of Breast Milk Substitutes,
 - (ii) hospitals and health facilities take appropriate measures to encourage breast feeding and promote the principles of the World Health Organization Code of Marketing of Breast Milk Substitutes, and
 - (iii) the use of infant formula and similar products is not promoted in or by a hospital or health facility.

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 Health Amendment Act, 1984*. Short title

Bill 122

An Act to revise the Architects Act

The Hon. R. McMurtry
Attorney General

1st Reading March 20th, 1984
2nd Reading March 20th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill revises the *Architects Act*. The main features of the revision are:

1. The Lieutenant Governor in Council will appoint to the Council of the Ontario Association of Architects not fewer than three and not more than five persons who are not architects.
2. The establishment of the Registration Committee, to hear licensing matters, with provision for appeal to the Divisional Court.
3. The establishment of the Complaints Committee, to consider and investigate complaints regarding members of the Association, with power to refer matters to the Discipline Committee.
4. The establishment of the Discipline Committee, to hear and determine specific allegations of professional misconduct or incompetence, with power to impose a wide range of penalties and provision for appeal to the Divisional Court.
5. The establishment of the Fees Mediation Committee to mediate complaints in respect of fees.
6. The availability to persons dissatisfied with the handling of complaints by the Complaints Committee of recourse to the Complaints Review Councillor.
7. Provision is made for the issuance of certificates of practice to engage in the practice of architecture. Corporations and partnerships of corporations that hold certificates of practice will be able to engage in the practice of architecture. The provisions of the Bill related to the Complaints Committee, the Discipline Committee, the Fees Mediation Committee, the functions of the Complaints Review Councillor and investigations by the Registrar will all apply in respect of holders of certificates of practice.
8. The authority of the Council of the Association to make regulations will be subject to the approval of the Lieutenant Governor in Council and to prior review by the Minister. In addition, the Minister may advise the Council of the Association on the implementation of this Act and the regulations.
9. Provision is made for the establishment of a Joint Practice Board to assist the Ontario Association of Architects and the Association of Professional Engineers of Ontario in the maintenance of the professional relationship between the two associations.

Bill 122

1984

An Act to revise the Architects 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:

Interpretation

1. In this Act,

- (a) "Academic Requirements Committee" means the Academic Requirements Committee appointed pursuant to the regulations;
- (b) "architect" means the holder of a licence, a certificate of practice or a temporary licence;
- (c) "architectural services" means services that are part of or are related to the practice of architecture;
- (d) "Association" means Ontario Association of Architects;
- (e) "building" means a structure consisting of a wall, roof and floor, or any one or more of them;
- (f) "by-laws" means by-laws made under this Act;
- (g) "certificate of practice" means certificate of practice to engage in the practice of architecture issued under this Act;
- (h) "Complaints Review Councillor" means the Complaints Review Councillor appointed under this Act;
- (i) "construction" means the doing of anything in the erection, installation, extension or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and, "constructed" has a corresponding meaning;
- (j) "Council" means Council of the Association;
- (k) "design" means a plan, sketch, drawing, graphic representation or specification intended to govern the construction, enlargement or alteration of a building or a part of a building;
- (l) "Experience Requirements Committee" means the Experience Requirements Committee appointed pursuant to the regulations;
- (m) "general certificate of authorization" means general certificate of authorization to provide services that

are within the practice of professional engineering, issued under the *Professional Engineers Act, 1984*; 1984, c. ...

- (n) “general review”, in relation to the construction, enlargement or alteration of a building, means an examination of the building to determine whether the construction, enlargement or alteration is in general conformity with the design governing the construction, enlargement or alteration, and reporting thereon;
- (o) “graphic representation” means a representation produced by electrical, electronic, photographic or printing methods and includes a representation produced on a video display terminal;
- (p) “Joint Practice Board” means the Joint Practice Board under this Act;
- (q) “licence” means licence to engage in the practice of architecture issued under this Act;
- (r) “Minister” means the Attorney General or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (s) “practice of architecture” means,
 - (i) the preparation or provision of a design to govern the construction, enlargement or alteration of a building,
 - (ii) evaluating, advising on or reporting on the construction, enlargement or alteration of a building, or
 - (iii) a general review of the construction, enlargement or alteration of a building;
- (t) “professional engineer” means a person who holds a licence or a temporary licence under the *Professional Engineers Act, 1984*; 1984, c. ...
- (u) “Registrar” means Registrar of the Association;
- (v) “regulations” means regulations made under this Act;

- (w) "temporary licence" means temporary licence to engage in the practice of architecture issued under this Act.

Association

2.—(1) The Ontario Association of Architects, a body corporate, is continued as a corporation without share capital.

Principal object

(2) The principal object of the Association is to regulate the practice of architecture and to govern its members, holders of certificates of practice and holders of temporary licences in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Additional objects

(3) For the purpose of carrying out its principal object, the Association has the following additional objects:

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and standards of practice for the practice of architecture.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To establish and maintain or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of, architecture and the allied arts and sciences.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

Capacity and powers of Association Council

(4) For the purpose of carrying out its objects, the Association has the capacity and the powers of a natural person.

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs.

Composition of Council

(2) The Council shall be composed of,

- (a) not fewer than twelve and not more than twenty persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;

- (b) not fewer than three and not more than five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (c) the immediate past president of the Council, if he is not an elected member of the Council.

(3) No person shall be elected or appointed to the Council unless he is a Canadian citizen resident in Ontario. Idem

(4) The persons appointed under clause (2) (b) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(5) On the first appointment of persons to the Council by the Lieutenant Governor in Council, Term of office, first appointed members

- (a) one-third, or as near thereto as possible, shall be appointed for a one year term;
- (b) one-third, or as near thereto as possible, shall be appointed for a two year term; and
- (c) the remainder shall be appointed for a three year term.

(6) In each year after the first appointments, the persons to be appointed by the Lieutenant Governor in Council shall be appointed for one year, two year or three year terms in order that one-third or as near thereto as possible, shall be appointed in each year. Term of office, appointed members

(7) Every member of the Association who is not in default of payment of the annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council. Qualifications to vote

(8) The Council shall elect a president, a treasurer and one or more vice-presidents from among its elected members. Officers

(9) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association. Registrar and staff

Quorum (10) A majority of the members of the Council constitutes a quorum.

Vacancies (11) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum.

Filling of vacancy (12) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled by a member of the Association,

(a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the member so appointed shall be deemed to be an elected member of the Council; or

(b) where no quorum of the Council remains in office, elected in accordance with the regulations,

and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.

Meetings of Council (13) The Council shall meet at least four times a year.

Continuation of Council members (14) The members of the Council who were in office immediately before the coming into force of this Act are continued in office until the expiration of their terms or until their offices otherwise become vacant.

Annual meetings 4.—(1) The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting.

Proxies (2) A member of the Association entitled to vote at a meeting of members of the Association may, by means of a proxy, appoint a member as his nominee, to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

Membership 5.—(1) Every person licensed by the Association is a member of the Association, subject to any term, condition or limitation to which the licence is subject.

Resignation of membership (2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

6. In addition to his other powers and duties under this Act, the Minister may, Powers
of
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

7.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations, Regulations

- 1. fixing the number of members to be elected to the Council under clause 3 (2) (a) and defining constituencies, and prescribing the number of representatives of each constituency;
- 2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
- 3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- 4. providing for the election of a president, vice-presidents and a treasurer from among the elected members of the Council;
- 5. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the committees and procedures ancillary to those specified in this Act in respect of any committee;
- 6. respecting matters of practice and procedure before committees required under this Act not inconsistent with this Act and the *Statutory Powers Procedure Act*;

7. prescribing the quorums of the committees required by this Act, except the Complaints Committee and the Discipline Committee;
8. prescribing classes of persons whose interests are related to those of the Association and the privileges of persons in the classes in relation to the Association;
9. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of practice and temporary licences, and the requirements and qualifications therefor, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination or courses of study set or approved by the Council as a licensing requirement,
 - ii. the curricula and standards of professional training programs and courses of study offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs and courses of study, and
 - iv. the academic and experience requirements for the issuance of a licence;
10. prescribing terms and conditions of licences, certificates of practice and temporary licences;
11. prescribing forms of applications for licences, certificates of practice and temporary licences and requiring their use;
12. for the purposes of section 21, prescribing a proportion greater than 10 per cent of the shares of corporations that engage in the practice of architecture;
13. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of practice and in respect of the interests of partners that apply for or hold certificates of

practice, and prescribing and requiring the use of forms of such returns;

14. requiring and governing the signing and sealing of documents and designs by members of the Association and holders of temporary licences, specifying the forms of seals and respecting the issuance and ownership of seals;
15. requiring the making of returns of information by members of the Association and holders of certificates of practice and temporary licences in respect of names, addresses, telephone numbers, associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;
16. governing the use of names and designations in the practice of architecture by members of the Association and holders of certificates of practice and temporary licences;
17. providing for the maintenance and inspection of registers of persons permitted to engage in the practice of architecture;
18. prescribing and governing standards of practice and performance standards for the profession;
19. respecting the advertising of the practice of architecture;
20. prescribing a code of ethics;
21. defining professional misconduct for the purposes of this Act;
22. defining classes of specialists among members and holders of certificates of practice and temporary licences, prescribing the qualifications required, providing for the suspension or revocation of any such designation and for the regulation and prohibition of the use of terms, titles or designations indicating specialization by a member or a holder of a certificate of practice or a temporary licence in the practice of architecture;
23. providing for inspection programs related to the practice of architecture, including programs for the inspection of records, other than financial records,

of members of the Association, holders of certificates of practice and holders of temporary licences, but such a program does not authorize inspection of records of a holder of a certificate of practice or temporary licence who is also a holder of a general certificate of authorization unless the inspection of the records, other than financial records, is recommended by the Joint Practice Board;

24. providing for the compilation of statistical data on the supply, distribution and professional activities of members of the Association and holders of temporary licences and professional activities related to the practice of architecture of holders of certificates of practice and on remuneration for the practice of architecture and requiring members of the Association and holders of certificates of practice and temporary licences to provide the information necessary to compile such statistics, but persons engaged in the administration of this Act shall maintain secret the names of persons providing the information as a matter that comes to their knowledge in the course of their duties under this Act;
25. requiring members, holders of certificates of practice or holders of temporary licences, or all of them, to obtain and to maintain insurance against liability that may be incurred in the practice of architecture, respecting the terms and conditions and prescribing the minimum amounts of such insurance, requiring such members and holders to provide to the Registrar proof of the insurance coverage, and respecting the form of the proof and the times when the proof shall be provided;
26. exempting any class of members, holders of certificates of practice or holders of temporary licences from the requirement to be insured in respect of professional liability, and classifying members, holders of certificates of practice or holders of temporary licences for the purpose of such exemption;
27. prohibiting or regulating the practice of architecture where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
28. providing for a program of continuing education of members of the Association;

29. respecting the duties and authority of the Registrar;
30. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence, certificate of practice or temporary licence that was cancelled by the Registrar;
31. classifying and exempting any class of holders of licences, certificates of practice or temporary licences from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
32. specifying acts within the practice of architecture that are exempt from the application of this Act when performed or provided by a member of a prescribed class of persons, and prescribing classes of persons for the purpose of the exemption.

(2) A copy of each regulation made under subsection (1),

Distribution
of
regulations

- (a) shall be forwarded to each member of the Association and to each holder of a certificate of practice or temporary licence; and
- (b) shall be available for public inspection in the office of the Association.

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

By-laws

1. prescribing the seal of the Association;
2. providing for the execution of documents by the Association;
3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;
5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

6. respecting the form and content of proxies, the deposit of proxies with the Association and the manner and proof of revocation of proxies;
7. providing for meetings of the Council and committees, except in a proceeding in respect of a licence, certificate of practice or temporary licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
8. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence, certificate of practice or temporary licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
9. respecting the calling, holding and conducting of meetings of the membership of the Association;
10. prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
11. prescribing the duties of officers of the Association;
12. providing for the appointment of inspectors for the purposes of this Act;
13. prescribing forms and providing for their use;
14. providing procedures for the making, amending and revoking of the by-laws;
15. respecting management of the property of the Association;
16. providing for the appointment, composition, powers and duties of additional or special committees;

17. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
18. respecting the borrowing of money by the Association and the giving of security therefor;
19. respecting membership of the Association in other organizations, the payment of annual assessments and provision for representatives at meetings;
20. providing for the establishment and dissolution and governing the operation of groups of members as societies of the Association and respecting grants by the Association to societies or any of them;
21. authorizing the making of grants for any purpose that may tend to advance knowledge of architectural education, or maintain or improve the standards of practice in architecture or support and encourage public information and interest in the role of architecture in society;
22. respecting scholarships, bursaries and prizes related to the study of architecture;
23. prescribing the amounts of and requiring the payment of annual fees by members of the Association and holders of certificates of practice and temporary licences and by students and members of related classes recognized by the Association, and fees for licensing, temporary licences, certification, registration, examinations, courses of study, professional training programs and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
24. requiring the payment and remittance of premiums in connection with insurance against professional liability arranged by the Association for members of the Association, holders of certificates of practice and holders of temporary licences, and prescribing levies that shall be paid by members of the Association, holders of certificates of practice and holders of temporary licences in respect of professional liability;

25. providing for the establishment of group insurance plans, other than for professional liability, in which members of the Association may participate on a voluntary basis;

26. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

Confirmation
of by-laws

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the Association held after its passing, unless it is confirmed by the meeting.

Distribution
of by-laws

(3) A copy of the by-laws made under subsection (1) and amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member; and

(c) shall be available for public inspection in the office of the Association.

Committees

9.—(1) The Council shall establish and appoint the following committees:

(a) Executive Committee;

(b) Academic Requirements Committee;

(c) Experience Requirements Committee;

(d) Registration Committee;

(e) Complaints Committee;

(f) Discipline Committee;

(g) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than a quorum of the committee.

10.—(1) The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council, other than to make, amend or revoke a regulation or a by-law.

Executive
Committee

(2) Subject to ratification by the Council at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or a by-law.

Urgent
matters

11.—(1) No person shall engage in the practice of architecture or hold himself out as engaging in the practice of architecture unless,

Who may
engage in
practice of
architecture

- (a) the person is licensed under this Act;
- (b) the person is the holder of a certificate of practice or the person is doing so as a member of a partnership that holds a certificate of practice; or
- (c) the person is the holder of a temporary licence under this Act.

➔ (2) No person shall provide to a member of the public a service that is part of the practice of architecture except under and in accordance with a certificate of practice or a temporary licence. ▲

Who may
provide
service
to public

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

Exception

- (a) the preparation or provision of a design for the construction, enlargement or alteration of a building,
 - (i) that is not more than three storeys and not more than 600 square metres in gross area as constructed, enlarged or altered, and
 - (ii) that is used or intended for one or more of residential occupancy, business occupancy, personal services occupancy, mercantile occupancy or industrial occupancy;
- (b) the preparation or provision of a design for the construction, enlargement or alteration of a building that is not more than three storeys and that is used or intended for residential occupancy and,

- (i) that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or
 - (ii) that is not more than 600 square metres in building area as constructed, enlarged or altered and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit;
- (c) the preparation or provision of a design for the construction, enlargement or alteration of a building used directly in the extraction, processing or storage of ore from a mine;
- (d) the preparation or provision, under the personal supervision and direction of a member of the Association or the holder of a temporary licence, of a design for the construction, enlargement or alteration of a building;
- ▼
- (e) the preparation or provision of a design for interior space for a building, including finishes, fixed or loose furnishings, equipment, fixtures and partitioning of space, and related exterior elements such as signs, finishes and glazed openings used for display purposes, that does not affect or is not likely to affect,
- (i) the structural integrity,
 - (ii) a fire safety system or fire separation,
 - (iii) a main entrance or public corridor on a floor,
 - (iv) an exit to a public thoroughfare or to the exterior,
 - (v) the construction or location of an exterior wall, or
 - (vi) the usable floor space through the addition of a mezzanine, infill or other similar element,
- of the building; ▲
- (f) the preparation or provision of a design for alterations within a dwelling unit that will not affect or are not likely to affect fire separations, firewalls,

the strength or safety of the building or the safety of persons in the building;

- ➡
- (g) the doing of an act that is within the practice of architecture but that is exempt from the application of this Act when performed or provided by a member of a class of persons prescribed by the regulations for the purpose of the exemption, if the act is done by a person who is a member of the class.

(4) The following rules govern the relationship between architects and professional engineers, and subsections (1) and (2) do not apply to prevent a professional engineer from preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building in accordance with these rules: ^{Idem}

1. Only an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. used or intended for residential occupancy,
 - ii. that exceeds 600 square metres in gross area, and
 - iii. that does not exceed three storeys,

and carry out the general review of the construction, enlargement or alteration of the building but an architect who prepares or provides such a design may engage a professional engineer to provide services within the practice of professional engineering in connection with the design and the professional engineer may provide the services.

2. An architect or a professional engineer may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. that exceeds 600 square metres in gross area or three storeys, and
 - ii. that is used or intended for,
 - A. industrial occupancy, or
 - B. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where none of the other occu-

pancies exceeds 600 square metres of the gross area,

but only a professional engineer may provide services within the practice of professional engineering in connection with the design.



3. Subject to rules 4 and 5, an architect shall provide services that are within the practice of architecture and a professional engineer shall provide services that are within the practice of professional engineering related to the construction, enlargement or alteration of a building used or intended for,
 - i. assembly occupancy,
 - ii. institutional occupancy,
 - iii. business occupancy or personal services occupancy that exceeds 600 square metres in gross area or three storeys,
 - iv. mercantile occupancy that exceeds 600 square metres in gross area or three storeys,
 - v. residential occupancy that exceeds three storeys,
 - vi. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where one of the other occupancies exceeds 600 square metres in gross area,
 - vii. mixed occupancy consisting of a combination of,
 - A. assembly occupancy and any other occupancy, except industrial occupancy,
 - B. institutional occupancy and any other occupancy, except industrial occupancy,
 - C. one or more of,
 1. business occupancy,
 2. personal services occupancy, or
 3. mercantile occupancy,

and any other occupancy, except assembly occupancy, institutional occupancy or industrial occupancy,

where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

D. residential occupancy that exceeds three storeys and any other occupancy, where the building as constructed, enlarged or altered exceeds 600 square metres in gross area, or

viii. any other occupancy where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

but a professional engineer may provide a design for the industrial occupancy of a mixed occupancy described in subparagraph vi. ▲

4. An architect may perform or provide services that are within the practice of professional engineering in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 2 or 3 where to do so does not constitute a substantial part of the services within the practice of professional engineering related to the construction, enlargement or alteration of the building and is necessary,
 - i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of architecture by the architect in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
5. A professional engineer may perform or provide services that are within the practice of architecture in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 1 or 3 where to do so does not constitute a substantial part of the services within the practice of architec-

ture related to the construction, enlargement or alteration of the building and is necessary,

- i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of professional engineering by the professional engineer in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
6. Only an architect may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by an architect, or
 - ii. in relation to services that are provided by an architect in connection with the design in accordance with which the building is constructed, enlarged or altered.
7. Only a professional engineer may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by a professional engineer, or
 - ii. in relation to services that are provided by a professional engineer in connection with the design in accordance with which the building is constructed, enlarged or altered.
8. An architect or a professional engineer may act as prime consultant for the construction, enlargement or alteration of a building.
9. A reference in these rules to the provision of a design or services by a professional engineer applies equally to a holder of a certificate of authorization issued under the *Professional Engineers Act, 1984*.

1984, c. ...

Idem

(5) Subsections (1) and (2) do not apply to prevent a person from,

- (a) evaluating, advising on or reporting on the construction, enlargement or alteration of a building that does not or is not intended to take the place of evaluating, advising or reporting required to be done by an architect; or
- (b) carrying out a general review of the construction, enlargement or alteration of a building that does not or is not intended to take the place of a general review required to be done by an architect.

(6) In this section,

Interpretation

- (a) “assembly occupancy” means occupancy for gatherings of persons for civic, educational, political, recreational, religious, social, travel or other similar purpose, or for the consumption of food or drink;
- (b) “building area” means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls;
- (c) “business occupancy” means occupancy for the transaction of business;
- (d) “dwelling unit” means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- (e) “fire separation” means a construction assembly that acts as a barrier against the spread of fire and that may or may not have a fire-resistance rating or a fire-protection rating;
- (f) “firewall” means a type of fire separation of non-combustible construction that subdivides a building or separates adjoining buildings to resist the spread of fire and that has a fire-resistance rating prescribed in Ontario Regulation 583/83 (known as the Building Code), as amended from time to time, and has structural stability to remain intact under fire conditions for the fire-resistance time for which it is rated;
- (g) “grade” means the lowest of the average levels of finished ground adjoining each exterior wall of a

building, but does not include localized depressions such as for vehicle or pedestrian entrances;

- (h) “gross area” means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls but in a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall;
- (i) “industrial occupancy” means occupancy for assembling, fabricating, manufacturing, processing, repairing or storing of goods or materials or for producing, converting, processing or storing of energy, waste or natural resources;
- (j) “institutional occupancy” means occupancy for the harbouring, housing or detention of persons who require special care or treatment on account of their age or mental or physical limitations or who are involuntarily detained;
- (k) “mercantile occupancy” means occupancy or use for displaying or selling retail goods, wares or merchandise;
- (l) “personal services occupancy” means occupancy for the rendering or receiving of professional or personal services;
- (m) “residential occupancy” means occupancy for providing sleeping accommodation for persons, but does not include institutional occupancy.

Proof of
practice

(7) For the purposes of this section, proof of the performance of one act in the practice of architecture on one occasion is sufficient to establish engaging in the practice of architecture.

Corporation

12. A corporation that holds a subsisting certificate of practice may engage in the practice of architecture.

Issuance
of
licence

13.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

- (a) is of good character;

- (b) is not less than eighteen years of age;
- (c) is a citizen of Canada or has the status of a permanent resident of Canada or is a member of an organization of architects that is recognized by the Council and that has objects, standards of practice and requirements for membership similar to those of the Association;
- (d) has complied with the academic and experience requirements specified in the regulations for the issuance of the licence or is exempted therefrom by the Council; and
- (e) has passed such examinations and completed such courses of study as the Council may set or approve in accordance with the regulations or is exempted therefrom by the Council.

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of architecture in accordance with the law and with honesty and integrity.

Grounds for refusal to issue licence

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence,

Referral to committee

- (a) to the Academic Requirements Committee for a determination as to whether or not the applicant has met the academic requirements prescribed by the regulations for the issuance of the licence;
- (b) to the Experience Requirements Committee for a determination as to whether or not the applicant has met the experience requirements prescribed by the regulations for the issuance of the licence; or
- (c) first to the Academic Requirements Committee and then to the Experience Requirements Committee for determinations under clauses (a) and (b).

(4) A determination by a committee under subsection (3) is final and is binding on the Registrar and on the applicant.

Determination by committee

(5) A committee shall receive written representations from an applicant but is not required to hold or to afford to any

Hearing

person a hearing or an opportunity to make oral submissions before making a determination under subsection (3).

Notice
of
determination

(6) The Registrar shall give notice to the applicant of a determination by a committee under subsection (3) and, if the applicant is rejected, the notice shall detail the specific requirements that the applicant must meet.

Issuance of
certificate of
practice to
corporation

14.—(1) The Registrar shall issue a certificate of practice to a corporation that applies therefor in accordance with the regulations if,

- (a) a majority of the directors of the corporation is composed of,
 - (i) members of the Ontario Association of Architects, or
 - (ii) members of the Ontario Association of Architects and members of the Association of Professional Engineers of Ontario;
- (b) a majority of each class of shares of the corporation is owned by and registered in the names of,
 - (i) members of the Ontario Association of Architects, or
 - (ii) members of the Ontario Association of Architects and members of the Association of Professional Engineers of Ontario,

and any other persons who own or in whose names shares of any class of shares of the corporation are registered are employees of the corporation who devote their full time to the work of the corporation;

- (c) the primary function of the corporation is to engage in the practice of architecture; and
- (d) at least one of the directors or full-time employees of the corporation is a member of the Association who will personally supervise and direct the practice of architecture by the corporation.

Idem

(2) The Registrar shall issue a certificate of practice to a corporation that applies therefor in accordance with the regulations if,

- (a) the corporation holds a general certificate of authorization issued under the *Professional Engineers Act, 1984*; 1984, c. ...
- (b) a majority of the directors of the corporation is composed of,
- (i) members of the Association of Professional Engineers of Ontario, or
 - (ii) members of the Ontario Association of Architects and members of the Association of Professional Engineers of Ontario;
- (c) a majority of each class of shares of the corporation is owned by and registered in the names of,
- (i) members of the Association of Professional Engineers of Ontario, or
 - (ii) members of the Association of Professional Engineers of Ontario and members of the Ontario Association of Architects,

and any other persons who own or in whose names shares of any class of shares of the corporation are registered are employees of the corporation who devote their full time to the work of the corporation; and

- (d) at least one of the directors or full-time employees of the corporation is a member of the Association who will personally supervise and direct the practice of architecture by the corporation.

(3) The Registrar may refuse to issue a certificate of practice to a corporation or may suspend or revoke a certificate of practice issued to a corporation where the Registrar is of the opinion, upon reasonable and probable grounds,

Grounds for refusal to issue or for revocation of certificate of practice

- (a) that the corporation fails to comply with section 21; or
- (b) that the corporation fails to comply with the requirements for the issuance of the certificate of practice set out in subsection (1) or (2).

15.—(1) The Registrar shall issue a certificate of practice to a partnership of members of the Association that applies therefor in accordance with the regulations and that proposes

Issuance of certificate of practice to partnership

to engage in or hold itself out as engaging in the practice of architecture.

Idem

(2) The Registrar shall issue a certificate of practice to a partnership of members of the Association of Professional Engineers of Ontario that applies therefor in accordance with the regulations and that,

- (a) holds a general certificate of authorization; and
- (b) employs at least one member of the Association who will personally supervise and direct the practice of architecture by the partnership.

Idem

(3) The Registrar shall issue a certificate of practice to a partnership of one or more members of the Ontario Association of Architects and one or more members of the Association of Professional Engineers of Ontario that holds a general certificate of authorization and that applies therefor in accordance with the regulations and that proposes to engage in or hold itself out as engaging in the practice of architecture.

Issuance of certificate of practice to partnership of corporations

16. The Registrar shall issue a certificate of practice to a partnership of corporations if one or more of the corporations holds a certificate of practice and each of the others, if any, holds a general certificate of authorization and meets the requirements of clauses 14 (2) (b) and (c).

Issuance of certificate of practice to member of Association

17.—(1) The Registrar shall issue a certificate of practice to a member of the Association who applies therefor in accordance with the regulations.

Refusal or revocation

(2) The Registrar may refuse to issue a certificate of practice to a member of the Association or may suspend or revoke a certificate of practice held by a member of the Association where the Registrar is of the opinion, upon reasonable and probable grounds, that the member has not engaged in the practice of architecture during the period of five years preceding the date of the refusal or revocation.

Issuance of certificate of practice to member of A.P.E.O.

18. The Registrar shall issue a certificate of practice to a member of the Association of Professional Engineers of Ontario who applies therefor in accordance with the regulations and who,

- (a) holds a general certificate of authorization; and
- (b) employs at least one member of the Association who will personally supervise and direct the practice

of architecture by the holder of the certificate of practice.

19. The Registrar shall issue a licence or a certificate of practice upon a direction of the Council made in accordance with a recommendation by the Joint Practice Board.

Issuance of licence or certificate of practice on direction of Council

20.—(1) The Registrar may refuse to issue a certificate of practice to a corporation, a partnership, a partnership of corporations or a natural person, or may suspend or revoke a certificate of practice, where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct,

Refusal or revocation of certificate of practice related to past conduct

- (a) in the case of a corporation, of an officer, director or employee of the corporation;
- (b) in the case of a partnership, of a member or employee of the partnership;
- (c) in the case of a partnership of corporations, of a member or employee of the partnership or of an officer, director or employee of a member of the partnership; or
- (d) in the case of a natural person, of the natural person,

affords grounds for belief that the corporation, partnership, partnership of corporations or natural person, as the case may be, will not engage in the practice of architecture in accordance with the law and with honesty and integrity.

(2) A holder of a certificate of practice ceases to be entitled to offer to the public or to provide to the public services that are within the practice of architecture as soon as there is no member of the Association who personally supervises and directs the practice of architecture by the holder of the certificate of practice.

Suspension of effect of certificate of practice

(3) The holder of a certificate of practice must give notice to the Registrar when there ceases to be a member of the Association who personally supervises and directs the practice of architecture by the holder of the certificate of practice and when the holder of the certificate of practice designates another member of the Association to personally supervise and direct such practice of architecture.

Notice to Registrar by holder of certificate of practice

(4) A member of the Association who ceases to personally supervise and direct the practice of architecture by a holder of

Notice to Registrar by person in position of professional responsibility

a certificate of practice as the person so designated by the holder of the certificate of practice shall give notice of the cessation forthwith to the Registrar.

Past conduct (5) The Registrar may suspend or revoke a certificate of practice where the Registrar is of the opinion, upon reasonable and probable grounds,

- (a) that the holder of the certificate of practice does not meet the requirements or the qualifications for the issuance of the certificate of practice set out in the regulations; or
- (b) that there has been a breach of a condition of the certificate of practice.

Requirement
re
corporations

21.—(1) No corporation shall engage in the practice of architecture if a person who is not a member of the Association or of the Association of Professional Engineers of Ontario,

- (a) beneficially owns, directly or indirectly;
- (b) exercises control or direction over; or
- (c) beneficially owns, directly or indirectly, shares of any class of shares of the corporation and, together with another shareholder or other shareholders associated with the person, exercises control or direction over,

more than 10 per cent or such greater proportion as may be prescribed by regulation of the total number of issued and outstanding shares of any class of shares of the corporation.

Interpretation

(2) For the purposes of this section,

- (a) where a share is owned jointly and one of the joint owners is a person who is not a member of the Association or of the Association of Professional Engineers of Ontario, the share shall be deemed to be owned by the person;
- (b) each share that carries the right to more than one vote shall be calculated as the number of shares equal to the total number of votes carried by the share;
- (c) a shareholder shall be deemed to be associated with another shareholder where,

- (i) one shareholder is a corporation of which the other shareholder is an officer or director,
 - (ii) one shareholder is a partnership of which the other shareholder is a partner,
 - (iii) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder,
 - (iv) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder,
 - (v) both shareholders are members of a voting trust, where the trust relates to shares of a corporation, or
 - (vi) both shareholders are associated within the meaning of subclauses (i) to (v) with the same shareholder;
- (d) a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations where,
- (i) shares of the first-mentioned corporation carrying, either under all circumstances or under circumstances that have occurred and are continuing, 50 per cent of the votes for the election of directors, otherwise than by way of security only, by or for the benefit of the other person or corporation or by or for the benefit of the other corporations, and
 - (ii) the votes carried by the shares are sufficient, if exercised, to elect a majority of the directors of the first-mentioned corporation.

22.—(1) It is a condition of every certificate of practice held by a corporation, a partnership or a partnership of corporations that the holder of the certificate of practice shall provide services that are within the practice of architecture only under the personal supervision and direction of a member of the Association who is,

Supervision
by
architect

- (a) in the case of a corporation, an officer, director or full-time employee of the corporation;

- (b) in the case of a partnership, a member or full-time employee of the partnership; or
- (c) in the case of a partnership of corporations, an officer, director or full-time employee of a member of the partnership or a full-time employee of the partnership.

Professional responsibility of supervising architect

(2) A member of the Association who personally supervises and directs the practice of architecture by a holder of a certificate of practice is subject to the same standards of professional conduct and competence in respect of such practice of architecture as if the member personally engaged in the practice of architecture.

Limited certificate of practice

23.—(1) The Registrar shall issue a certificate of practice,

- (a) to a corporation incorporated under the laws of a jurisdiction other than Ontario;
- (b) to a partnership of corporations incorporated under the laws of a jurisdiction other than Ontario; or
- (c) to a partnership formed under the laws of a jurisdiction other than Ontario,

if the corporation, partnership of corporations or partnership is licensed or authorized to practise architecture by the jurisdiction other than Ontario, applies in accordance with the regulations and meets the requirements and qualifications set out in the regulations for the issuance of the certificate of practice.

Conditions

(2) Every certificate of practice issued under subsection (1) is subject to the conditions prescribed by the regulations.

Limitation

(3) A certificate of practice issued under subsection (1) is not valid except in respect of the architectural project described in the certificate of practice.

Application of ss. 21, 22

(4) Sections 21 and 22 do not apply to a corporation, partnership of corporations or partnership that is issued a certificate of practice under subsection (1).

Temporary licence

24.—(1) The Registrar shall issue a temporary licence to a natural person who applies therefor in accordance with the regulations and who meets the requirements and qualifications for the issuance of the temporary licence set out in the regulations, whether or not the applicant is a Canadian citizen or has the status of a permanent resident of Canada.



(2) The Registrar may refuse to issue or may suspend or revoke a temporary licence where the Registrar is of the opinion, upon reasonable and probable grounds,

Grounds for refusal, suspension or revocation

- (a) that the past conduct of the applicant for or the holder of the temporary licence affords grounds for the belief that the applicant or holder will not engage in the practice of architecture in accordance with the law and with honesty and integrity;
- (b) that the holder of the temporary licence does not meet the requirements or the qualifications for the issuance of the temporary licence set out in the regulations; or
- (c) that there has been a breach of a condition of the temporary licence.

(3) Subsections 13 (3) to (6) (which relate to the Academic Requirements Committee and the Experience Requirements Committee) apply with necessary modifications in respect of an applicant for a temporary licence.

Referral to committees

(4) Every temporary licence is subject to the conditions prescribed by the regulations.

Conditions

(5) A temporary licence is not valid except in respect of the architectural project described in the temporary licence.

Extent of temporary licence

(6) Subsection (1) does not apply in respect of a member or a holder of a certificate of practice.

Application of subs. (1)

(7) A temporary licensee is not a member of the Association.

Membership

25.—(1) Where the Registrar proposes,



- (a) to refuse an application for a licence, a certificate of practice or a temporary licence;
- (b) to suspend or revoke a certificate of practice or a temporary licence; or
- (c) to issue a licence, a certificate of practice or a temporary licence subject to terms, conditions or limitations,

Proposal to refuse to issue, suspend, revoke or impose conditions

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant.

Exceptions

(2) Subsection (1) does not apply in respect of a proposal to refuse to issue a licence, a certificate of practice or a temporary licence where,

- (a) the Academic Requirements Committee has determined that the applicant has not met the academic requirements set out in the regulations for the issuance of the licence or the temporary licence;
- (b) the Experience Requirements Committee has determined that the applicant has not met the experience requirements set out in the regulations for the issuance of the licence or the temporary licence; or
- (c) the applicant previously held a licence, a certificate of practice or a temporary licence that was suspended or revoked as a result of a decision of the Discipline Committee.

Notice

(3) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee and the applicant may so require such a hearing.

Power of Registrar where no hearing

(4) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (3), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(5) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (1), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Disability of member

(6) Where the Registration Committee commences a hearing and a member of the Registration Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Continuation on expiry of committee membership

(7) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceed-

ing in the same manner as if his term of office had not expired or been terminated.

(8) Following upon a hearing under this section in respect of a proposal by the Registrar, the Registration Committee may, by order, Powers of
Registration
Committee

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of architecture with competence and integrity, direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be, to the applicant;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,
 - (i) direct the Registrar to refuse to issue a licence, certificate of practice or temporary licence, or to revoke the certificate of practice issued to the applicant, as the case may be, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of architecture with competence and integrity, exempt the applicant from any of the requirements of this Act and the regulations and direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of architecture with competence and integrity,
 - (i) require the applicant to take and successfully complete such examinations as the Registration Committee may set or approve and to pay such fees therefor as the Registration Committee fixes,
 - (ii) require the applicant to take such additional training as the Registration Committee specifies, or

- (iii) direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies.

Extension of time for requiring hearing

(9) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Parties

(10) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Opportunity to show compliance

(11) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue of the licence, the certificate of practice or the temporary licence.

Examination of documentary evidence

(12) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(13) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for both parties to participate, but the Registration Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

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

Only members at hearing to participate in decision

(15) No member of the Registration Committee shall participate in a decision of the Registration Committee following

upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

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

Release of documentary evidence

(17) In this section, "applicant" means applicant for the issuance of a licence, or applicant for or holder of a certificate of practice or a temporary licence.

Applicant

26. A corporation that holds a certificate of practice has the same rights and is subject to the same obligations in respect of fiduciary, confidential and ethical relationships with each client of the corporation that exist at law between a member of the Association and his client.

Relationship between corporation and client

27.—(1) The Registrar shall maintain one or more registers in which is entered every person who is licensed under this Act and every holder of a certificate of practice or temporary licence, identifying the terms, conditions and limitations attached to the licence, certificate of practice or temporary licence, and shall note on the register every revocation, suspension and cancellation or termination of a licence, certificate of practice or temporary licence and such other information as the Registration Committee or Discipline Committee directs.

Registers

(2) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar.

Inspection

(3) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar.

Copies

(4) Every certificate of membership and every temporary licence issued under the *Architects Act*, being chapter 26 of the Revised Statutes of Ontario, 1980, or a predecessor thereof, and in effect immediately before this Act comes into force continues in the same manner as if issued as a licence or a temporary licence, as the case requires, under this Act.

Continuation of certificates

28.—(1) The Registrar may cancel a licence, certificate of practice or temporary licence for non-payment of any fee prescribed by the by-laws after giving the member or the holder of the certificate of practice or temporary licence at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of

Cancellation for default of fees

any disciplinary action arising out of his professional conduct while a member or holder.

Reinstatement

(2) A person who was a member or a holder of a certificate of practice or temporary licence whose licence, certificate of practice or temporary licence was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of practice or temporary licence reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Complaints Committee

29.—(1) The Complaints Committee shall be composed of,

- (a) at least one member of the Council who was elected to the Council;
- (b) at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (c) such other members of the Association as may be appointed by the Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be chairman.

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person elected to the Council, constitute a quorum.

Duties of Complaints Committee

30.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of any member of the Association or holder of a certificate of practice or a temporary licence, but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint has been filed with the Registrar and the member or holder whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member or holder may wish to make concerning the matter; and

- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may, Idem

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor. Decision and reasons

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 32. Notice

(5) The Committee is not required to hold a hearing or to afford to any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this section. Hearing

31.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council. Complaints Review Councillor

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee. Idem

32.—(1) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association. Examination by Complaints Review Councillor

(2) Where a complaint respecting a member of the Association or a holder of a certificate of practice or a temporary licence has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Review by Complaints Review Councillor

Registrar, upon application by the complainant or on his own initiative the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee.

Application
to
Complaints
Review
Councillor

(3) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint.

Complaints
Review
Councillor
not to
inquire
into merit
of complaint

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

Discretionary
power of
Complaints
Review
Councillor

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

- (a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or
- (b) in the opinion of the Complaints Review Councillor,
 - (i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or
 - (ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

Notice

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Office
accommo-
dation

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private. Privacy

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit. Receipt of information

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in relation to an examination, review or report in respect of the Association. Hearing not required

(11) Every person who is, Duty to furnish information

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association. Report by Complaints Review Councillor

(13) Where the report follows upon an examination of the procedure for the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council. Report following upon examination

(14) Where the report follows upon a review as to the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against. Report following upon review

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister. Report to Minister

ter where, in the opinion of the Complaints Review Councillor, the report should be brought to the attention of the Minister.

Recommendations

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Consideration by Council

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Discipline Committee

33.—(1) The Discipline Committee shall be composed of,

- (a) at least one person appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council;
- (b) at least one person who is a member of the Council appointed by the Lieutenant Governor in Council; and
- (c) the persons appointed to the Discipline Committee by the Council from among the members of the Association who have not less than ten years experience in the practice of architecture.

Quorum and votes

(2) Three members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability of member

(3) Where the Discipline Committee commences a hearing and a member of the Discipline Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Chairman

(4) The Council shall name one member of the Discipline Committee who is a member of and elected to the Council to be chairman.

Reference by Council

(5) The Council, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of practice or a temporary licence specified in the resolution.

34.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) when so directed by the Council or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association or a holder of a certificate of practice or a temporary licence;
- (b) hear and determine matters referred to it under section 30, 33 or 42; and
- (c) perform such other duties as are assigned to it by the Council.

(2) A member of the Association or a holder of a certificate of practice or a temporary licence may be found guilty of professional misconduct by the Committee if,

Professional
misconduct

- (a) the member or holder has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(3) The Discipline Committee may find a member of the Association or a holder of a certificate of practice or a temporary licence to be incompetent if in its opinion,

Incompetence

- (a) the member or holder has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public the member or holder serves of a nature or to an extent that demonstrates the member or holder is unfit to carry out the responsibilities of an architect; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member or holder that the member or holder no longer be permitted to engage in the practice of architecture or that his practice of architecture be restricted.

(4) Where the Discipline Committee finds a member of the Association or a holder of a certificate of practice or a temporary licence guilty of professional misconduct or incompetence it may, by order,

Powers of
Discipline
Committee

- (a) revoke the licence of the member or the certificate of practice or temporary licence of the holder;
- (b) suspend the licence of the member or the certificate of practice or temporary licence of the holder for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member or holder to limit the professional work of the member or holder in the practice of architecture to the extent specified in the undertaking;
- (d) impose terms, conditions or limitations on the licence, certificate of practice or temporary licence, of the member or holder, including but not limited, in the case of a member or a holder of a temporary licence, to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence, certificate of practice or temporary licence, including but not limited to,
 - (i) requiring the member or the holder of the temporary licence to engage in the practice of architecture only under the personal supervision and direction of another member, or a member, as the case may be,
 - (ii) requiring the member to not alone engage in the practice of architecture,
 - (iii) requiring the member or the holder of the certificate of practice or temporary licence to accept periodic inspections by the Committee or its delegate of the books, accounts, records and designs of the member or the holder in connection with his practice,
 - (iv) requiring the member or the holder of the certificate of practice or temporary licence to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such matters in respect of the member's or holder's practice for such period of time, at such times and in such form, as the Discipline Committee may specify;

- (f) require that the member or the holder of the certificate of practice or temporary licence be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register;
- (g) revoke or suspend for a stated period of time the designation of the member or holder by the Association as a specialist in any branch of architecture;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member or the holder of the certificate of practice or temporary licence to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) require the member or the holder of the certificate of practice or temporary licence to repay, waive or reduce the fee of the member or the holder in respect of the practice of architecture related to the finding of professional misconduct or incompetence;
- (j) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in an official publication of the Association in detail or in summary and either with or without including the name of the member or holder;
- (k) fix and impose costs to be paid by the member or the holder to the Association;
- (l) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose as may be specified by the Discipline Committee, including but not limited to,
 - (i) the successful completion by the member or the holder of the temporary licence of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

Publication
of revocation
or suspension

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence, certificate of practice or temporary licence to be published, with or without the reasons therefor, in an official publication of the Association together with the name of the member or holder of the revoked or suspended licence, certificate of practice or temporary licence.

Publication
on request

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in an official publication of the Association, upon the request of the member or the holder of a certificate of practice or temporary licence against whom the allegation was made.

Costs

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member or the holder of the certificate of practice or temporary licence for his costs or such portion thereof as the Discipline Committee fixes and the Association shall comply with the order.

Stay on
appeal for
incompetence

(8) Where the Discipline Committee revokes, suspends or restricts a licence, certificate of practice or temporary licence on the ground of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay on
appeal for
professional
misconduct

(9) Where the Discipline Committee revokes, suspends or restricts a licence, a certificate of practice or a temporary licence on a ground other than incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Service of
decision of
Discipline
Committee

(10) Where the Discipline Committee finds a member or a holder of a certificate of practice or temporary licence guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Continuation
on expiry of
Committee
membership

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or

is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

35.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association or holder of a certificate of practice or temporary licence whose conduct is being investigated in the proceedings are parties to the proceedings.

Discipline proceedings, parties

(2) A member or holder of a certificate of practice or temporary licence whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

In camera
R.S.O. 1980,
c. 484

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

Recording
of
evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties at their own cost.

Evidence

(6) Notwithstanding the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only
members
at hearing to
participate
in decision

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Appeal
to court

36.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Powers of
court on
appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Fees
Mediation
Committee

37.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Duties
of Fees
Mediation
Committee

(2) The Fees Mediation Committee,

- (a) shall, unless the Committee considers it inappropriate to do so, mediate any written complaint by a client of a member of the Association or of a holder of a certificate of practice or temporary licence in respect of a fee charged for architectural services provided to the client; and
- (b) shall perform such other duties as are assigned to it by the Council.

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of practice or temporary licence and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Arbitration
by Fees
Mediation
Committee

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

Application
of
R.S.O.1980,
c. 25

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Enforcement

38.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association or a holder of a certificate of practice or temporary licence has committed an act of professional misconduct or incompetence, the Registrar by order may appoint one or more persons to investigate whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Registrar's
investigation

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of practice or temporary licence in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of
investigator

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar had grounds for appointing and by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of practice or a temporary licence whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

Execution
of order

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order.

Expiry
of order

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued.

Ex parte
application

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of practice or a temporary licence whose affairs are being investigated.

Removal of
books, etc.

(8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents.

Admissibility of copies

(10) The Registrar shall report the results of the investigation to the Council or such committee as he considers appropriate.

Report of Registrar

39.—(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of architecture.

Information re insurance claims, interpretation

(2) Upon the request of the Registrar, an insurer shall furnish to the Registrar any information that is in the possession of the insurer and that is specified in the request related to a claim or claims for indemnity in respect of the practice of architecture.

Information

(3) Subsection (2) does not apply in respect of a document prepared by an insured person related to a claim for indemnity in respect of the practice of architecture by the insured person.

Exception

(4) The Registrar may forward any information referred to in subsection (2) to the Council or to such committee as he considers appropriate.

Transmittal of information

40.—(1) No member of the Association, holder of a certificate of practice or a temporary licence shall engage in the practice of architecture unless insured against professional liability in accordance with the regulations or in accordance with arrangements under subsection (2).

Professional liability insurance

(2) The Association may make arrangements respecting insurance against professional liability for members of the Association, holders of certificates of practice and holders of temporary licences.

Arrangements by Association

(3) Arrangements under subsection (2) may include arrangements respecting the payment and remission of premiums.

Premiums

(4) The Association may prescribe levies that shall be paid by members of the Association, holders of certificates of practice and holders of temporary licences related to arrangements under subsection (2).

Levies

Surrender of
cancelled
licence,
etc.

41. Where a licence, certificate of practice or temporary licence is revoked or cancelled, the former holder thereof shall forthwith deliver the licence, certificate of practice or temporary licence and related seal to the Registrar.

Application
for
restoration
of licence,
etc.

42.—(1) A person whose licence, certificate of practice or temporary licence has been revoked for cause under this Act, or whose membership has been cancelled for cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of practice or temporary licence, but such application shall not be made sooner than two years after the revocation.

Removal of
suspension

(2) A person whose licence, certificate of practice or temporary licence has been suspended for cause under this Act, or whose membership has been suspended for cause under a predecessor of this Act, may apply in writing to the Registrar for the removal of the suspension, but, where the suspension is for more than one year, the application shall not be made sooner than one year after the commencement of the suspension.

Reference to
Discipline
Committee

(3) The Registrar shall refer the application to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the applicant.

Procedures

(4) The provisions of this Act applying to hearings by the Registration Committee, except section 36, apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction
by Council
to issue
licence

(5) Notwithstanding subsections (1), (2) and (3), the Council may direct at any time that a licence, certificate of practice or temporary licence be issued to a person whose licence, certificate of practice or temporary licence has previously been revoked for cause or suspended for cause or that a suspension or cancellation for cause under a predecessor of this Act be removed, subject to such terms, conditions or limitations as the Council considers appropriate.

Confidentiality

43.—(1) Every person engaged in the administration of this Act, including any person making an examination or review under section 32 or an investigation under section 38, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of,

(i) this Act and the regulations and by-laws, or

(ii) the *Professional Engineers Act, 1984* and the regulations and by-laws under that Act, ^{1984, c...}

or any proceedings under,

(iii) this Act or the regulations, or

(iv) the *Professional Engineers Act, 1984* or the regulations under that Act;

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws or a proceeding under the *Professional Engineers Act, 1984* or the regulations or by-laws under that Act.

Testimony
in civil
action

44.—(1) A corporation whose name includes the word “architect” or a derivative or abbreviation of “architect” and that ceases to hold a subsisting certificate of practice shall not carry on or engage in any business until the word “architect” or the derivative or abbreviation of “architect” is removed from the name of the corporation.

Use of
word
“architect”
by
corporation

(2) Subsection (1) does not apply to prevent a corporation from carrying on an activity necessary to the winding up of the corporation.

Exception

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

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

the same manner as any other order or judgment of the Supreme Court.

Penalties

46.—(1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Idem

(2) Every person who is not a holder of a licence, certificate of practice or temporary licence and who,

(a) uses the title “architect” as an occupational designation;

(b) uses,

(i) an addition to or an abbreviation of the title “architect”,

(ii) an occupational designation, or

(iii) a term, title, addition or description,

that will lead to the belief that the person may engage in the practice of architecture; or

(c) uses a seal that will lead to the belief that the person is an architect,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 38 in the course of his duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem

(4) Every corporation that contravenes section 44 is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

◄ (6) Where a person who is guilty of an offence under subsection (1), (2), (3) or (4) is a member or an employee of a partnership, every member of the partnership who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Idem, partner

(7) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4), (5) or (6) after two years after the date on which the offence was, or is alleged to have been, committed. ▲

Limitation

(8) It is not an offence under subsection (2),

Exception

- (a) for a member of the Association of Architectural Technologists of Ontario to use the designation “architectural technologist” or “architectural technician”;
- (b) for a person to use the designation “landscape architect”; or
- (c) for a person to use the title “architect” if the person is a member of a class for whom the use of the title is a privilege prescribed by the regulations.

47.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate of practice, temporary licence or document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Falsification of certificate

(2) Every person who wilfully procures or attempts to procure the issuance of a licence, a certificate of practice or a temporary licence under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting him therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences for false representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) or (2) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed.

Limitation period

48. Where licensing or the holding of a certificate of practice or a temporary licence or acting under and in accordance with a certificate of practice under this Act is required to permit the lawful doing of any act or thing, if in any prosecution

Onus of proof

it is proven that the defendant has done such act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of practice or temporary licence or that he acted in accordance with a certificate of practice under this Act rests upon the defendant.

Service
of notice

49. A notice or document required by this Act to be served or delivered may be served or delivered personally or by mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or delivered by mail, the service or delivery shall be deemed to have been made on the tenth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Registrar's
certificate
as evidence

50. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity

51.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the Association or a member of the Association or committee, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor
indemnified
in suits
respecting
execution of
his office

(2) Every member of the Council and every officer, member or employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given at any meeting of the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office, employment or appointment; and

- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

52.—(1) There shall be a board to be known as the “Joint Practice Board” to assist the Ontario Association of Architects and the Association of Professional Engineers of Ontario in the maintenance of the professional relationship between the two associations.

Joint
Practice
Board

(2) The Joint Practice Board shall be composed of a chairman, three members representing the Ontario Association of Architects and three members representing the Association of Professional Engineers of Ontario.

Composition

(3) The Lieutenant Governor in Council may appoint the chairman after requesting and considering the views, if any, of the council of each of the associations and may provide for remuneration and payment of the expenses, or either of them, of the chairman.

Appointment
of
chairman

(4) The Council shall appoint to the Joint Practice Board the three members representing the Association and shall prescribe the term of each appointment.

Appoint-
ment of
members
by Council

(5) The Joint Practice Board may recommend to the Council,

Recommen-
dations

- (a) that the Council direct the Registrar to issue a licence or a certificate of practice to a holder of a general certificate of authorization;
- (b) that an inspection be made of records, other than financial records, of a specific member of the Association, holder of a certificate of practice or holder of a temporary licence as part of a program of inspection of records other than financial records.

(6) The Council, upon the recommendation of the Joint Practice Board, may direct the Registrar to issue a licence or a certificate of practice to a holder of a general certificate of authorization and, if the Council does not direct the issuance of the licence or the certificate of practice, the Council shall give its reasons therefor in writing to the Joint Practice Board and to the applicant for the licence or the certificate of practice.

Direction by
Council to
issue licence
or certificate
of practice

Referral of
dispute to
Joint
Practice
Board
1984, c. ...

(7) Where a dispute arises between an architect and a professional engineer or a holder of a certificate of authorization issued under the *Professional Engineers Act, 1984* as to jurisdiction in respect of professional services, the Registrar may refer the matter to the Joint Practice Board and the Joint Practice Board shall consider the matter and assist the architect and the professional engineer or the holder of the certificate of authorization to resolve the dispute in accordance with the rules in section 11.

Commencement
of
proceedings

(8) Proceedings shall not be commenced under this Act in respect of a matter mentioned in subsection (7) except upon the certificate of the chairman of the Joint Practice Board that the Board has considered the matter and has been unable to resolve the dispute.

Certificate

(9) The certificate of the chairman is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the chairman.

Annual
report

53.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Application
of
R.S.O.1980,
c. 95

54.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Attorney General shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2), and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).

5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Attorney General shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 294 (which relates to general meetings).
14. Section 297 (which relates to directions by a court as to holding a meeting).
15. Section 299 (which relates to minutes of meetings).
16. Section 302 (which relates to books of account).
17. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
18. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Attorney General shall be deemed to be the Minister referred to in the section.

19. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
20. Section 310 (which relates to investigations and audits).
21. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
22. Section 329 (which relates to removal of proceedings into the Supreme Court).
23. Section 330 (which relates to appeals).
24. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Attorney General and the Deputy Attorney General shall be deemed to be the Minister and the Deputy Minister referred to in the section.
25. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

Interpretation (2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder.

Repeal **55.**—(1) The *Architects Act*, being chapter 26 of the Revised Statutes of Ontario, 1980, is repealed.

References R.S.O.1980, c. 26 (2) Any reference in any Act or regulation to the *Architects Act* shall be deemed to be a reference to this Act.

Idem (3) Any reference in any Act or regulation to an architect as a member of the Association under the *Architects Act* shall be deemed to be a reference to an architect licensed under this Act.

Commencement **56.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **57.** The short title of this Act is the *Architects Act, 1984*.

Bill 122

*(Chapter 12
Statutes of Ontario, 1984)*

An Act to revise the Architects Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	March 20th, 1984
<i>2nd Reading</i>	March 20th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 122

1984

An Act to revise the Architects 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:

Interpretation

1. In this Act,

- (a) "Academic Requirements Committee" means the Academic Requirements Committee appointed pursuant to the regulations;
- (b) "architect" means the holder of a licence, a certificate of practice or a temporary licence;
- (c) "architectural services" means services that are part of or are related to the practice of architecture;
- (d) "Association" means Ontario Association of Architects;
- (e) "building" means a structure consisting of a wall, roof and floor, or any one or more of them;
- (f) "by-laws" means by-laws made under this Act;
- (g) "certificate of practice" means certificate of practice to engage in the practice of architecture issued under this Act;
- (h) "Complaints Review Councillor" means the Complaints Review Councillor appointed under this Act;
- (i) "construction" means the doing of anything in the erection, installation, extension or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and, "constructed" has a corresponding meaning;
- (j) "Council" means Council of the Association;
- (k) "design" means a plan, sketch, drawing, graphic representation or specification intended to govern the construction, enlargement or alteration of a building or a part of a building;
- (l) "Experience Requirements Committee" means the Experience Requirements Committee appointed pursuant to the regulations;
- (m) "general certificate of authorization" means general certificate of authorization to provide services that

are within the practice of professional engineering, issued under the *Professional Engineers Act, 1984*; 1984, c. 13

- (n) “general review”, in relation to the construction, enlargement or alteration of a building, means an examination of the building to determine whether the construction, enlargement or alteration is in general conformity with the design governing the construction, enlargement or alteration, and reporting thereon;
- (o) “graphic representation” means a representation produced by electrical, electronic, photographic or printing methods and includes a representation produced on a video display terminal;
- (p) “Joint Practice Board” means the Joint Practice Board under this Act;
- (q) “licence” means licence to engage in the practice of architecture issued under this Act;
- (r) “Minister” means the Attorney General or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (s) “practice of architecture” means,
 - (i) the preparation or provision of a design to govern the construction, enlargement or alteration of a building,
 - (ii) evaluating, advising on or reporting on the construction, enlargement or alteration of a building, or
 - (iii) a general review of the construction, enlargement or alteration of a building;
- (t) “professional engineer” means a person who holds a licence or a temporary licence under the *Professional Engineers Act, 1984*; 1984, c. 13
- (u) “Registrar” means Registrar of the Association;
- (v) “regulations” means regulations made under this Act;

- (w) "temporary licence" means temporary licence to engage in the practice of architecture issued under this Act.

Association

2.—(1) The Ontario Association of Architects, a body corporate, is continued as a corporation without share capital.

Principal object

(2) The principal object of the Association is to regulate the practice of architecture and to govern its members, holders of certificates of practice and holders of temporary licences in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Additional objects

(3) For the purpose of carrying out its principal object, the Association has the following additional objects:

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and standards of practice for the practice of architecture.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To establish and maintain or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of, architecture and the allied arts and sciences.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

Capacity and powers of Association

(4) For the purpose of carrying out its objects, the Association has the capacity and the powers of a natural person.

Council

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs.

Composition of Council

(2) The Council shall be composed of,

- (a) not fewer than twelve and not more than twenty persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;

- (b) not fewer than three and not more than five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (c) the immediate past president of the Council, if he is not an elected member of the Council.

(3) No person shall be elected or appointed to the Council unless he is a Canadian citizen resident in Ontario. Idem

(4) The persons appointed under clause (2) (b) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(5) On the first appointment of persons to the Council by the Lieutenant Governor in Council, Term of office, first appointed members

- (a) one-third, or as near thereto as possible, shall be appointed for a one year term;
- (b) one-third, or as near thereto as possible, shall be appointed for a two year term; and
- (c) the remainder shall be appointed for a three year term.

(6) In each year after the first appointments, the persons to be appointed by the Lieutenant Governor in Council shall be appointed for one year, two year or three year terms in order that one-third or as near thereto as possible, shall be appointed in each year. Term of office, appointed members

(7) Every member of the Association who is not in default of payment of the annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council. Qualifications to vote

(8) The Council shall elect a president, a treasurer and one or more vice-presidents from among its elected members. Officers

(9) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association. Registrar and staff

- Quorum (10) A majority of the members of the Council constitutes a quorum.
- Vacancies (11) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum.
- Filling of vacancy (12) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled by a member of the Association,
- (a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the member so appointed shall be deemed to be an elected member of the Council; or
 - (b) where no quorum of the Council remains in office, elected in accordance with the regulations,
- and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.
- Meetings of Council (13) The Council shall meet at least four times a year.
- Continuation of Council members (14) The members of the Council who were in office immediately before the coming into force of this Act are continued in office until the expiration of their terms or until their offices otherwise become vacant.
- Annual meetings **4.**—(1) The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting.
- Proxies (2) A member of the Association entitled to vote at a meeting of members of the Association may, by means of a proxy, appoint a member as his nominee, to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.
- Membership **5.**—(1) Every person licensed by the Association is a member of the Association, subject to any term, condition or limitation to which the licence is subject.
- Resignation of membership (2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

6. In addition to his other powers and duties under this Act, the Minister may,

Powers
of
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

7.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

Regulations

1. fixing the number of members to be elected to the Council under clause 3 (2) (a) and defining constituencies, and prescribing the number of representatives of each constituency;
2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. providing for the election of a president, vice-presidents and a treasurer from among the elected members of the Council;
5. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the committees and procedures ancillary to those specified in this Act in respect of any committee;
6. respecting matters of practice and procedure before committees required under this Act not inconsistent with this Act and the *Statutory Powers Procedure Act*;

R.S.O. 1980,
c. 484

7. prescribing the quorums of the committees required by this Act, except the Complaints Committee and the Discipline Committee;
8. prescribing classes of persons whose interests are related to those of the Association and the privileges of persons in the classes in relation to the Association;
9. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of practice and temporary licences, and the requirements and qualifications therefor, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination or courses of study set or approved by the Council as a licensing requirement,
 - ii. the curricula and standards of professional training programs and courses of study offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs and courses of study, and
 - iv. the academic and experience requirements for the issuance of a licence;
10. prescribing terms and conditions of licences, certificates of practice and temporary licences;
11. prescribing forms of applications for licences, certificates of practice and temporary licences and requiring their use;
12. for the purposes of section 21, prescribing a proportion greater than 10 per cent of the shares of corporations that engage in the practice of architecture;
13. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of practice and in respect of the interests of partners that apply for or hold certificates of

- practice, and prescribing and requiring the use of forms of such returns;
14. requiring and governing the signing and sealing of documents and designs by members of the Association and holders of temporary licences, specifying the forms of seals and respecting the issuance and ownership of seals;
 15. requiring the making of returns of information by members of the Association and holders of certificates of practice and temporary licences in respect of names, addresses, telephone numbers, associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;
 16. governing the use of names and designations in the practice of architecture by members of the Association and holders of certificates of practice and temporary licences;
 17. providing for the maintenance and inspection of registers of persons permitted to engage in the practice of architecture;
 18. prescribing and governing standards of practice and performance standards for the profession;
 19. respecting the advertising of the practice of architecture;
 20. prescribing a code of ethics;
 21. defining professional misconduct for the purposes of this Act;
 22. defining classes of specialists among members and holders of certificates of practice and temporary licences, prescribing the qualifications required, providing for the suspension or revocation of any such designation and for the regulation and prohibition of the use of terms, titles or designations indicating specialization by a member or a holder of a certificate of practice or a temporary licence in the practice of architecture;
 23. providing for inspection programs related to the practice of architecture, including programs for the inspection of records, other than financial records,

of members of the Association, holders of certificates of practice and holders of temporary licences, but such a program does not authorize inspection of records of a holder of a certificate of practice or temporary licence who is also a holder of a general certificate of authorization unless the inspection of the records, other than financial records, is recommended by the Joint Practice Board;

24. providing for the compilation of statistical data on the supply, distribution and professional activities of members of the Association and holders of temporary licences and professional activities related to the practice of architecture of holders of certificates of practice and on remuneration for the practice of architecture and requiring members of the Association and holders of certificates of practice and temporary licences to provide the information necessary to compile such statistics, but persons engaged in the administration of this Act shall maintain secret the names of persons providing the information as a matter that comes to their knowledge in the course of their duties under this Act;
25. requiring members, holders of certificates of practice or holders of temporary licences, or all of them, to obtain and to maintain insurance against liability that may be incurred in the practice of architecture, respecting the terms and conditions and prescribing the minimum amounts of such insurance, requiring such members and holders to provide to the Registrar proof of the insurance coverage, and respecting the form of the proof and the times when the proof shall be provided;
26. exempting any class of members, holders of certificates of practice or holders of temporary licences from the requirement to be insured in respect of professional liability, and classifying members, holders of certificates of practice or holders of temporary licences for the purpose of such exemption;
27. prohibiting or regulating the practice of architecture where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
28. providing for a program of continuing education of members of the Association;

29. respecting the duties and authority of the Registrar;
30. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence, certificate of practice or temporary licence that was cancelled by the Registrar;
31. classifying and exempting any class of holders of licences, certificates of practice or temporary licences from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
32. specifying acts within the practice of architecture that are exempt from the application of this Act when performed or provided by a member of a prescribed class of persons, and prescribing classes of persons for the purpose of the exemption.

(2) A copy of each regulation made under subsection (1),

Distribution
of
regulations

- (a) shall be forwarded to each member of the Association and to each holder of a certificate of practice or temporary licence; and
- (b) shall be available for public inspection in the office of the Association.

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

By-laws

1. prescribing the seal of the Association;
2. providing for the execution of documents by the Association;
3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;
5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

6. respecting the form and content of proxies, the deposit of proxies with the Association and the manner and proof of revocation of proxies;
7. providing for meetings of the Council and committees, except in a proceeding in respect of a licence, certificate of practice or temporary licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
8. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence, certificate of practice or temporary licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
9. respecting the calling, holding and conducting of meetings of the membership of the Association;
10. prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
11. prescribing the duties of officers of the Association;
12. providing for the appointment of inspectors for the purposes of this Act;
13. prescribing forms and providing for their use;
14. providing procedures for the making, amending and revoking of the by-laws;
15. respecting management of the property of the Association;
16. providing for the appointment, composition, powers and duties of additional or special committees;

17. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
18. respecting the borrowing of money by the Association and the giving of security therefor;
19. respecting membership of the Association in other organizations, the payment of annual assessments and provision for representatives at meetings;
20. providing for the establishment and dissolution and governing the operation of groups of members as societies of the Association and respecting grants by the Association to societies or any of them;
21. authorizing the making of grants for any purpose that may tend to advance knowledge of architectural education, or maintain or improve the standards of practice in architecture or support and encourage public information and interest in the role of architecture in society;
22. respecting scholarships, bursaries and prizes related to the study of architecture;
23. prescribing the amounts of and requiring the payment of annual fees by members of the Association and holders of certificates of practice and temporary licences and by students and members of related classes recognized by the Association, and fees for licensing, temporary licences, certification, registration, examinations, courses of study, professional training programs and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
24. requiring the payment and remittance of premiums in connection with insurance against professional liability arranged by the Association for members of the Association, holders of certificates of practice and holders of temporary licences, and prescribing levies that shall be paid by members of the Association, holders of certificates of practice and holders of temporary licences in respect of professional liability;

25. providing for the establishment of group insurance plans, other than for professional liability, in which members of the Association may participate on a voluntary basis;
26. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

Confirmation
of by-laws

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the Association held after its passing, unless it is confirmed by the meeting.

Distribution
of by-laws

(3) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the Association.

Committees

9.—(1) The Council shall establish and appoint the following committees:

- (a) Executive Committee;
- (b) Academic Requirements Committee;
- (c) Experience Requirements Committee;
- (d) Registration Committee;
- (e) Complaints Committee;
- (f) Discipline Committee;
- (g) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than a quorum of the committee.

10.—(1) The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council, other than to make, amend or revoke a regulation or a by-law.

Executive Committee

(2) Subject to ratification by the Council at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or a by-law.

Urgent matters

11.—(1) No person shall engage in the practice of architecture or hold himself out as engaging in the practice of architecture unless,

Who may engage in practice of architecture

- (a) the person is licensed under this Act;
- (b) the person is the holder of a certificate of practice or the person is doing so as a member of a partnership that holds a certificate of practice; or
- (c) the person is the holder of a temporary licence under this Act.

(2) No person shall provide to a member of the public a service that is part of the practice of architecture except under and in accordance with a certificate of practice or a temporary licence.

Who may provide service to public

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

Exception

- (a) the preparation or provision of a design for the construction, enlargement or alteration of a building,
 - (i) that is not more than three storeys and not more than 600 square metres in gross area as constructed, enlarged or altered, and
 - (ii) that is used or intended for one or more of residential occupancy, business occupancy, personal services occupancy, mercantile occupancy or industrial occupancy;
- (b) the preparation or provision of a design for the construction, enlargement or alteration of a building that is not more than three storeys and that is used or intended for residential occupancy and,

- (i) that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or
 - (ii) that is not more than 600 square metres in building area as constructed, enlarged or altered and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit;
- (c) the preparation or provision of a design for the construction, enlargement or alteration of a building used directly in the extraction, processing or storage of ore from a mine;
- (d) the preparation or provision, under the personal supervision and direction of a member of the Association or the holder of a temporary licence, of a design for the construction, enlargement or alteration of a building;
- (e) the preparation or provision of a design for interior space for a building, including finishes, fixed or loose furnishings, equipment, fixtures and partitioning of space, and related exterior elements such as signs, finishes and glazed openings used for display purposes, that does not affect or is not likely to affect,
- (i) the structural integrity,
 - (ii) a fire safety system or fire separation,
 - (iii) a main entrance or public corridor on a floor,
 - (iv) an exit to a public thoroughfare or to the exterior,
 - (v) the construction or location of an exterior wall, or
 - (vi) the usable floor space through the addition of a mezzanine, infill or other similar element,
- of the building;
- (f) the preparation or provision of a design for alterations within a dwelling unit that will not affect or are not likely to affect fire separations, firewalls,

the strength or safety of the building or the safety of persons in the building;

- (g) the doing of an act that is within the practice of architecture but that is exempt from the application of this Act when performed or provided by a member of a class of persons prescribed by the regulations for the purpose of the exemption, if the act is done by a person who is a member of the class.

(4) The following rules govern the relationship between architects and professional engineers, and subsections (1) and (2) do not apply to prevent a professional engineer from preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building in accordance with these rules: ^{Idem}

1. Only an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. used or intended for residential occupancy,
 - ii. that exceeds 600 square metres in gross area, and
 - iii. that does not exceed three storeys,

and carry out the general review of the construction, enlargement or alteration of the building but an architect who prepares or provides such a design may engage a professional engineer to provide services within the practice of professional engineering in connection with the design and the professional engineer may provide the services.

2. An architect or a professional engineer may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. that exceeds 600 square metres in gross area or three storeys, and
 - ii. that is used or intended for,
 - A. industrial occupancy, or
 - B. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where none of the other occu-

pancies exceeds 600 square metres of the gross area,

but only a professional engineer may provide services within the practice of professional engineering in connection with the design.

3. Subject to rules 4 and 5, an architect shall provide services that are within the practice of architecture and a professional engineer shall provide services that are within the practice of professional engineering related to the construction, enlargement or alteration of a building used or intended for,
 - i. assembly occupancy,
 - ii. institutional occupancy,
 - iii. business occupancy or personal services occupancy that exceeds 600 square metres in gross area or three storeys,
 - iv. mercantile occupancy that exceeds 600 square metres in gross area or three storeys,
 - v. residential occupancy that exceeds three storeys,
 - vi. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where one of the other occupancies exceeds 600 square metres in gross area,
 - vii. mixed occupancy consisting of a combination of,
 - A. assembly occupancy and any other occupancy, except industrial occupancy,
 - B. institutional occupancy and any other occupancy, except industrial occupancy,
 - C. one or more of,
 1. business occupancy,
 2. personal services occupancy, or
 3. mercantile occupancy,

and any other occupancy, except assembly occupancy, institutional occupancy or industrial occupancy,

where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

D. residential occupancy that exceeds three storeys and any other occupancy, where the building as constructed, enlarged or altered exceeds 600 square metres in gross area, or

viii. any other occupancy where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

but a professional engineer may provide a design for the industrial occupancy of a mixed occupancy described in subparagraph vi.

4. An architect may perform or provide services that are within the practice of professional engineering in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 2 or 3 where to do so does not constitute a substantial part of the services within the practice of professional engineering related to the construction, enlargement or alteration of the building and is necessary,
 - i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of architecture by the architect in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
5. A professional engineer may perform or provide services that are within the practice of architecture in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 1 or 3 where to do so does not constitute a substantial part of the services within the practice of architec-

ture related to the construction, enlargement or alteration of the building and is necessary,

- i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of professional engineering by the professional engineer in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
6. Only an architect may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by an architect, or
 - ii. in relation to services that are provided by an architect in connection with the design in accordance with which the building is constructed, enlarged or altered.
7. Only a professional engineer may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by a professional engineer, or
 - ii. in relation to services that are provided by a professional engineer in connection with the design in accordance with which the building is constructed, enlarged or altered.
8. An architect or a professional engineer may act as prime consultant for the construction, enlargement or alteration of a building.
9. A reference in these rules to the provision of a design or services by a professional engineer applies equally to a holder of a certificate of authorization issued under the *Professional Engineers Act, 1984*.

1984, c. 13

Idem

(5) Subsections (1) and (2) do not apply to prevent a person from,

- (a) evaluating, advising on or reporting on the construction, enlargement or alteration of a building that does not or is not intended to take the place of evaluating, advising or reporting required to be done by an architect; or
- (b) carrying out a general review of the construction, enlargement or alteration of a building that does not or is not intended to take the place of a general review required to be done by an architect.

(6) In this section,

Interpretation

- (a) “assembly occupancy” means occupancy for gatherings of persons for civic, educational, political, recreational, religious, social, travel or other similar purpose, or for the consumption of food or drink;
- (b) “building area” means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls;
- (c) “business occupancy” means occupancy for the transaction of business;
- (d) “dwelling unit” means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- (e) “fire separation” means a construction assembly that acts as a barrier against the spread of fire and that may or may not have a fire-resistance rating or a fire-protection rating;
- (f) “firewall” means a type of fire separation of non-combustible construction that subdivides a building or separates adjoining buildings to resist the spread of fire and that has a fire-resistance rating prescribed in Ontario Regulation 583/83 (known as the Building Code), as amended from time to time, and has structural stability to remain intact under fire conditions for the fire-resistance time for which it is rated;
- (g) “grade” means the lowest of the average levels of finished ground adjoining each exterior wall of a

building, but does not include localized depressions such as for vehicle or pedestrian entrances;

- (h) “gross area” means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls but in a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall;
- (i) “industrial occupancy” means occupancy for assembling, fabricating, manufacturing, processing, repairing or storing of goods or materials or for producing, converting, processing or storing of energy, waste or natural resources;
- (j) “institutional occupancy” means occupancy for the harbouring, housing or detention of persons who require special care or treatment on account of their age or mental or physical limitations or who are involuntarily detained;
- (k) “mercantile occupancy” means occupancy or use for displaying or selling retail goods, wares or merchandise;
- (l) “personal services occupancy” means occupancy for the rendering or receiving of professional or personal services;
- (m) “residential occupancy” means occupancy for providing sleeping accommodation for persons, but does not include institutional occupancy.

Proof of
practice

(7) For the purposes of this section, proof of the performance of one act in the practice of architecture on one occasion is sufficient to establish engaging in the practice of architecture.

Corporation

12. A corporation that holds a subsisting certificate of practice may engage in the practice of architecture.

Issuance
of
licence

13.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

- (a) is of good character;

- (b) is not less than eighteen years of age;
- (c) is a citizen of Canada or has the status of a permanent resident of Canada or is a member of an organization of architects that is recognized by the Council and that has objects, standards of practice and requirements for membership similar to those of the Association;
- (d) has complied with the academic and experience requirements specified in the regulations for the issuance of the licence or is exempted therefrom by the Council; and
- (e) has passed such examinations and completed such courses of study as the Council may set or approve in accordance with the regulations or is exempted therefrom by the Council.

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of architecture in accordance with the law and with honesty and integrity.

Grounds for refusal to issue licence

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence,

Referral to committee

- (a) to the Academic Requirements Committee for a determination as to whether or not the applicant has met the academic requirements prescribed by the regulations for the issuance of the licence;
- (b) to the Experience Requirements Committee for a determination as to whether or not the applicant has met the experience requirements prescribed by the regulations for the issuance of the licence; or
- (c) first to the Academic Requirements Committee and then to the Experience Requirements Committee for determinations under clauses (a) and (b).

(4) A determination by a committee under subsection (3) is final and is binding on the Registrar and on the applicant.

Determination by committee

(5) A committee shall receive written representations from an applicant but is not required to hold or to afford to any

Hearing

person a hearing or an opportunity to make oral submissions before making a determination under subsection (3).

Notice
of
determination

(6) The Registrar shall give notice to the applicant of a determination by a committee under subsection (3) and, if the applicant is rejected, the notice shall detail the specific requirements that the applicant must meet.

Issuance of
certificate of
practice to
corporation

14.—(1) The Registrar shall issue a certificate of practice to a corporation that applies therefor in accordance with the regulations if,

(a) a majority of the directors of the corporation is composed of,

(i) members of the Ontario Association of Architects, or

(ii) members of the Ontario Association of Architects and members of the Association of Professional Engineers of Ontario;

(b) a majority of each class of shares of the corporation is owned by and registered in the names of,

(i) members of the Ontario Association of Architects, or

(ii) members of the Ontario Association of Architects and members of the Association of Professional Engineers of Ontario,

and any other persons who own or in whose names shares of any class of shares of the corporation are registered are employees of the corporation who devote their full time to the work of the corporation;

(c) the primary function of the corporation is to engage in the practice of architecture; and

(d) at least one of the directors or full-time employees of the corporation is a member of the Association who will personally supervise and direct the practice of architecture by the corporation.

Idem

(2) The Registrar shall issue a certificate of practice to a corporation that applies therefor in accordance with the regulations if,

- (a) the corporation holds a general certificate of authorization issued under the *Professional Engineers Act, 1984*; 1984, c. 13
- (b) a majority of the directors of the corporation is composed of,
- (i) members of the Association of Professional Engineers of Ontario, or
 - (ii) members of the Ontario Association of Architects and members of the Association of Professional Engineers of Ontario;
- (c) a majority of each class of shares of the corporation is owned by and registered in the names of,
- (i) members of the Association of Professional Engineers of Ontario, or
 - (ii) members of the Association of Professional Engineers of Ontario and members of the Ontario Association of Architects,

and any other persons who own or in whose names shares of any class of shares of the corporation are registered are employees of the corporation who devote their full time to the work of the corporation; and

- (d) at least one of the directors or full-time employees of the corporation is a member of the Association who will personally supervise and direct the practice of architecture by the corporation.

(3) The Registrar may refuse to issue a certificate of practice to a corporation or may suspend or revoke a certificate of practice issued to a corporation where the Registrar is of the opinion, upon reasonable and probable grounds,

Grounds for refusal to issue or for revocation of certificate of practice

- (a) that the corporation fails to comply with section 21; or
- (b) that the corporation fails to comply with the requirements for the issuance of the certificate of practice set out in subsection (1) or (2).

15.—(1) The Registrar shall issue a certificate of practice to a partnership of members of the Association that applies therefor in accordance with the regulations and that proposes

Issuance of certificate of practice to partnership

to engage in or hold itself out as engaging in the practice of architecture.

Idem

(2) The Registrar shall issue a certificate of practice to a partnership of members of the Association of Professional Engineers of Ontario that applies therefor in accordance with the regulations and that,

- (a) holds a general certificate of authorization; and
- (b) employs at least one member of the Association who will personally supervise and direct the practice of architecture by the partnership.

Idem

(3) The Registrar shall issue a certificate of practice to a partnership of one or more members of the Ontario Association of Architects and one or more members of the Association of Professional Engineers of Ontario that holds a general certificate of authorization and that applies therefor in accordance with the regulations and that proposes to engage in or hold itself out as engaging in the practice of architecture.

Issuance of certificate of practice to partnership of corporations

16. The Registrar shall issue a certificate of practice to a partnership of corporations if one or more of the corporations holds a certificate of practice and each of the others, if any, holds a general certificate of authorization and meets the requirements of clauses 14 (2) (b) and (c).

Issuance of certificate of practice to member of Association

17.—(1) The Registrar shall issue a certificate of practice to a member of the Association who applies therefor in accordance with the regulations.

Refusal or revocation

(2) The Registrar may refuse to issue a certificate of practice to a member of the Association or may suspend or revoke a certificate of practice held by a member of the Association where the Registrar is of the opinion, upon reasonable and probable grounds, that the member has not engaged in the practice of architecture during the period of five years preceding the date of the refusal or revocation.

Issuance of certificate of practice to member of A.P.E.O.

18. The Registrar shall issue a certificate of practice to a member of the Association of Professional Engineers of Ontario who applies therefor in accordance with the regulations and who,

- (a) holds a general certificate of authorization; and
- (b) employs at least one member of the Association who will personally supervise and direct the practice

of architecture by the holder of the certificate of practice.

19. The Registrar shall issue a licence or a certificate of practice upon a direction of the Council made in accordance with a recommendation by the Joint Practice Board.

Issuance of licence or certificate of practice on direction of Council

20.—(1) The Registrar may refuse to issue a certificate of practice to a corporation, a partnership, a partnership of corporations or a natural person, or may suspend or revoke a certificate of practice, where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct,

Refusal or revocation of certificate of practice related to past conduct

- (a) in the case of a corporation, of an officer, director or employee of the corporation;
- (b) in the case of a partnership, of a member or employee of the partnership;
- (c) in the case of a partnership of corporations, of a member or employee of the partnership or of an officer, director or employee of a member of the partnership; or
- (d) in the case of a natural person, of the natural person,

affords grounds for belief that the corporation, partnership, partnership of corporations or natural person, as the case may be, will not engage in the practice of architecture in accordance with the law and with honesty and integrity.

(2) A holder of a certificate of practice ceases to be entitled to offer to the public or to provide to the public services that are within the practice of architecture as soon as there is no member of the Association who personally supervises and directs the practice of architecture by the holder of the certificate of practice.

Suspension of effect of certificate of practice

(3) The holder of a certificate of practice must give notice to the Registrar when there ceases to be a member of the Association who personally supervises and directs the practice of architecture by the holder of the certificate of practice and when the holder of the certificate of practice designates another member of the Association to personally supervise and direct such practice of architecture.

Notice to Registrar by holder of certificate of practice

(4) A member of the Association who ceases to personally supervise and direct the practice of architecture by a holder of

Notice to Registrar by person in position of professional responsibility

a certificate of practice as the person so designated by the holder of the certificate of practice shall give notice of the cessation forthwith to the Registrar.

Past conduct

(5) The Registrar may suspend or revoke a certificate of practice where the Registrar is of the opinion, upon reasonable and probable grounds,

- (a) that the holder of the certificate of practice does not meet the requirements or the qualifications for the issuance of the certificate of practice set out in the regulations; or
- (b) that there has been a breach of a condition of the certificate of practice.

Requirement
re
corporations

21.—(1) No corporation shall engage in the practice of architecture if a person who is not a member of the Association or of the Association of Professional Engineers of Ontario,

- (a) beneficially owns, directly or indirectly;
- (b) exercises control or direction over; or
- (c) beneficially owns, directly or indirectly, shares of any class of shares of the corporation and, together with another shareholder or other shareholders associated with the person, exercises control or direction over,

more than 10 per cent or such greater proportion as may be prescribed by regulation of the total number of issued and outstanding shares of any class of shares of the corporation.

Interpretation

(2) For the purposes of this section,

- (a) where a share is owned jointly and one of the joint owners is a person who is not a member of the Association or of the Association of Professional Engineers of Ontario, the share shall be deemed to be owned by the person;
- (b) each share that carries the right to more than one vote shall be calculated as the number of shares equal to the total number of votes carried by the share;
- (c) a shareholder shall be deemed to be associated with another shareholder where,

- (i) one shareholder is a corporation of which the other shareholder is an officer or director,
 - (ii) one shareholder is a partnership of which the other shareholder is a partner,
 - (iii) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder,
 - (iv) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder,
 - (v) both shareholders are members of a voting trust, where the trust relates to shares of a corporation, or
 - (vi) both shareholders are associated within the meaning of subclauses (i) to (v) with the same shareholder;
- (d) a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations where,
- (i) shares of the first-mentioned corporation carrying, either under all circumstances or under circumstances that have occurred and are continuing, 50 per cent of the votes for the election of directors, otherwise than by way of security only, by or for the benefit of the other person or corporation or by or for the benefit of the other corporations, and
 - (ii) the votes carried by the shares are sufficient, if exercised, to elect a majority of the directors of the first-mentioned corporation.

22.—(1) It is a condition of every certificate of practice held by a corporation, a partnership or a partnership of corporations that the holder of the certificate of practice shall provide services that are within the practice of architecture only under the personal supervision and direction of a member of the Association who is,

Supervision
by
architect

- (a) in the case of a corporation, an officer, director or full-time employee of the corporation;

- (b) in the case of a partnership, a member or full-time employee of the partnership; or
- (c) in the case of a partnership of corporations, an officer, director or full-time employee of a member of the partnership or a full-time employee of the partnership.

Professional
responsi-
bility of
supervising
architect

(2) A member of the Association who personally supervises and directs the practice of architecture by a holder of a certificate of practice is subject to the same standards of professional conduct and competence in respect of such practice of architecture as if the member personally engaged in the practice of architecture.

Limited
certificate
of practice

23.—(1) The Registrar shall issue a certificate of practice,

- (a) to a corporation incorporated under the laws of a jurisdiction other than Ontario;
- (b) to a partnership of corporations incorporated under the laws of a jurisdiction other than Ontario; or
- (c) to a partnership formed under the laws of a jurisdiction other than Ontario,

if the corporation, partnership of corporations or partnership is licensed or authorized to practise architecture by the jurisdiction other than Ontario, applies in accordance with the regulations and meets the requirements and qualifications set out in the regulations for the issuance of the certificate of practice.

Conditions

(2) Every certificate of practice issued under subsection (1) is subject to the conditions prescribed by the regulations.

Limitation

(3) A certificate of practice issued under subsection (1) is not valid except in respect of the architectural project described in the certificate of practice.

Application
of ss. 21, 22

(4) Sections 21 and 22 do not apply to a corporation, partnership of corporations or partnership that is issued a certificate of practice under subsection (1).

Temporary
licence

24.—(1) The Registrar shall issue a temporary licence to a natural person who applies therefor in accordance with the regulations and who meets the requirements and qualifications for the issuance of the temporary licence set out in the regulations, whether or not the applicant is a Canadian citizen or has the status of a permanent resident of Canada.

(2) The Registrar may refuse to issue or may suspend or revoke a temporary licence where the Registrar is of the opinion, upon reasonable and probable grounds,

Grounds for refusal, suspension or revocation

- (a) that the past conduct of the applicant for or the holder of the temporary licence affords grounds for the belief that the applicant or holder will not engage in the practice of architecture in accordance with the law and with honesty and integrity;
- (b) that the holder of the temporary licence does not meet the requirements or the qualifications for the issuance of the temporary licence set out in the regulations; or
- (c) that there has been a breach of a condition of the temporary licence.

(3) Subsections 13 (3) to (6) (which relate to the Academic Requirements Committee and the Experience Requirements Committee) apply with necessary modifications in respect of an applicant for a temporary licence.

Referral to committees

(4) Every temporary licence is subject to the conditions prescribed by the regulations.

Conditions

(5) A temporary licence is not valid except in respect of the architectural project described in the temporary licence.

Extent of temporary licence

(6) Subsection (1) does not apply in respect of a member or a holder of a certificate of practice.

Application of subs. (1)

(7) A temporary licensee is not a member of the Association.

Membership

25.—(1) Where the Registrar proposes,

- (a) to refuse an application for a licence, a certificate of practice or a temporary licence;
- (b) to suspend or revoke a certificate of practice or a temporary licence; or
- (c) to issue a licence, a certificate of practice or a temporary licence subject to terms, conditions or limitations,

Proposal to refuse to issue, suspend, revoke or impose conditions

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant.

Exceptions

(2) Subsection (1) does not apply in respect of a proposal to refuse to issue a licence, a certificate of practice or a temporary licence where,

- (a) the Academic Requirements Committee has determined that the applicant has not met the academic requirements set out in the regulations for the issuance of the licence or the temporary licence;
- (b) the Experience Requirements Committee has determined that the applicant has not met the experience requirements set out in the regulations for the issuance of the licence or the temporary licence; or
- (c) the applicant previously held a licence, a certificate of practice or a temporary licence that was suspended or revoked as a result of a decision of the Discipline Committee.

Notice

(3) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee and the applicant may so require such a hearing.

Power of Registrar where no hearing

(4) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (3), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(5) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (1), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Disability of member

(6) Where the Registration Committee commences a hearing and a member of the Registration Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Continuation on expiry of committee membership

(7) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceed-

ing in the same manner as if his term of office had not expired or been terminated.

(8) Following upon a hearing under this section in respect of a proposal by the Registrar, the Registration Committee may, by order,

Powers of
Registration
Committee

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of architecture with competence and integrity, direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be, to the applicant;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,
 - (i) direct the Registrar to refuse to issue a licence, certificate of practice or temporary licence, or to revoke the certificate of practice issued to the applicant, as the case may be, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of architecture with competence and integrity, exempt the applicant from any of the requirements of this Act and the regulations and direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of architecture with competence and integrity,
 - (i) require the applicant to take and successfully complete such examinations as the Registration Committee may set or approve and to pay such fees therefor as the Registration Committee fixes,
 - (ii) require the applicant to take such additional training as the Registration Committee specifies, or

- (iii) direct the Registrar to issue a licence, certificate of practice or temporary licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies.

Extension of time for requiring hearing

(9) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Parties

(10) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Opportunity to show compliance

(11) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue of the licence, the certificate of practice or the temporary licence.

Examination of documentary evidence

(12) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(13) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for both parties to participate, but the Registration Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

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

Only members at hearing to participate in decision

(15) No member of the Registration Committee shall participate in a decision of the Registration Committee following

upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

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

Release of
documentary
evidence

(17) In this section, "applicant" means applicant for the issuance of a licence, or applicant for or holder of a certificate of practice or a temporary licence.

Applicant

26. A corporation that holds a certificate of practice has the same rights and is subject to the same obligations in respect of fiduciary, confidential and ethical relationships with each client of the corporation that exist at law between a member of the Association and his client.

Relationship
between
corporation
and client

27.—(1) The Registrar shall maintain one or more registers in which is entered every person who is licensed under this Act and every holder of a certificate of practice or temporary licence, identifying the terms, conditions and limitations attached to the licence, certificate of practice or temporary licence, and shall note on the register every revocation, suspension and cancellation or termination of a licence, certificate of practice or temporary licence and such other information as the Registration Committee or Discipline Committee directs.

Registers

(2) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar.

Inspection

(3) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar.

Copies

(4) Every certificate of membership and every temporary licence issued under the *Architects Act*, being chapter 26 of the Revised Statutes of Ontario, 1980, or a predecessor thereof, and in effect immediately before this Act comes into force continues in the same manner as if issued as a licence or a temporary licence, as the case requires, under this Act.

Continuation
of certificates

28.—(1) The Registrar may cancel a licence, certificate of practice or temporary licence for non-payment of any fee prescribed by the by-laws after giving the member or the holder of the certificate of practice or temporary licence at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of

Cancellation
for default
of fees

any disciplinary action arising out of his professional conduct while a member or holder.

Reinstatement

(2) A person who was a member or a holder of a certificate of practice or temporary licence whose licence, certificate of practice or temporary licence was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of practice or temporary licence reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Complaints Committee

29.—(1) The Complaints Committee shall be composed of,

- (a) at least one member of the Council who was elected to the Council;
- (b) at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (c) such other members of the Association as may be appointed by the Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be chairman.

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person elected to the Council, constitute a quorum.

Duties of Complaints Committee

30.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of any member of the Association or holder of a certificate of practice or a temporary licence, but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint has been filed with the Registrar and the member or holder whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member or holder may wish to make concerning the matter; and

- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it receives may, Idem

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor. Decision and reasons

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 32. Notice

(5) The Committee is not required to hold a hearing or to afford to any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this section. Hearing

31.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council. Complaints Review Councillor

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee. Idem

32.—(1) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association. Examination by Complaints Review Councillor

(2) Where a complaint respecting a member of the Association or a holder of a certificate of practice or a temporary licence has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Review by Complaints Review Councillor

Registrar, upon application by the complainant or on his own initiative the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee.

Application
to
Complaints
Review
Councillor

(3) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint.

Complaints
Review
Councillor
not to
inquire
into merit
of complaint

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

Discretionary
power of
Complaints
Review
Councillor

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

- (a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or
- (b) in the opinion of the Complaints Review Councillor,
 - (i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or
 - (ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

Notice

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Office
accommodation

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private.

Privacy

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit.

Receipt of information

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in relation to an examination, review or report in respect of the Association.

Hearing not required

(11) Every person who is,

Duty to furnish information

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association.

Report by Complaints Review Councillor

(13) Where the report follows upon an examination of the procedure for the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council.

Report following upon examination

(14) Where the report follows upon a review as to the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against.

Report following upon review

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister

Report to Minister

ter where, in the opinion of the Complaints Review Councillor, the report should be brought to the attention of the Minister.

Recommendations

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Consideration by Council

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Discipline Committee

33.—(1) The Discipline Committee shall be composed of,

- (a) at least one person appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council;
- (b) at least one person who is a member of the Council appointed by the Lieutenant Governor in Council; and
- (c) the persons appointed to the Discipline Committee by the Council from among the members of the Association who have not less than ten years experience in the practice of architecture.

Quorum and votes

(2) Three members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability of member

(3) Where the Discipline Committee commences a hearing and a member of the Discipline Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Chairman

(4) The Council shall name one member of the Discipline Committee who is a member of and elected to the Council to be chairman.

Reference by Council

(5) The Council, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of practice or a temporary licence specified in the resolution.

34.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) when so directed by the Council or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association or a holder of a certificate of practice or a temporary licence;
- (b) hear and determine matters referred to it under section 30, 33 or 42; and
- (c) perform such other duties as are assigned to it by the Council.

(2) A member of the Association or a holder of a certificate of practice or a temporary licence may be found guilty of professional misconduct by the Committee if,

Professional
misconduct

- (a) the member or holder has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(3) The Discipline Committee may find a member of the Association or a holder of a certificate of practice or a temporary licence to be incompetent if in its opinion,

Incompetence

- (a) the member or holder has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public the member or holder serves of a nature or to an extent that demonstrates the member or holder is unfit to carry out the responsibilities of an architect; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member or holder that the member or holder no longer be permitted to engage in the practice of architecture or that his practice of architecture be restricted.

(4) Where the Discipline Committee finds a member of the Association or a holder of a certificate of practice or a temporary licence guilty of professional misconduct or incompetence it may, by order,

Powers of
Discipline
Committee

- (a) revoke the licence of the member or the certificate of practice or temporary licence of the holder;
- (b) suspend the licence of the member or the certificate of practice or temporary licence of the holder for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member or holder to limit the professional work of the member or holder in the practice of architecture to the extent specified in the undertaking;
- (d) impose terms, conditions or limitations on the licence, certificate of practice or temporary licence, of the member or holder, including but not limited, in the case of a member or a holder of a temporary licence, to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence, certificate of practice or temporary licence, including but not limited to,
 - (i) requiring the member or the holder of the temporary licence to engage in the practice of architecture only under the personal supervision and direction of another member, or a member, as the case may be,
 - (ii) requiring the member to not alone engage in the practice of architecture,
 - (iii) requiring the member or the holder of the certificate of practice or temporary licence to accept periodic inspections by the Committee or its delegate of the books, accounts, records and designs of the member or the holder in connection with his practice,
 - (iv) requiring the member or the holder of the certificate of practice or temporary licence to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such matters in respect of the member's or holder's practice for such period of time, at such times and in such form, as the Discipline Committee may specify;

- (f) require that the member or the holder of the certificate of practice or temporary licence be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register;
- (g) revoke or suspend for a stated period of time the designation of the member or holder by the Association as a specialist in any branch of architecture;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member or the holder of the certificate of practice or temporary licence to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) require the member or the holder of the certificate of practice or temporary licence to repay, waive or reduce the fee of the member or the holder in respect of the practice of architecture related to the finding of professional misconduct or incompetence;
- (j) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in an official publication of the Association in detail or in summary and either with or without including the name of the member or holder;
- (k) fix and impose costs to be paid by the member or the holder to the Association;
- (l) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose as may be specified by the Discipline Committee, including but not limited to,
 - (i) the successful completion by the member or the holder of the temporary licence of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

Publication
of revocation
or suspension

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence, certificate of practice or temporary licence to be published, with or without the reasons therefor, in an official publication of the Association together with the name of the member or holder of the revoked or suspended licence, certificate of practice or temporary licence.

Publication
on request

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in an official publication of the Association, upon the request of the member or the holder of a certificate of practice or temporary licence against whom the allegation was made.

Costs

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member or the holder of the certificate of practice or temporary licence for his costs or such portion thereof as the Discipline Committee fixes and the Association shall comply with the order.

Stay on
appeal for
incompetence

(8) Where the Discipline Committee revokes, suspends or restricts a licence, certificate of practice or temporary licence on the ground of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay on
appeal for
professional
misconduct

(9) Where the Discipline Committee revokes, suspends or restricts a licence, a certificate of practice or a temporary licence on a ground other than incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Service of
decision of
Discipline
Committee

(10) Where the Discipline Committee finds a member or a holder of a certificate of practice or temporary licence guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Continuation
on expiry of
Committee
membership

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or

is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

35.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association or holder of a certificate of practice or temporary licence whose conduct is being investigated in the proceedings are parties to the proceedings.

Discipline proceedings, parties

(2) A member or holder of a certificate of practice or temporary licence whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

In camera
R.S.O. 1980,
c. 484

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

Recording
of
evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties at their own cost.

Evidence
R.S.O. 1980,
c. 484

(6) Notwithstanding the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only
members
at hearing to
participate
in decision

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Appeal
to court

36.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Powers of
court on
appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Fees
Mediation
Committee

37.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Duties
of Fees
Mediation
Committee

(2) The Fees Mediation Committee,

- (a) shall, unless the Committee considers it inappropriate to do so, mediate any written complaint by a client of a member of the Association or of a holder of a certificate of practice or temporary licence in respect of a fee charged for architectural services provided to the client; and
- (b) shall perform such other duties as are assigned to it by the Council.

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of practice or temporary licence and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Arbitration
by Fees
Mediation
Committee

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

Application
of
R.S.O. 1980,
c. 25

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Enforcement

38.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association or a holder of a certificate of practice or temporary licence has committed an act of professional misconduct or incompetence, the Registrar by order may appoint one or more persons to investigate whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Registrar's
investigation

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of practice or temporary licence in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of
investigator

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar had grounds for appointing and by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of practice or a temporary licence whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

Execution
of order

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order.

Expiry
of order

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued.

Ex parte
application

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of practice or a temporary licence whose affairs are being investigated.

Removal of
books, etc.

(8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents.

Admissibility of copies

(10) The Registrar shall report the results of the investigation to the Council or such committee as he considers appropriate.

Report of Registrar

39.—(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of architecture.

Information re insurance claims, interpretation

(2) Upon the request of the Registrar, an insurer shall furnish to the Registrar any information that is in the possession of the insurer and that is specified in the request related to a claim or claims for indemnity in respect of the practice of architecture.

Information

(3) Subsection (2) does not apply in respect of a document prepared by an insured person related to a claim for indemnity in respect of the practice of architecture by the insured person.

Exception

(4) The Registrar may forward any information referred to in subsection (2) to the Council or to such committee as he considers appropriate.

Transmittal of information

40.—(1) No member of the Association, holder of a certificate of practice or a temporary licence shall engage in the practice of architecture unless insured against professional liability in accordance with the regulations or in accordance with arrangements under subsection (2).

Professional liability insurance

(2) The Association may make arrangements respecting insurance against professional liability for members of the Association, holders of certificates of practice and holders of temporary licences.

Arrangements by Association

(3) Arrangements under subsection (2) may include arrangements respecting the payment and remission of premiums.

Premiums

(4) The Association may prescribe levies that shall be paid by members of the Association, holders of certificates of practice and holders of temporary licences related to arrangements under subsection (2).

Levies

Surrender of
cancelled
licence,
etc.

41. Where a licence, certificate of practice or temporary licence is revoked or cancelled, the former holder thereof shall forthwith deliver the licence, certificate of practice or temporary licence and related seal to the Registrar.

Application
for
restoration
of licence,
etc.

42.—(1) A person whose licence, certificate of practice or temporary licence has been revoked for cause under this Act, or whose membership has been cancelled for cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of practice or temporary licence, but such application shall not be made sooner than two years after the revocation.

Removal of
suspension

(2) A person whose licence, certificate of practice or temporary licence has been suspended for cause under this Act, or whose membership has been suspended for cause under a predecessor of this Act, may apply in writing to the Registrar for the removal of the suspension, but, where the suspension is for more than one year, the application shall not be made sooner than one year after the commencement of the suspension.

Reference to
Discipline
Committee

(3) The Registrar shall refer the application to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the applicant.

Procedures

(4) The provisions of this Act applying to hearings by the Registration Committee, except section 36, apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction
by Council
to issue
licence

(5) Notwithstanding subsections (1), (2) and (3), the Council may direct at any time that a licence, certificate of practice or temporary licence be issued to a person whose licence, certificate of practice or temporary licence has previously been revoked for cause or suspended for cause or that a suspension or cancellation for cause under a predecessor of this Act be removed, subject to such terms, conditions or limitations as the Council considers appropriate.

Confidentiality

43.—(1) Every person engaged in the administration of this Act, including any person making an examination or review under section 32 or an investigation under section 38, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of,
- (i) this Act and the regulations and by-laws, or
 - (ii) the *Professional Engineers Act, 1984* and the regulations and by-laws under that Act, 1984, c. 13
- or any proceedings under,
- (iii) this Act or the regulations, or
 - (iv) the *Professional Engineers Act, 1984* or the regulations under that Act;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws or a proceeding under the *Professional Engineers Act, 1984* or the regulations or by-laws under that Act.

Testimony
in civil
action

44.—(1) A corporation whose name includes the word “architect” or a derivative or abbreviation of “architect” and that ceases to hold a subsisting certificate of practice shall not carry on or engage in any business until the word “architect” or the derivative or abbreviation of “architect” is removed from the name of the corporation.

Use of
word
“architect”
by
corporation

(2) Subsection (1) does not apply to prevent a corporation from carrying on an activity necessary to the winding up of the corporation.

Exception

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

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

the same manner as any other order or judgment of the Supreme Court.

Penalties

46.—(1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Idem

(2) Every person who is not a holder of a licence, certificate of practice or temporary licence and who,

(a) uses the title “architect” as an occupational designation;

(b) uses,

(i) an addition to or an abbreviation of the title “architect”,

(ii) an occupational designation, or

(iii) a term, title, addition or description,

that will lead to the belief that the person may engage in the practice of architecture; or

(c) uses a seal that will lead to the belief that the person is an architect,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 38 in the course of his duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem

(4) Every corporation that contravenes section 44 is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

(6) Where a person who is guilty of an offence under subsection (1), (2), (3) or (4) is a member or an employee of a partnership, every member of the partnership who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Idem,
partner

(7) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4), (5) or (6) after two years after the date on which the offence was, or is alleged to have been, committed.

Limitation

(8) It is not an offence under subsection (2),

Exception

(a) for a member of the Association of Architectural Technologists of Ontario to use the designation "architectural technologist" or "architectural technician";

(b) for a person to use the designation "landscape architect"; or

(c) for a person to use the title "architect" if the person is a member of a class for whom the use of the title is a privilege prescribed by the regulations.

47.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate of practice, temporary licence or document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Falsification
of
certificate

(2) Every person who wilfully procures or attempts to procure the issuance of a licence, a certificate of practice or a temporary licence under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting him therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
for false
representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) or (2) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed.

Limitation
period

48. Where licensing or the holding of a certificate of practice or a temporary licence or acting under and in accordance with a certificate of practice under this Act is required to permit the lawful doing of any act or thing, if in any prosecution

Onus of
proof

it is proven that the defendant has done such act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of practice or temporary licence or that he acted in accordance with a certificate of practice under this Act rests upon the defendant.

Service
of notice

49. A notice or document required by this Act to be served or delivered may be served or delivered personally or by mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or delivered by mail, the service or delivery shall be deemed to have been made on the tenth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Registrar's
certificate
as evidence

50. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity

51.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the Association or a member of the Association or committee, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor
indemnified
in suits
respecting
execution of
his office

(2) Every member of the Council and every officer, member or employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given at any meeting of the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office, employment or appointment; and

- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

52.—(1) There shall be a board to be known as the “Joint Practice Board” to assist the Ontario Association of Architects and the Association of Professional Engineers of Ontario in the maintenance of the professional relationship between the two associations.

Joint Practice Board

(2) The Joint Practice Board shall be composed of a chairman, three members representing the Ontario Association of Architects and three members representing the Association of Professional Engineers of Ontario.

Composition

(3) The Lieutenant Governor in Council may appoint the chairman after requesting and considering the views, if any, of the council of each of the associations and may provide for remuneration and payment of the expenses, or either of them, of the chairman.

Appointment of chairman

(4) The Council shall appoint to the Joint Practice Board the three members representing the Association and shall prescribe the term of each appointment.

Appointment of members by Council

(5) The Joint Practice Board may recommend to the Council,

Recommendations

- (a) that the Council direct the Registrar to issue a licence or a certificate of practice to a holder of a general certificate of authorization;
- (b) that an inspection be made of records, other than financial records, of a specific member of the Association, holder of a certificate of practice or holder of a temporary licence as part of a program of inspection of records other than financial records.

(6) The Council, upon the recommendation of the Joint Practice Board, may direct the Registrar to issue a licence or a certificate of practice to a holder of a general certificate of authorization and, if the Council does not direct the issuance of the licence or the certificate of practice, the Council shall give its reasons therefor in writing to the Joint Practice Board and to the applicant for the licence or the certificate of practice.

Direction by Council to issue licence or certificate of practice

Referral of
dispute to
Joint
Practice
Board
1984, c. 13

(7) Where a dispute arises between an architect and a professional engineer or a holder of a certificate of authorization issued under the *Professional Engineers Act, 1984* as to jurisdiction in respect of professional services, the Registrar may refer the matter to the Joint Practice Board and the Joint Practice Board shall consider the matter and assist the architect and the professional engineer or the holder of the certificate of authorization to resolve the dispute in accordance with the rules in section 11.

Commencement
of
proceedings

(8) Proceedings shall not be commenced under this Act in respect of a matter mentioned in subsection (7) except upon the certificate of the chairman of the Joint Practice Board that the Board has considered the matter and has been unable to resolve the dispute.

Certificate

(9) The certificate of the chairman is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the chairman.

Annual
report

53.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Application
of
R.S.O.1980,
c. 95

54.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Attorney General shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2), and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).

5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Attorney General shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 294 (which relates to general meetings).
14. Section 297 (which relates to directions by a court as to holding a meeting).
15. Section 299 (which relates to minutes of meetings).
16. Section 302 (which relates to books of account).
17. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
18. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Attorney General shall be deemed to be the Minister referred to in the section.

19. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
20. Section 310 (which relates to investigations and audits).
21. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
22. Section 329 (which relates to removal of proceedings into the Supreme Court).
23. Section 330 (which relates to appeals).
24. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Attorney General and the Deputy Attorney General shall be deemed to be the Minister and the Deputy Minister referred to in the section.
25. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

Interpretation (2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder.

Repeal **55.**—(1) The *Architects Act*, being chapter 26 of the Revised Statutes of Ontario, 1980, is repealed.

References R.S.O. 1980, c. 26 (2) Any reference in any Act or regulation to the *Architects Act* shall be deemed to be a reference to this Act.

Idem (3) Any reference in any Act or regulation to an architect as a member of the Association under the *Architects Act* shall be deemed to be a reference to an architect licensed under this Act.

Commencement **56.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **57.** The short title of this Act is the *Architects Act, 1984*.

Bill 123

An Act to revise the Professional Engineers Act

The Hon. R. McMurtry
Attorney General

1st Reading March 20th, 1984
2nd Reading March 20th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill revises the *Professional Engineers Act*. The main features of the revision are:

1. The Bill provides a new definition of the practice of professional engineering for the purpose of precluding those who are not authorized from engaging in the practice. The new definition does not set forth every action that a professional engineer may perform but rather prescribes those acts that may not be performed by a person who is not a professional engineer.
2. The Lieutenant Governor in Council will appoint to the Council of the Association of Professional Engineers of Ontario not fewer than five and not more than seven persons who are members of the Association and not fewer than three and not more than five persons who are not professional engineers.
3. The establishment of the Registration Committee, to hear licensing matters not related to academic or experience qualifications, with provision for appeal to the Divisional Court. Determinations as to academic qualifications will be made by the Association's Committee on Academic Requirements, and determinations as to experience qualifications will be made by the Association's Committee on Experience Requirements.
4. The establishment of the Complaints Committee, to consider and investigate complaints regarding members of the Association and holders of limited licences, with power to refer matters to the Discipline Committee.
5. The establishment of the Discipline Committee, to hear and determine specific allegations of professional misconduct or incompetence, with power to impose a wide range of penalties and provision for appeal to the Divisional Court.
6. The establishment of the Fees Mediation Committee, to mediate complaints in respect of fees.
7. The establishment of the office of Complaints Review Councillor with power to examine the procedures for the treatment of complaints by the Association and to review the treatment of any specific complaint.
8. A distinction is made between the practice of professional engineering, for which licences and limited licences are to be issued, and the business of providing services that are within the practice of professional engineering, for which certificates of authorization are to be issued.
9. Provision is made for the issuance of limited licences.
10. The authority of the Council of the Association to make regulations will be subject to the approval of the Lieutenant Governor in Council and to prior review by the Minister. In addition, the Minister may advise the Council with respect to the implementation of the Act and the regulations.

Bill 123

1984

An Act to revise the Professional Engineers 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:

1. In this Act,

Interpretation

1984, c. ...

- (a) "Academic Requirements Committee" means the Academic Requirements Committee appointed pursuant to the regulations;
- (b) "architect" means a person who is licensed or who holds a certificate of practice or a temporary licence under the *Architects Act, 1984*;
- (c) "Association" means Association of Professional Engineers of Ontario;
- (d) "by-laws" means by-laws made under this Act;
- (e) "certificate of authorization" means certificate of authorization issued under this Act to engage in the business of providing services that are within the practice of professional engineering;
- (f) "Complaints Review Councillor" means Complaints Review Councillor appointed under this Act;
- (g) "Council" means Council of the Association;
- (h) "Experience Requirements Committee" means the Experience Requirements Committee appointed pursuant to the regulations;
- (i) "Joint Practice Board" means Joint Practice Board established under the *Architects Act, 1984*;
- (j) "licence" means licence to engage in the practice of professional engineering issued under this Act;
- (k) "limited licence" means limited licence to engage in the practice of professional engineering issued under this Act;
- (l) "Minister" means the Attorney General or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (m) "practice of professional engineering" means any act of designing, composing, evaluating, advising, reporting, directing or supervising wherein the safeguarding of life, health, property or the public welfare is concerned and that requires the application of engineering principles, but does not include practising as a natural scientist;

- (n) "professional engineer" means a person who holds a licence or a temporary licence;
- (o) "Registrar" means Registrar of the Association;
- (p) "regulations" means regulations made under this Act;
- (q) "temporary licence" means temporary licence to engage in the practice of professional engineering issued under this Act.

2.—(1) The Association of Professional Engineers of the Province of Ontario, a body corporate, is continued as a corporation without share capital under the name of "Association of Professional Engineers of Ontario".

Association continued

(2) The head office of the Association shall be at The Municipality of Metropolitan Toronto.

Head office

(3) The principal object of the Association is to regulate the practice of professional engineering and to govern its members, holders of certificates of authorization, holders of temporary licences and holders of limited licences in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Principal object

(4) For the purpose of carrying out its principal object, the Association has the following additional objects:

Additional objects

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and standards of practice for the practice of professional engineering.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To promote public awareness of the role of the Association.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

(5) It is not within the power of the Association to provide a service for its members that is not related to the carrying out of the objects of the Association.

Services for members

Exceptions

(6) Subsection (5) does not apply in respect of a service that is provided by the Association immediately before the coming into force of this Act. ▲

Capacity and powers of Association

(7) For the purpose of carrying out its objects, the Association has the capacity and the powers of a natural person.

Council of Association

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs.

Composition of Council

(2) The Council shall be composed of,

- (a) not fewer than fifteen and not more than twenty persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;
- (b) not fewer than five and not more than seven persons who are members of the Association and who are appointed by the Lieutenant Governor in Council;
- (c) not fewer than three and not more than five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (d) the holders of offices prescribed by the regulations who are not members of the Council under clause (a), (b) or (c).

Idem

(3) No person shall be elected or appointed to the Council unless he is a Canadian citizen resident in Ontario.

Remuneration of lay members

(4) The persons appointed under clause (2) (c) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Term of office of appointed members

(5) In each year, the persons to be appointed by the Lieutenant Governor in Council shall be appointed for one year, two year or three year terms in order that one-third, or as near thereto as possible, shall be appointed in each year.

Qualifications to vote

(6) Every member of the Association who is not in default of payment of an annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council.

(7) The Association shall have the officers provided for by the regulations.

Officers

(8) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association.

Registrar and staff

(9) A majority of the members of the Council constitutes a quorum.

Quorum

(10) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum.

Vacancies

(11) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled as soon as practicable by a member of the Association,

Filling of vacancy

- (a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the member so appointed shall be deemed to be an elected member of the Council; or
- (b) where no quorum of the Council remains in office, elected in accordance with the regulations,

and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.

(12) The Council shall meet at least four times a year.

Meetings of Council

(13) The members of the Council of the Association of Professional Engineers of the Province of Ontario who were elected or appointed and in office immediately before this Act comes into force shall continue in office and shall be deemed to be elected or appointed, as the case requires, under subsection (2) until the expiration of the term for which they were elected or appointed or until the office otherwise becomes vacant.

Continuation of Council members

4. The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting.

Annual meetings

Membership

5.—(1) Every person who holds a licence is a member of the Association subject to any term, condition or limitation to which the licence is subject.

Resignation
of
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

Powers
of
Minister

6. In addition to his other powers and duties under this Act, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

7.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. fixing the number of members to be elected to the Council under clause 3 (2) (a) and defining constituencies, and prescribing the number of representatives;
2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. prescribing positions of officers of the Association and providing for their election or appointment;
5. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the

committees and procedures ancillary to those specified in this Act in respect of any committee;

6. respecting matters of practice and procedure before committees required under this Act that do not conflict with the *Statutory Powers Procedure Act*;
7. prescribing the quorums of the committees required by this Act other than the Complaints Committee and the Discipline Committee;
8. prescribing classes of persons whose interests are related to those of the Association and the privileges of members of the classes in relation to the Association;
9. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of authorization, temporary licences and limited licences, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination set or approved by the Council as a licensing requirement,
 - ii. the curricula and standards of professional training programs offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs,
 - iv. classes of licences,
 - v. the academic and experience requirements for the issuance of a licence or any class of licence, and
 - vi. classes of certificates of authorization, temporary licences and limited licences, including prescribing requirements and qualifications for the issuance of specified classes of certificates of authorization, temporary licences and limited licences, and terms and conditions that shall apply to specified classes of certificates of authorization, temporary licences and limited licences;

R.S.O. 1980,
c. 484

10. prescribing forms of applications for licences, certificates of authorization, temporary licences and limited licences and requiring their use;
11. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of authorization and in respect of the interests of partners that apply for or hold certificates of authorization and prescribing and requiring the use of forms of such returns;
12. requiring and governing the signing and sealing of documents and designs by members of the Association, holders of temporary licences and holders of limited licences, specifying the forms of seals and respecting the issuance and ownership of seals;
13. requiring the making of returns of information by members of the Association and holders of certificates of authorization, temporary licences and limited licences in respect of names, addresses, telephone numbers, professional associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;
14. requiring and governing the disclosure of the identity of holders of certificates of authorization on documents and designs involving the practice of professional engineering issued by such holders and specifying the form and manner of such disclosure;
15. governing the use of names and designations in the practice of professional engineering by members of the Association and holders of certificates of authorization, temporary licences and limited licences;
16. providing for the maintenance and inspection of registers of members of the Association, holders of temporary licences, holders of limited licences and holders of certificates of authorization;
17. prescribing and governing standards of practice and performance standards for the profession;
18. providing for the setting of schedules of suggested fees for professional engineering services and for the publication of the schedules;

19. respecting the advertising of the practice of professional engineering;
20. prescribing a code of ethics;
21. defining professional misconduct for the purposes of this Act;
22. providing for the designation of members of the Association and holders of temporary licences as specialists, prescribing the qualifications and requirements for designation as a specialist, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association, a holder of a temporary licence or a certificate of authorization;
23. providing for the designation of members of the Association as consulting engineers, prescribing the qualifications and requirements for designation as a consulting engineer, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association, a holder of a temporary licence or a certificate of authorization;
24. prescribing the minimum requirements for professional liability insurance, requiring the delivery to the Registrar of proof of such insurance and prescribing the form of such proof and the manner and time of the delivery;
25. prescribing the amount of and requiring the payment of annual fees by holders of certificates of authorization, temporary and limited licences and by students and members of related classes recognized by the Association, and fees for temporary licences, limited licences, certification, registration, designations, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
26. providing for the entering into of arrangements by the Association for its members and holders of certificates of authorization, temporary licences and limited licences respecting indemnity for professional liability and requiring the payment and remittance of premiums in connection therewith and pre-

scribing levies to be paid by members and holders of certificates of authorization, temporary licences and limited licences in respect of such indemnity for professional liability;

- 27. providing for continuing education of members;
- 28. respecting the duties and authority of the Registrar;
- 29. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence, certificate of authorization, temporary licence or limited licence that was cancelled by the Registrar;
- 30. classifying and exempting any class of holders of licences, certificates of authorization, temporary licences or limited licences from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
- 31. exempting any act within the practice of professional engineering from the application of this Act;
- 32. specifying acts within the practice of professional engineering that are exempt from the application of this Act when performed or provided by a member of a prescribed class of persons, and prescribing classes of persons for the purpose of the exemption.

Distribution
of
regulations

- (2) A copy of each regulation made under subsection (1),
 - (a) shall be forwarded to each member of the Association and to each holder of a certificate of authorization, temporary licence or limited licence; and
 - (b) shall be available for public inspection in the office of the Association.

By-laws

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

- 1. prescribing the seal and other insignia of the Association and providing for their use;
- 2. providing for the execution of documents by the Association;

3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;
5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
6. providing for meetings of the Council and committees, except in a proceeding in respect of a membership, certificate of authorization, temporary licence or limited licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
7. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence, certificate of authorization, temporary licence or limited licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
8. respecting the calling, holding and conducting of meetings of the membership of the Association;
9. authorizing voting by mail by the general membership of the Association on any of the business of the Association and prescribing procedures for such voting;
10. prescribing the duties of officers of the Association;
11. prescribing forms and providing for their use;
12. providing procedures for the making, amending and revoking of the by-laws;
13. respecting management of the property of the Association;

14. providing for the appointment, composition, powers, duties and quorums of additional or special committees;
15. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
16. prescribing the amount and requiring the payment of annual fees by members of the Association;
17. respecting the borrowing of money by the Association and the giving of security therefor;
18. respecting membership of the Association in other organizations the objects of which are not inconsistent with and are complementary to those of the Association, the payment of annual assessments and provision for representatives at meetings;
19. providing for the establishment and dissolution and governing the operation of groups of members of the Association and respecting grants by the Association to any such groups;
20. authorizing the making of grants for any purpose that may tend to advance knowledge of professional engineering education, or maintain or improve the standards of practice in professional engineering or support and encourage public information and interest in the past and present role of professional engineering in society;
21. respecting scholarships, bursaries and prizes related to the study of professional engineering;
22. respecting the establishment and operation and use of publications of the Association;
23. providing for an employment advisory service and for the continuance of the retirement savings plans in which members of the Association may participate on a voluntary basis;
24. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

(2) A by-law passed by the Council is not effective until confirmed by the members of the Association.

When by-laws come into force

(3) A by-law passed by the Council may be confirmed by the members of the Association only by means of a vote conducted by mail.

Confirmation of by-laws

(4) A copy of the by-laws made under subsection (1) and amendments thereto,

Distribution of by-laws

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each member of the Association; and

(c) shall be available for public inspection in the office of the Association.

9. The Council shall establish and designate an official publication of the Association.

Official publication

10.—(1) The Council shall establish and appoint the following committees:

Establishment of committees

(a) Executive Committee;

(b) Academic Requirements Committee;

(c) Experience Requirements Committee;

(d) Registration Committee;

(e) Complaints Committee;

(f) Discipline Committee;

(g) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum.

Vacancies

11. The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council other than to make, amend or revoke a regulation or a by-law.

Executive Committee

Licence
or limited
licence
required

12.—(1) No person shall engage in the practice of professional engineering or hold himself out as engaging in the practice of professional engineering unless the person is the holder of a licence, a temporary licence or a limited licence.

Certificate
of
authorization

(2) No person shall offer to the public or engage in the business of providing to the public services that are within the practice of professional engineering except under and in accordance with a certificate of authorization.

Exceptions

(3) Subsections (1) and (2) do not apply to prevent a person,

- (a) from doing an act that is within the practice of professional engineering in relation to machinery or equipment, other than equipment of a structural nature, for use in the facilities of the person's employer in the production of products by the person's employer;
- (b) from doing an act that is within the practice of professional engineering where a professional engineer assumes responsibility for the services within the practice of professional engineering to which the act is related;
- (c) from designing or providing tools and dies;
- (d) from doing an act that is within the practice of professional engineering but that is exempt from the application of this Act when performed or provided by a member of a class of persons prescribed by the regulations for the purpose of the exemption, if the person is a member of the class;
- (e) from doing an act that is exempt by the regulations from the application of this Act. ▲

Idem

(4) Subsections (1) and (2) do not apply to the preparation or provision of a design for the construction, enlargement or alteration of a building,

- (a) that is not more than three storeys and not more than 600 square metres in gross area as constructed, enlarged or altered;
- (b) that is used or intended for one or more of residential occupancy, business occupancy, personal services occupancy, mercantile occupancy or industrial occupancy; and

- (c) is not designed to house and is not part of an apparatus, process, facility or works the design of which is within the practice of professional engineering.

(5) Subsections (1) and (2) do not apply to,

Idem

- (a) the preparation or provision of a design for the construction, enlargement or alteration of a building that is not more than three storeys and that is used or intended for residential occupancy and,
- (i) that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or
 - (ii) that is not more than 600 square metres in building area as constructed, enlarged or altered and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit; or
- (b) the preparation or provision of a design for alterations within a dwelling unit that will not affect or are not likely to affect fire separations, firewalls, the strength or safety of the building or the safety of persons in the building.

(6) The following rules govern the relationship between professional engineers and architects and subsections (1) and (2) do not apply to prevent an architect from preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building in accordance with these rules: Idem

1. Only an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. used or intended for residential occupancy,
 - ii. that exceeds 600 square metres in gross area, and
 - iii. that does not exceed three storeys,

and carry out the general review of the construction, enlargement or alteration of the building but an architect who prepares or provides such a design may engage a professional engineer to provide ser-

vices within the practice of professional engineering in connection with the design and the professional engineer may provide the services.

2. A professional engineer or an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. that exceeds 600 square metres in gross area or three storeys, and
 - ii. that is used or intended for,
 - A. industrial occupancy, or
 - B. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where none of the other occupancies exceeds 600 square metres of the gross area,

but only a professional engineer may provide services within the practice of professional engineering in connection with the design.



3. Subject to rules 4 and 5, a professional engineer shall provide services that are within the practice of professional engineering and an architect shall provide services that are within the practice of architecture related to the construction, enlargement or alteration of a building used or intended for,
 - i. assembly occupancy,
 - ii. institutional occupancy,
 - iii. business occupancy or personal services occupancy that exceeds 600 square metres in gross area or three storeys,
 - iv. mercantile occupancy that exceeds 600 square metres in gross area or three storeys,
 - v. residential occupancy that exceeds three storeys,
 - vi. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where one of the other occupancies exceeds 600 square metres in gross area,

vii. mixed occupancy consisting of a combination of,

A. assembly occupancy and any other occupancy, except industrial occupancy,

B. institutional occupancy and any other occupancy, except industrial occupancy,

C. one or more of,

1. business occupancy,

2. personal services occupancy, or


3. mercantile occupancy,

and any other occupancy, except assembly occupancy, institutional occupancy or industrial occupancy,

where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

D. residential occupancy that exceeds three storeys and any other occupancy, where the building as constructed, enlarged or altered exceeds 600 square metres in gross area, or

viii. any other occupancy where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

but a professional engineer may provide a design for the industrial occupancy of a mixed occupancy described in subparagraph vi. 

4. An architect may perform or provide services that are within the practice of professional engineering in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 2 or 3 where to do so does not constitute a substantial part of the services within the practice of professional engineering related to the construction, enlargement or alteration of the building and is necessary,

- i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of architecture by the architect in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
5. A professional engineer may perform or provide services that are within the practice of architecture in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 1 or 3 where to do so does not constitute a substantial part of the services within the practice of architecture related to the construction, enlargement or alteration of the building and is necessary,
 - i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of professional engineering by the professional engineer in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
6. Only an architect may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by an architect, or
 - ii. in relation to services that are provided by an architect in connection with the design in accordance with which the building is constructed, enlarged or altered.
7. Only a professional engineer may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by a professional engineer, or

ii. in relation to services that are provided by a professional engineer in connection with the design in accordance with which the building is constructed, enlarged or altered.

8. A professional engineer or an architect may act as prime consultant for the construction, enlargement or alteration of a building.

9. A reference in these rules to the provision of a design or services by a professional engineer applies equally to a holder of a certificate of authorization.

(7) Subsections (1) and (2) do not apply to prevent a person from carrying out a general review of the construction, enlargement or alteration of a building that does not or is not intended to take the place of a general review required to be done by a professional engineer. Idem

(8) In this section, Interpretation

(a) "assembly occupancy" means occupancy for gatherings of persons for civic, educational, political, recreational, religious, social, travel or other similar purpose, or for the consumption of food or drink;

(b) "building" means a structure consisting of a wall, roof and floor, or any one or more of them;

(c) "building area" means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls;

(d) "business occupancy" means occupancy for the transaction of business;

(e) "construction" means the doing of anything in the erection, installation, extension or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and "constructed" has a corresponding meaning;

(f) "design" means a plan, sketch, drawing, graphic representation or specification intended to govern the construction, enlargement or alteration of a building or a part of a building;

- (g) “dwelling unit” means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- (h) “fire separation” means a construction assembly that acts as a barrier against the spread of fire and that may or may not have a fire-resistance rating or a fire-protection rating;
- (i) “firewall” means a type of fire separation of non-combustible construction that subdivides a building or separates adjoining buildings to resist the spread of fire and that has a fire-resistance rating as prescribed in Ontario Regulation 583/83 (known as the Building Code), as amended from time to time, and has structural stability to remain intact under fire conditions for the fire-resistance time for which it is rated;
- (j) “general review”, in relation to the construction, enlargement or alteration of a building, means an examination of the building to determine whether the construction, enlargement or alteration is in general conformity with the design governing the construction, enlargement or alteration, and reporting thereon;
- (k) “grade” means the lowest of the average levels of finished ground adjoining each exterior wall of a building, but does not include localized depressions such as for vehicle or pedestrian entrances;
- (l) “graphic representation” means a representation produced by electrical, electronic, photographic or printing methods and includes a representation produced on a video display terminal;
- (m) “gross area” means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls but in a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall;
- (n) “industrial occupancy” means occupancy for assembling, fabricating, manufacturing, processing,

repairing or storing of goods or materials or for producing, converting, processing or storing of energy, waste or natural resources;

- (o) “institutional occupancy” means occupancy for the harbouring, housing or detention of persons who require special care or treatment on account of their age or mental or physical limitations or who are involuntarily detained;
- (p) “mercantile occupancy” means occupancy or use for displaying or selling retail goods, wares or merchandise;
- (q) “personal services occupancy” means occupancy for the rendering or receiving of professional or personal services;
- (r) “residential occupancy” means occupancy for providing sleeping accommodation for persons, but does not include institutional occupancy.

(9) For the purposes of this section, proof of the performance of one act in the practice of professional engineering on one occasion is sufficient to establish engaging in the practice of professional engineering.

Proof of
practice

13. A corporation that holds a certificate of authorization may provide services that are within the practice of professional engineering.

Corporation

14.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

Issuance
of
licence

- (a) is a citizen of Canada or has the status of a permanent resident of Canada;
- (b) is not less than eighteen years of age;
- (c) has complied with the academic requirements specified in the regulations for the issuance of the licence and has passed such examinations as the Council has set or approved in accordance with the regulations or is exempted therefrom by the Council;
- (d) has complied with the experience requirements specified in the regulations for the issuance of the licence; and

(e) is of good character.

Grounds for
refusal
to issue
licence

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity.

Referral
to
committee

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence,

(a) to the Academic Requirements Committee for a determination as to whether or not the applicant has met the academic requirements prescribed by the regulations for the issuance of the licence;

(b) to the Experience Requirements Committee for a determination as to whether or not the applicant has met the experience requirements prescribed by the regulations for the issuance of the licence; or

(c) first to the Academic Requirements Committee and then to the Experience Requirements Committee for determinations under clauses (a) and (b).

Determi-
nation
by
committee
Hearing

(4) A determination by a committee under subsection (3) is final and is binding on the Registrar and on the applicant.

(5) A committee shall receive written representations from an applicant but is not required to hold or to afford to any person a hearing or an opportunity to make oral submissions before making a determination under subsection (3).

Notice
of
determination

(6) The Registrar shall give notice to the applicant of a determination by a committee under subsection (3) and, if the applicant is rejected, the notice shall detail the specific requirements that the applicant must meet.

Issuance
of
certificate
of
authorization

15.—(1) The Registrar shall issue a certificate of authorization to a natural person, a partnership or a corporation that applies therefor in accordance with the regulations if the requirements and qualifications for the issuance of the certificate of authorization set out in the regulations are met.

General and
standard
certificate

(2) Where the Registrar proposes to issue a certificate of authorization to an applicant, the Registrar shall issue a standard certificate of authorization or, where the primary function of the applicant is or will be to provide to the public ser-

vices that are within the practice of professional engineering and the applicant requests a general certificate of authorization, the Registrar shall issue a general certificate of authorization to the applicant.

(3) The Registrar shall issue a standard certificate of authorization to a partnership of corporations that applies therefor in accordance with the regulations if at least one of the corporations holds a certificate of authorization.

Partnership
of
corporations

(4) Where a holder of a temporary licence assumes responsibility for and supervises the practice of professional engineering related to the services provided by the holder of a certificate of authorization, the certificate of authorization is subject to the same terms and conditions prescribed by the regulations that apply to the temporary licence.

Terms and
conditions

(5) A holder of a certificate of authorization ceases to be entitled to offer to the public or to provide to the public services that are within the practice of professional engineering as soon as there is no holder of a licence or a temporary licence who assumes responsibility for and supervises the practice of professional engineering provided by the holder of the certificate of authorization.

Suspension
of effect of
certificate
of
authorization

(6) The holder of a certificate of authorization must give notice to the Registrar when there ceases to be a holder of a licence or a temporary licence who assumes responsibility for and supervises the practice of professional engineering by the holder of the certificate of authorization and when the holder of the certificate of authorization designates another holder of a licence or a temporary licence to assume such responsibility and carry out such supervision.

Notice to
Registrar by
holder of
certificate
of
authorization

(7) A holder of a licence or a temporary licence who ceases to be responsible for and to supervise the practice of professional engineering by a holder of a certificate of authorization as the person so designated by the holder of the certificate of authorization shall give notice of the cessation forthwith to the Registrar.

Notice to
Registrar by
person in
position of
professional
responsibility

(8) The Registrar may refuse to issue or may suspend or revoke a certificate of authorization where the Registrar is of the opinion, upon reasonable and probable grounds,

Past conduct

- (a) that the past conduct of a person who is in a position of authority or responsibility in the operation of the business of the applicant for or the holder of the certificate of authorization affords grounds for the belief that the applicant or holder will not

engage in the business of providing services that are within the practice of professional engineering in accordance with the law and with honesty and integrity;

- (b) that the holder of the certificate of authorization does not meet the requirements or the qualifications for the issuance of the certificate of authorization set out in the regulations; or
- (c) that there has been a breach of a condition of the certificate of authorization.

Issuance of licence or certificate of authorization on direction of Council

16. The Registrar shall issue a licence or a certificate of authorization upon a direction of the Council made in accordance with a recommendation by the Joint Practice Board.

Supervision by professional engineer

17.—(1) It is a condition of every certificate of authorization that the holder of the certificate shall provide services that are within the practice of professional engineering only under the personal supervision and direction of a member of the Association or the holder of a temporary licence.

Professional responsibility of supervising professional engineer

(2) A member of the Association or a holder of a temporary licence who personally supervises and directs the providing of services within the practice of professional engineering by a holder of a certificate of authorization or who assumes responsibility for and supervises the practice of professional engineering related to the providing of services by a holder of a certificate of authorization is subject to the same standards of professional conduct and competence in respect of the services and the related practice of professional engineering as if the services were provided or the practice of professional engineering was engaged in by the member of the Association or the holder of the temporary licence.

Issuance of temporary licence or limited licence

18.—(1) The Registrar shall issue a temporary licence or a limited licence to a natural person who applies therefor in accordance with the regulations and who meets the requirements and qualifications for the issuance of the temporary licence or the limited licence set out in the regulations, provided that, in the case of a limited licence, the applicant is a Canadian citizen or has the status of a permanent resident of Canada.



Grounds for refusal, suspension or revocation

(2) The Registrar may refuse to issue or may suspend or revoke a temporary licence or a limited licence where the

Registrar is of the opinion, upon reasonable and probable grounds,

- (a) that the past conduct of the applicant for or the holder of the temporary licence or the limited licence affords grounds for the belief that the applicant or holder will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity;
- (b) that the holder of the temporary licence or the limited licence does not meet the requirements or the qualifications for the issuance of the temporary licence or the limited licence set out in the regulations; or
- (c) that there has been a breach of a condition of the temporary licence or the limited licence. ▲

(3) Subsections 14 (3) to (6) (which relate to the Academic Requirements Committee and the Experience Requirements Committee) apply with necessary modifications in respect of an applicant for a temporary licence or a limited licence. Referral to committee

(4) Subsection (1) does not apply in respect of a member of the Association or a holder of a certificate of authorization. Application of subs. (1)

(5) A holder of a temporary licence or a limited licence is not a member of the Association. Membership



19.—(1) Where the Registrar proposes,

- (a) to refuse to issue a licence; or
- (b) to refuse to issue, to suspend or to revoke a temporary licence, a limited licence or a certificate of authorization,

Hearing by Registration Committee

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant. ▲

(2) Subsection (1) does not apply in respect of a proposal to refuse to issue a licence, a temporary licence or a limited licence where, Exceptions

- (a) the Academic Requirements Committee has determined that the applicant has not met the academic requirements set out in the regulations for the issuance of the licence, the temporary licence or the limited licence;

- (b) the Experience Requirements Committee has determined that the applicant has not met the experience requirements set out in the regulations for the issuance of the licence, the temporary licence or the limited licence; or
- (c) the applicant previously held a licence, a certificate of authorization, a temporary licence or a limited licence that was suspended or revoked as a result of a decision of the Discipline Committee.

Notice

(3) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant mails or delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee and the applicant may so require such a hearing.

Power of Registrar where no hearing

(4) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (3), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(5) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (3), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Continuation on expiry of committee membership

(6) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceeding in the same manner as if the member's term of office had not expired or been terminated.

Powers of Registration Committee

(7) Following upon a hearing under this section in respect of a proposal by the Registrar, the Registration Committee may, by order,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, direct the Registrar to issue a licence, certificate of

authorization, temporary licence or limited licence, as the case may be, to the applicant;

- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,
 - (i) direct the Registrar to refuse to issue a licence, certificate of authorization, temporary licence or limited licence, or to suspend or revoke the certificate of authorization issued to the applicant, as the case may be, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of professional engineering with competence and integrity, exempt the applicant from any of the requirements of this Act and the regulations and direct the Registrar to issue a licence, certificate of authorization, temporary licence or limited licence, as the case may be; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, direct the Registrar to issue a licence, certificate of authorization, temporary licence or limited licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies.

(8) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Extension
of time for
requiring
hearing

(9) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Parties

Opportunity
to show
compliance

(10) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue of the licence, the certificate of authorization, the temporary licence or the limited licence.

Examination
of
documentary
evidence

(11) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

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

(12) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Registration Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

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

Only
members
at hearing
to participate
in decision

(14) No member of the Registration Committee shall participate in a decision of the Registration Committee following upon a hearing unless he or she was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

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

Applicant

(16) In this section, "applicant" means applicant for a licence or applicant for or holder of a temporary licence, a limited licence or a certificate of authorization.

Fiduciary,
etc.,
relationship
between
corporation
and client

20. A corporation that holds a certificate of authorization has the same rights and is subject to the same obligations in respect of fiduciary, confidential and ethical relationships with each client of the corporation that exist at law between a member of the Association and his client.

21.—(1) The Registrar shall maintain one or more registers in which is entered every person who is licensed under this Act and every holder of a certificate of authorization, temporary licence or limited licence, identifying the terms, conditions and limitations attached to the licence, certificate of authorization, temporary licence or limited licence, and shall note on the register every revocation, suspension and cancellation or termination of a licence, certificate of authorization, temporary licence or limited licence and such other information as the Registration Committee or Discipline Committee directs. Registers

(2) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar. Inspection

(3) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers mentioned in subsection (1) maintained by the Registrar. Copies

22.—(1) Every person who is a member of the Association immediately before this Act comes into force shall be deemed to be the holder of a licence and is a member of the Association. Continuation of memberships

(2) Every licence or certificate of authorization issued under the *Professional Engineers Act*, being chapter 394 of the Revised Statutes of Ontario, 1980, or a predecessor thereof, and in effect immediately before this Act comes into force continues in the same manner as if issued as a temporary licence or a standard certificate of authorization, as the case requires, under this Act. Continuation of licences and certificates

23.—(1) The Registrar may cancel a licence, certificate of authorization, temporary licence or limited licence for non-payment of any fee prescribed by the regulations or the by-laws after giving the member or the holder of the certificate of authorization, temporary licence or limited licence at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member or holder. Cancellation for default of fees

(2) A person who was a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence whose licence, certificate of authorization, temporary licence or limited licence was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of authorization, temporary licence or limited licence Reinstatement

reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Complaints
Committee

24.—(1) The Complaints Committee shall be composed of not fewer than three members of the Association appointed to the Committee by the Council, including at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be chairman.

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum.

Duties
of
Complaints
Committee

25.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of a member of the Association or holder of a certificate of authorization, a temporary licence or a limited licence, but no action shall be taken by the Committee under subsection (2) unless,

(a) a written complaint in a form that shall be provided by the Association has been filed with the Registrar and the member or holder whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member or holder may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred, in whole or in part, to the Discipline Committee;

(b) direct that the matter not be referred under clause (a); or

- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor. Decision and reasons

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 27. Notice

(5) The Committee is not required to hold a hearing or to afford to any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this section. Hearing

26.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council under clause 3 (2) (c). Complaints Review Councillor

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee. Idem

27.—(1) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association. Examination by Complaints Review Councillor

(2) Where a complaint respecting a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Registrar, upon application by the complainant or on his own initiative the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee. Review by Complaints Review Councillor

(3) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint. Application to Complaints Review Councillor

Complaints
Review
Councillor
not to
inquire
into merit
of complaint

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

Discretionary
power of
Complaints
Review
Councillor

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

- (a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or
- (b) in the opinion of the Complaints Review Councillor,
 - (i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or
 - (ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

Notice

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Office
accommo-
dation

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

Privacy

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private.

Receipt
of
information

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit.

Hearing
not
required

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in

relation to an examination, review or report in respect of the Association.

(11) Every person who is,

Duty to furnish information

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association.

Report by Complaints Review Councillor

(13) Where the report follows upon an examination of the procedure for the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council.

Report following upon examination

(14) Where the report follows upon a review of the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against.

Report following upon review

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister where, in the opinion of the Complaints Review Councillor, the report should be brought to the attention of the Minister.

Report to Minister

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Recommendations

Consideration
by Council

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Discipline
Committee

28.—(1) The Discipline Committee shall be composed of,

- (a) at least one person appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council;
- (b) at least one person who is a member of the Association and who is a member of the Council appointed by the Lieutenant Governor in Council; and
- (c) the persons appointed to the Committee by the Council from among the members of the Association who have not less than ten years experience in the practice of professional engineering.

Quorum
and votes

(2) Five members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council and one shall be a person elected to the Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability
of member

(3) Where the Discipline Committee commences a hearing and the member or members thereof who are appointed to the Council by the Lieutenant Governor in Council or who are elected members of the Council become unable to continue to act, the remaining members may complete the hearing notwithstanding the absence of the member or members and may render a decision as effectually as if all members of the Discipline Committee were present throughout the hearing, notwithstanding the absence of a quorum of the Committee.

Chairman

(4) The members of the Discipline Committee shall name one of them to be chairman of the Discipline Committee.

Reference
by Council
or Executive
Committee

(5) The Council or the Executive Committee, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence specified in the resolution.

Duties of
Discipline
Committee

29.—(1) The Discipline Committee shall,

- (a) when so directed by the Council, the Executive Committee or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence;
- (b) hear and determine matters referred to it under section 25, 28 or 38; and
- (c) perform such other duties as are assigned to it by the Council.

(2) A member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) the member or holder has been found guilty of an offence relevant to suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(3) The Discipline Committee may find a member of the Association or a holder of a temporary licence or a limited licence to be incompetent if in its opinion, Incompetence

- (a) the member or holder has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public of a nature or to an extent that demonstrates the member or holder is unfit to carry out the responsibilities of a professional engineer; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member or holder that the member or holder no longer be permitted to engage in the practice of professional engineering or that his practice of professional engineering be restricted.

(4) Where the Discipline Committee finds a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence guilty of professional misconduct or to be incompetent it may, by order, Powers of Discipline Committee

- (a) revoke the licence of the member or the certificate of authorization, temporary licence or limited licence of the holder;
- (b) suspend the licence of the member or the certificate of authorization, temporary licence or limited licence of the holder for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member or holder to limit the professional work of the member or holder in the practice of professional engineering to the extent specified in the undertaking;
- (d) impose terms, conditions or limitations on the licence or certificate of authorization, temporary licence or limited licence, of the member or holder, including but not limited to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence or certificate of authorization, temporary licence or limited licence, including but not limited to,
 - (i) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to engage in the practice of professional engineering only under the personal supervision and direction of a member,
 - (ii) requiring the member to not alone engage in the practice of professional engineering,
 - (iii) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to accept periodic inspections by the Committee or its delegate of documents and records in the possession or under the control of the member or the holder in connection with the practice of professional engineering,
 - (iv) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such matters in respect of the member's or holder's practice for such period of time, at such times and in

such form, as the Discipline Committee may specify;

- (f) require that the member or the holder of the certificate of authorization, temporary licence or limited licence be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register for a stated or unlimited period of time;
- (g) revoke or suspend for a stated period of time the designation of the member or holder by the Association as a specialist, consulting engineer or otherwise;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in detail or in summary and either with or without including the name of the member or holder in the official publication of the Association and in such other manner or medium as the Discipline Committee considers appropriate in the particular case;
- (j) fix and impose costs to be paid by the member or the holder to the Association;
- (k) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose, including but not limited to,
 - (i) the successful completion by the member or the holder of the temporary licence or the limited licence of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

Publication
of revocation
or suspension

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence or certificate of authorization, temporary licence or limited licence to be published, with or without the reasons therefor, in the official publication of the Association together with the name of the member or holder of the revoked or suspended licence or certificate of authorization, temporary licence or limited licence.

Publication
on request

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in the official publication of the Association, upon the request of the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence against whom the allegation was made.

Costs

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence for his costs or such portion thereof as the Discipline Committee fixes.

Stay of
decision
on appeal,
incompetence

30.—(1) Where the Discipline Committee revokes, suspends or restricts a licence, temporary licence or limited licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay of
decision
on appeal,
professional
misconduct

(2) Where the Discipline Committee revokes, suspends or restricts a licence or a certificate of authorization, temporary licence or limited licence on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Discipline
proceedings,
parties

31.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association or the holder of a certificate of authorization, a temporary licence or a limited licence whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A member or holder of a certificate of authorization, a temporary licence or a limited licence whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

In camera
R.S.O. 1980,
c. 484

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters of a person other than the person whose conduct is being investigated outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties upon the same terms as in the Supreme Court.

Recording of evidence

(6) Notwithstanding the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Evidence
R.S.O.1980,
c. 484

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing

Only members at hearing to participate in decision

unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Continuation
of expiry of
Committee
membership

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Service of
decision of
Discipline
Committee

(10) Where the Discipline Committee finds a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Appeal
to court

32.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Powers of
court on
appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

33.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Fees
Mediation
Committee

(2) The Fees Mediation Committee,

Duties of
Fees
Mediation
Committee

(a) shall, unless the Committee considers it inappropriate to do so, mediate any written complaint by a client of a member of the Association or of a holder of a certificate of authorization, a temporary licence or limited licence in respect of a fee charged for professional engineering services provided to the client; and

(b) shall perform such other duties as are assigned to it by the Council.

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Arbitration
by Fees
Mediation
Committee

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

Application
of
R.S.O.1980,
c. 25

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Enforcement

34.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association or a holder of a certificate of authorization, a temporary licence or limited licence has committed an act of professional misconduct or incompetence or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization, the Registrar by order may appoint one or more persons to investigate whether such act has occurred or there is such cause, and the person or persons appointed shall report the result of the investigation to the Registrar.

Registrar's
investigation

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of authorization, temporary licence or limited licence in respect of whom the investi-

Powers of
investigator

gation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar had grounds for appointing and by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of authorization, a temporary licence or a limited licence whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

Execution of
order

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order.

Expiry of
order

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued.

Ex parte
application

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of authorization, temporary licence or a limited licence whose affairs are being investigated.

(8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under this section relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated.

Removal of books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents.

Admissibility of copies

(10) The Registrar shall report the results of the investigation to the Council or such committee as the Registrar considers appropriate.

Report of Registrar

35. It is a condition of every certificate of authorization that the holder of the certificate shall not offer or provide to the public services that are within the practice of professional engineering unless the holder is insured in respect of professional liability in accordance with the regulations.

Liability insurance

36.—(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of professional engineering.

Interpretation

(2) Upon the request of the Registrar, an insurer shall furnish to the Registrar all documents that relate to a claim for indemnity in respect of the practice of professional engineering and that are in the possession or under the control of the insurer and have been prepared by a professional engineer and relate to engineering matters.

Information re insurance claims

(3) Subsection (2) does not apply in respect of a document prepared by an insured person related to a claim for indemnity in respect of the practice of professional engineering by the insured person.

Exception

(4) The Registrar may forward any information referred to in subsection (2) to the Council or to such committee as the Registrar considers appropriate.

Transmittal of information

37. Where a licence, certificate of authorization, temporary licence or limited licence is revoked or cancelled, the former holder thereof shall forthwith deliver the licence, certi-

Surrender of revoked licence or certificate

ificate of authorization, temporary licence or limited licence and related seal to the Registrar.

Application for licence, etc., after revocation

38.—(1) A person whose licence, certificate of authorization, temporary licence or limited licence has been revoked for cause under this Act, or whose membership has been cancelled for cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of authorization, temporary licence or limited licence, but such application shall not be made sooner than two years after the revocation.

Removal of suspension

(2) A person whose licence, certificate of authorization, temporary licence or limited licence has been suspended for cause under this Act, or whose membership has been suspended for cause under a predecessor of this Act, may apply in writing to the Registrar for the removal of the suspension, but, where the suspension is for more than one year, the application shall not be made sooner than one year after the commencement of the suspension.

Reference to Discipline Committee

(3) The Registrar shall refer an application under subsection (1) or (2) in respect of a licence or a certificate of authorization, a temporary licence or a limited licence to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and the applicant.

Procedures

(4) The provisions of this Act applying to hearings by the Registration Committee, except section 32, apply with necessary modifications to proceedings of the Discipline Committee or the Registration Committee under this section.

Confidentiality

39.—(1) Every person engaged in the administration of this Act, including any person making an examination or review under section 27 or an investigation under section 34, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, examination, review or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of,

(i) this Act and the regulations and by-laws, or

1984, c...

(ii) the *Architects Act, 1984* and the regulations and by-laws under that Act,

or any proceedings under,

(iii) this Act or the regulations, or

(iv) the *Architects Act, 1984* or the regulations under that Act; 1984, c...

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, examination, review or investigation except in a proceeding under this Act or the regulations or by-laws or a proceeding under the *Architects Act, 1984* or the regulations or by-laws under that Act.

Testimony in civil action

40.—(1) Where it appears to the Association that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Association may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make the order or such other order as the judge thinks fit.

Order directing compliance

(2) An appeal lies to the Court of Appeal from an order made under subsection (1).

Appeal

41.—(1) Every person who contravenes section 12 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Penalties

(2) Every person who is not a holder of a licence or a temporary licence and who,

Idem, use of term "professional engineer", etc.

(a) uses the title "professional engineer" or an abbreviation or variation thereof as an occupational or business designation;

(b) uses a term, title or description that will lead to the belief that the person may engage in the practice of professional engineering; or

(c) uses a seal that will lead to the belief that the person is a professional engineer,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
services of
professional
engineer

(3) Every person who is not acting under and in accordance with a certificate of authorization and who,

- (a) uses a term, title or description that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering; or
- (b) uses a seal that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(4) Any person who obstructs a person appointed to make an investigation under section 34 in the course of his or her duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Idem,
partner

(6) Where a person who is guilty of an offence under subsection (1), (2), (3) or (4) is a member or an employee of a partnership, every member of the partnership who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Limitation

(7) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4), (5) or (6) after two years after the date on which the offence was, or is alleged to have been, committed.

Application
of subs. (2)

(8) Subsection (2) does not apply to a holder of a limited licence who uses a term, title or description authorized or permitted by the regulations.

Falsification
of
documents

42.—(1) Any person who makes or causes to be made a wilful falsification in a matter relating to a register or issues a false licence, certificate, temporary licence, limited licence or

document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

(2) Every person who wilfully procures or attempts to procure the issuance of a licence, a certificate of authorization, a temporary licence or a limited licence under this Act by knowingly making a false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting such person therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences for false representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) or (2) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed.

Limitation period

43. Where licensing or the holding of a certificate of authorization, a temporary licence or a limited licence or acting under and in accordance with a certificate of authorization under this Act is required to permit the lawful doing of an act or thing, if in any prosecution it is proven that the defendant has done the act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of authorization, temporary licence or limited licence or that he acted under and in accordance with a certificate of authorization under this Act rests upon the defendant.

Onus of proof respecting licensing

44.—(1) A notice or document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or by mail.

Service of notice or document

(2) Where a notice or document under this Act or the regulations is sent to a person by mail addressed to the person at the last address of the person in the records of the Association, there is a rebuttable presumption that the notice or document is delivered to the person on the tenth day after the day of mailing.

Idem

45. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's certificate as evidence

46.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the

Immunity of Association

Association or a member of the Association or committee of the Association, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor indemnified in suits respecting execution of his office

(2) Every member of the Council, a committee of the Association and every officer and employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given by the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

Limitation of action

47.—(1) Proceedings shall not be commenced against a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence for damages arising from the provision of a service that is within the practice of professional engineering after twelve months after the date on which the service was, or ought to have been, performed.

Extension of time

(2) The court in which an action mentioned in subsection (1) has been or may be brought may extend the limitation period specified in subsection (1) before or after the expiration of the period if the court is satisfied that there are apparent grounds for the proceedings and that there are reasonable grounds for applying for the extension.

Application

(3) Subsections (1) and (2) do not apply to proceedings under any other section of this Act.

Joint Practice Board

48.—(1) The Council shall appoint to the Joint Practice Board (composed of a chairman, three members representing

the Ontario Association of Architects and three members representing the Association of Professional Engineers of Ontario) the three members of the Joint Practice Board representing the Association and shall prescribe the term of each appointment.

(2) The Joint Practice Board may recommend to the Council that the Council direct the Registrar to issue a licence or a certificate of authorization to a holder of a certificate of practice issued under the *Architects Act, 1984*.

Recommendation
1984, c....

(3) The Council, upon the recommendation of the Joint Practice Board, may direct the Registrar to issue a licence or a certificate of authorization to a holder of a certificate of practice under the *Architects Act, 1984* and, if the Council does not direct the issuance of the licence or the certificate of authorization, the Council shall give its reasons therefor in writing to the Joint Practice Board and to the applicant for the licence or the certificate of authorization.

Direction by Council

(4) Where a dispute arises between an architect and a professional engineer or a holder of a certificate of authorization as to jurisdiction in respect of professional services, the Registrar may refer the matter to the Joint Practice Board and the Joint Practice Board shall consider the matter and assist the architect and the professional engineer or the holder of the certificate of authorization to resolve the dispute in accordance with the rules in section 12.

Referral of dispute to Joint Practice Board

(5) Proceedings shall not be commenced under this Act in respect of a matter mentioned in subsection (4) except upon the certificate of the chairman of the Joint Practice Board that the Board has considered the matter and has been unable to resolve the dispute.

Commencement of proceedings

(6) The certificate of the chairman is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the chairman.

Certificate

49.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Annual report

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

50.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that

Application of R.S.O. 1980, c. 95

Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2), and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).
5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 297 (which relates to directions by a court as to holding a meeting).
14. Section 299 (which relates to minutes of meetings).

15. Section 302 (which relates to books of account).
16. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
17. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Minister shall be deemed to be the Minister referred to in the section.
18. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
19. Section 310 (which relates to investigations and audits).
20. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
21. Section 329 (which relates to removal of proceedings into the Supreme Court).
22. Section 330 (which relates to appeals).
23. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Minister and the Deputy Minister to the Minister shall be deemed to be the Minister and the Deputy Minister referred to in the section.
24. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

(2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder. Interpretation

51.—(1) The *Professional Engineers Act*, being chapter 394 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

References
R.S.O.1980,
c. 394

(2) Any reference in any Act or regulation to the *Professional Engineers Act* shall be deemed to be a reference to this Act.

Idem

(3) Any reference in any Act or regulation to a professional engineer as a member of the Association under the *Professional Engineers Act* shall be deemed to be a reference to a professional engineer licensed under this Act.

Commence-
ment

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

Short title

53. The short title of this Act is the *Professional Engineers Act, 1984*.

Bill 123

An Act to revise the Professional Engineers Act

The Hon. R. McMurtry
Attorney General

1st Reading March 20th, 1984
2nd Reading March 20th, 1984
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The Bill revises the *Professional Engineers Act*. The main features of the revision are:

1. The Bill provides a new definition of the practice of professional engineering for the purpose of precluding those who are not authorized from engaging in the practice. The new definition does not set forth every action that a professional engineer may perform but rather prescribes those acts that may not be performed by a person who is not a professional engineer.
2. The Lieutenant Governor in Council will appoint to the Council of the Association of Professional Engineers of Ontario not fewer than five and not more than seven persons who are members of the Association and not fewer than three and not more than five persons who are not professional engineers.
3. The establishment of the Registration Committee, to hear licensing matters not related to academic or experience qualifications, with provision for appeal to the Divisional Court. Determinations as to academic qualifications will be made by the Association's Committee on Academic Requirements, and determinations as to experience qualifications will be made by the Association's Committee on Experience Requirements.
4. The establishment of the Complaints Committee, to consider and investigate complaints regarding members of the Association and holders of limited licences, with power to refer matters to the Discipline Committee.
5. The establishment of the Discipline Committee, to hear and determine specific allegations of professional misconduct or incompetence, with power to impose a wide range of penalties and provision for appeal to the Divisional Court.
6. The establishment of the Fees Mediation Committee, to mediate complaints in respect of fees.
7. The establishment of the office of Complaints Review Councillor with power to examine the procedures for the treatment of complaints by the Association and to review the treatment of any specific complaint.
8. A distinction is made between the practice of professional engineering, for which licences and limited licences are to be issued, and the business of providing services that are within the practice of professional engineering, for which certificates of authorization are to be issued.
9. Provision is made for the issuance of limited licences.
10. The authority of the Council of the Association to make regulations will be subject to the approval of the Lieutenant Governor in Council and to prior review by the Minister. In addition, the Minister may advise the Council with respect to the implementation of the Act and the regulations.

Bill 123**1984****An Act to revise the Professional Engineers 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:

1. In this Act,

Interpretation

1984, c. ...

- (a) "Academic Requirements Committee" means the Academic Requirements Committee appointed pursuant to the regulations;
- (b) "architect" means a person who is licensed or who holds a certificate of practice or a temporary licence under the *Architects Act, 1984*;
- (c) "Association" means Association of Professional Engineers of Ontario;
- (d) "by-laws" means by-laws made under this Act;
- (e) "certificate of authorization" means certificate of authorization issued under this Act to engage in the business of providing services that are within the practice of professional engineering;
- (f) "Complaints Review Councillor" means Complaints Review Councillor appointed under this Act;
- (g) "Council" means Council of the Association;
- (h) "Experience Requirements Committee" means the Experience Requirements Committee appointed pursuant to the regulations;
- (i) "Joint Practice Board" means Joint Practice Board established under the *Architects Act, 1984*;
- (j) "licence" means licence to engage in the practice of professional engineering issued under this Act;
- (k) "limited licence" means limited licence to engage in the practice of professional engineering issued under this Act;
- (l) "Minister" means the Attorney General or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (m) "practice of professional engineering" means any act of designing, composing, evaluating, advising, reporting, directing or supervising wherein the safeguarding of life, health, property or the public welfare is concerned and that requires the application of engineering principles, but does not include practising as a natural scientist;

- (n) "professional engineer" means a person who holds a licence or a temporary licence;
- (o) "Registrar" means Registrar of the Association;
- (p) "regulations" means regulations made under this Act;
- (q) "temporary licence" means temporary licence to engage in the practice of professional engineering issued under this Act.

2.—(1) The Association of Professional Engineers of the Province of Ontario, a body corporate, is continued as a corporation without share capital under the name of "Association of Professional Engineers of Ontario".

Association continued

(2) The head office of the Association shall be at The Municipality of Metropolitan Toronto.

Head office

(3) The principal object of the Association is to regulate the practice of professional engineering and to govern its members, holders of certificates of authorization, holders of temporary licences and holders of limited licences in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Principal object

(4) For the purpose of carrying out its principal object, the Association has the following additional objects:

Additional objects

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and standards of practice for the practice of professional engineering.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To promote public awareness of the role of the Association.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

Capacity
and powers
of
Association

► (5) For the purpose of carrying out its objects, the Association has the capacity and the powers of a natural person.

Council
of
Association

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs.

Composition
of
Council

(2) The Council shall be composed of,

- (a) not fewer than fifteen and not more than twenty persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;
- (b) not fewer than five and not more than seven persons who are members of the Association and who are appointed by the Lieutenant Governor in Council;
- (c) not fewer than three and not more than five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (d) the holders of offices prescribed by the regulations who are not members of the Council under clause (a), (b) or (c).

Idem

(3) No person shall be elected or appointed to the Council unless he is a Canadian citizen resident in Ontario.

Remuneration
of lay
members

(4) The persons appointed under clause (2) (c) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Term of
office of
appointed
members

(5) In each year, the persons to be appointed by the Lieutenant Governor in Council shall be appointed for one year, two year or three year terms in order that one-third, or as near thereto as possible, shall be appointed in each year.

Qualifica-
tions to
vote

(6) Every member of the Association who is not in default of payment of an annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council.

(7) The Association shall have the officers provided for by the regulations. Officers

(8) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association. Registrar and staff

(9) A majority of the members of the Council constitutes a quorum. Quorum

(10) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum. Vacancies

(11) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled as soon as practicable by a member of the Association, Filling of vacancy

- (a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the member so appointed shall be deemed to be an elected member of the Council; or
- (b) where no quorum of the Council remains in office, elected in accordance with the regulations,

and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.

(12) The Council shall meet at least four times a year. Meetings of Council

(13) The members of the Council of the Association of Professional Engineers of the Province of Ontario who were elected or appointed and in office immediately before this Act comes into force shall continue in office and shall be deemed to be elected or appointed, as the case requires, under subsection (2) until the expiration of the term for which they were elected or appointed or until the office otherwise becomes vacant. Continuation of Council members

4. The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting. Annual meetings

Membership **5.**—(1) Every person who holds a licence is a member of the Association subject to any term, condition or limitation to which the licence is subject.

Resignation of membership (2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

Powers of Minister **6.** In addition to his other powers and duties under this Act, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations **7.**—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. fixing the number of members to be elected to the Council under clause 3 (2) (a) and defining constituencies, and prescribing the number of representatives;
2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. prescribing positions of officers of the Association and providing for their election or appointment;
5. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the

committees and procedures ancillary to those specified in this Act in respect of any committee;

6. respecting matters of practice and procedure before committees required under this Act that do not conflict with the *Statutory Powers Procedure Act*;
7. prescribing the quorums of the committees required by this Act other than the Complaints Committee and the Discipline Committee;
8. prescribing classes of persons whose interests are related to those of the Association and the privileges of members of the classes in relation to the Association;
9. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of authorization, temporary licences and limited licences, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination set or approved by the Council as a licensing requirement,
 - ii. the curricula and standards of professional training programs offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs,
 - iv. classes of licences,
 - v. the academic and experience requirements for the issuance of a licence or any class of licence, and
 - vi. classes of certificates of authorization, temporary licences and limited licences, including prescribing requirements and qualifications for the issuance of specified classes of certificates of authorization, temporary licences and limited licences, and terms and conditions that shall apply to specified classes of certificates of authorization, temporary licences and limited licences;

R.S.O. 1980.
c. 484

10. prescribing forms of applications for licences, certificates of authorization, temporary licences and limited licences and requiring their use;
11. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of authorization and in respect of the interests of partners that apply for or hold certificates of authorization and prescribing and requiring the use of forms of such returns;
12. requiring and governing the signing and sealing of documents and designs by members of the Association, holders of temporary licences and holders of limited licences, specifying the forms of seals and respecting the issuance and ownership of seals;
13. requiring the making of returns of information by members of the Association and holders of certificates of authorization, temporary licences and limited licences in respect of names, addresses, telephone numbers, professional associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;
14. requiring and governing the disclosure of the identity of holders of certificates of authorization on documents and designs involving the practice of professional engineering issued by such holders and specifying the form and manner of such disclosure;
15. governing the use of names and designations in the practice of professional engineering by members of the Association and holders of certificates of authorization, temporary licences and limited licences;
16. providing for the maintenance and inspection of registers of members of the Association, holders of temporary licences, holders of limited licences and holders of certificates of authorization;
17. prescribing and governing standards of practice and performance standards for the profession;
18. providing for the setting of schedules of suggested fees for professional engineering services and for the publication of the schedules;

19. respecting the advertising of the practice of professional engineering;
20. prescribing a code of ethics;
21. defining professional misconduct for the purposes of this Act;
22. providing for the designation of members of the Association and holders of temporary licences as specialists, prescribing the qualifications and requirements for designation as a specialist, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association, a holder of a temporary licence or a certificate of authorization;
23. providing for the designation of members of the Association as consulting engineers, prescribing the qualifications and requirements for designation as a consulting engineer, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association, a holder of a temporary licence or a certificate of authorization;
24. prescribing the minimum requirements for professional liability insurance, requiring the delivery to the Registrar of proof of such insurance and prescribing the form of such proof and the manner and time of the delivery;
25. prescribing the amount of and requiring the payment of annual fees by holders of certificates of authorization, temporary and limited licences and by students and members of related classes recognized by the Association, and fees for temporary licences, limited licences, certification, registration, designations, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
26. providing for the entering into of arrangements by the Association for its members and holders of certificates of authorization, temporary licences and limited licences respecting indemnity for professional liability and requiring the payment and remittance of premiums in connection therewith and pre-

scribing levies to be paid by members and holders of certificates of authorization, temporary licences and limited licences in respect of such indemnity for professional liability;

27. providing for continuing education of members;
28. respecting the duties and authority of the Registrar;
29. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence, certificate of authorization, temporary licence or limited licence that was cancelled by the Registrar;
30. classifying and exempting any class of holders of licences, certificates of authorization, temporary licences or limited licences from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
31. exempting any act within the practice of professional engineering from the application of this Act;
32. specifying acts within the practice of professional engineering that are exempt from the application of this Act when performed or provided by a member of a prescribed class of persons, and prescribing classes of persons for the purpose of the exemption.

Distribution
of
regulations

- (2) A copy of each regulation made under subsection (1),
 - (a) shall be forwarded to each member of the Association and to each holder of a certificate of authorization, temporary licence or limited licence; and
 - (b) shall be available for public inspection in the office of the Association.

By-laws

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

1. prescribing the seal and other insignia of the Association and providing for their use;
2. providing for the execution of documents by the Association;

3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;
5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
6. providing for meetings of the Council and committees, except in a proceeding in respect of a membership, certificate of authorization, temporary licence or limited licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
7. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence, certificate of authorization, temporary licence or limited licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
8. respecting the calling, holding and conducting of meetings of the membership of the Association;
9. authorizing voting by mail by the general membership of the Association on any of the business of the Association and prescribing procedures for such voting;
10. prescribing the duties of officers of the Association;
11. prescribing forms and providing for their use;
12. providing procedures for the making, amending and revoking of the by-laws;
13. respecting management of the property of the Association;

14. providing for the appointment, composition, powers, duties and quorums of additional or special committees;
15. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
16. prescribing the amount and requiring the payment of annual fees by members of the Association;
17. respecting the borrowing of money by the Association and the giving of security therefor;
18. respecting membership of the Association in other organizations the objects of which are not inconsistent with and are complementary to those of the Association, the payment of annual assessments and provision for representatives at meetings;
19. providing for the establishment and dissolution and governing the operation of groups of members of the Association and respecting grants by the Association to any such groups;
20. authorizing the making of grants for any purpose that may tend to advance knowledge of professional engineering education, or maintain or improve the standards of practice in professional engineering or support and encourage public information and interest in the past and present role of professional engineering in society;
21. respecting scholarships, bursaries and prizes related to the study of professional engineering;
22. respecting the establishment and operation and use of publications of the Association;
23. providing for an employment advisory service and for the continuance of the retirement savings plans in which members of the Association may participate on a voluntary basis;
24. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

(2) A by-law passed by the Council is not effective until confirmed by the members of the Association.

When by-laws come into force

(3) A by-law passed by the Council may be confirmed by the members of the Association only by means of a vote conducted by mail.

Confirmation of by-laws

(4) A copy of the by-laws made under subsection (1) and amendments thereto,

Distribution of by-laws

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member of the Association; and
- (c) shall be available for public inspection in the office of the Association.

9. The Council shall establish and designate an official publication of the Association.

Official publication

10.—(1) The Council shall establish and appoint the following committees:

Establishment of committees

- (a) Executive Committee;
- (b) Academic Requirements Committee;
- (c) Experience Requirements Committee;
- (d) Registration Committee;
- (e) Complaints Committee;
- (f) Discipline Committee;
- (g) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum.

Vacancies

11. The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council other than to make, amend or revoke a regulation or a by-law.

Executive Committee

Licence
or limited
licence
required

12.—(1) No person shall engage in the practice of professional engineering or hold himself out as engaging in the practice of professional engineering unless the person is the holder of a licence, a temporary licence or a limited licence.

Certificate
of
authorization

(2) No person shall offer to the public or engage in the business of providing to the public services that are within the practice of professional engineering except under and in accordance with a certificate of authorization.

Exceptions

(3) Subsections (1) and (2) do not apply to prevent a person,

- (a) from doing an act that is within the practice of professional engineering in relation to machinery or equipment, other than equipment of a structural nature, for use in the facilities of the person's employer in the production of products by the person's employer;
- (b) from doing an act that is within the practice of professional engineering where a professional engineer assumes responsibility for the services within the practice of professional engineering to which the act is related;
- (c) from designing or providing tools and dies;
- (d) from doing an act that is within the practice of professional engineering but that is exempt from the application of this Act when performed or provided by a member of a class of persons prescribed by the regulations for the purpose of the exemption, if the person is a member of the class;
- (e) from doing an act that is exempt by the regulations from the application of this Act.

Idem

(4) Subsections (1) and (2) do not apply to the preparation or provision of a design for the construction, enlargement or alteration of a building,

- (a) that is not more than three storeys and not more than 600 square metres in gross area as constructed, enlarged or altered;
- (b) that is used or intended for one or more of residential occupancy, business occupancy, personal services occupancy, mercantile occupancy or industrial occupancy; and

- (c) is not designed to house and is not part of an apparatus, process, facility or works the design of which is within the practice of professional engineering.

(5) Subsections (1) and (2) do not apply to,

Idem

- (a) the preparation or provision of a design for the construction, enlargement or alteration of a building that is not more than three storeys and that is used or intended for residential occupancy and,
 - (i) that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or
 - (ii) that is not more than 600 square metres in building area as constructed, enlarged or altered and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit; or
- (b) the preparation or provision of a design for alterations within a dwelling unit that will not affect or are not likely to affect fire separations, firewalls, the strength or safety of the building or the safety of persons in the building.

(6) The following rules govern the relationship between professional engineers and architects and subsections (1) and (2) do not apply to prevent an architect from preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building in accordance with these rules: Idem

1. Only an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. used or intended for residential occupancy,
 - ii. that exceeds 600 square metres in gross area, and
 - iii. that does not exceed three storeys,

and carry out the general review of the construction, enlargement or alteration of the building but an architect who prepares or provides such a design may engage a professional engineer to provide ser-

vices within the practice of professional engineering in connection with the design and the professional engineer may provide the services.

2. A professional engineer or an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. that exceeds 600 square metres in gross area or three storeys, and
 - ii. that is used or intended for,
 - A. industrial occupancy, or
 - B. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where none of the other occupancies exceeds 600 square metres of the gross area,

but only a professional engineer may provide services within the practice of professional engineering in connection with the design.

3. Subject to rules 4 and 5, a professional engineer shall provide services that are within the practice of professional engineering and an architect shall provide services that are within the practice of architecture related to the construction, enlargement or alteration of a building used or intended for,
 - i. assembly occupancy,
 - ii. institutional occupancy,
 - iii. business occupancy or personal services occupancy that exceeds 600 square metres in gross area or three storeys,
 - iv. mercantile occupancy that exceeds 600 square metres in gross area or three storeys,
 - v. residential occupancy that exceeds three storeys,
 - vi. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where one of the other occupancies exceeds 600 square metres in gross area,

vii. mixed occupancy consisting of a combination of,

A. assembly occupancy and any other occupancy, except industrial occupancy,

B. institutional occupancy and any other occupancy, except industrial occupancy,

C. one or more of,

1. business occupancy,

2. personal services occupancy, or

3. mercantile occupancy,

and any other occupancy, except assembly occupancy, institutional occupancy or industrial occupancy,

where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

D. residential occupancy that exceeds three storeys and any other occupancy, where the building as constructed, enlarged or altered exceeds 600 square metres in gross area, or

viii. any other occupancy where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

but a professional engineer may provide a design for the industrial occupancy of a mixed occupancy described in subparagraph vi.

4. An architect may perform or provide services that are within the practice of professional engineering in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 2 or 3 where to do so does not constitute a substantial part of the services within the practice of professional engineering related to the construction, enlargement or alteration of the building and is necessary,

- i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of architecture by the architect in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
5. A professional engineer may perform or provide services that are within the practice of architecture in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 1 or 3 where to do so does not constitute a substantial part of the services within the practice of architecture related to the construction, enlargement or alteration of the building and is necessary,
 - i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of professional engineering by the professional engineer in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
6. Only an architect may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by an architect, or
 - ii. in relation to services that are provided by an architect in connection with the design in accordance with which the building is constructed, enlarged or altered.
7. Only a professional engineer may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by a professional engineer, or

- ii. in relation to services that are provided by a professional engineer in connection with the design in accordance with which the building is constructed, enlarged or altered.
8. A professional engineer or an architect may act as prime consultant for the construction, enlargement or alteration of a building.
 9. A reference in these rules to the provision of a design or services by a professional engineer applies equally to a holder of a certificate of authorization.

(7) Subsections (1) and (2) do not apply to prevent a person from carrying out a general review of the construction, enlargement or alteration of a building that does not or is not intended to take the place of a general review required to be done by a professional engineer. Idem

(8) In this section,

Interpretation

- (a) "assembly occupancy" means occupancy for gatherings of persons for civic, educational, political, recreational, religious, social, travel or other similar purpose, or for the consumption of food or drink;
- (b) "building" means a structure consisting of a wall, roof and floor, or any one or more of them;
- (c) "building area" means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls;
- (d) "business occupancy" means occupancy for the transaction of business;
- (e) "construction" means the doing of anything in the erection, installation, extension or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and "constructed" has a corresponding meaning;
- (f) "design" means a plan, sketch, drawing, graphic representation or specification intended to govern the construction, enlargement or alteration of a building or a part of a building;

- (g) “dwelling unit” means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- (h) “fire separation” means a construction assembly that acts as a barrier against the spread of fire and that may or may not have a fire-resistance rating or a fire-protection rating;
- (i) “firewall” means a type of fire separation of non-combustible construction that subdivides a building or separates adjoining buildings to resist the spread of fire and that has a fire-resistance rating as prescribed in Ontario Regulation 583/83 (known as the Building Code), as amended from time to time, and has structural stability to remain intact under fire conditions for the fire-resistance time for which it is rated;
- (j) “general review”, in relation to the construction, enlargement or alteration of a building, means an examination of the building to determine whether the construction, enlargement or alteration is in general conformity with the design governing the construction, enlargement or alteration, and reporting thereon;
- (k) “grade” means the lowest of the average levels of finished ground adjoining each exterior wall of a building, but does not include localized depressions such as for vehicle or pedestrian entrances;
- (l) “graphic representation” means a representation produced by electrical, electronic, photographic or printing methods and includes a representation produced on a video display terminal;
- (m) “gross area” means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls but in a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall;
- (n) “industrial occupancy” means occupancy for assembling, fabricating, manufacturing, processing,

repairing or storing of goods or materials or for producing, converting, processing or storing of energy, waste or natural resources;

- (o) “institutional occupancy” means occupancy for the harbouring, housing or detention of persons who require special care or treatment on account of their age or mental or physical limitations or who are involuntarily detained;
- (p) “mercantile occupancy” means occupancy or use for displaying or selling retail goods, wares or merchandise;
- (q) “personal services occupancy” means occupancy for the rendering or receiving of professional or personal services;
- (r) “residential occupancy” means occupancy for providing sleeping accommodation for persons, but does not include institutional occupancy.

(9) For the purposes of this section, proof of the performance of one act in the practice of professional engineering on one occasion is sufficient to establish engaging in the practice of professional engineering.

Proof of
practice

13. A corporation that holds a certificate of authorization may provide services that are within the practice of professional engineering.

Corporation

14.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

Issuance
of
licence

- (a) is a citizen of Canada or has the status of a permanent resident of Canada;
- (b) is not less than eighteen years of age;
- (c) has complied with the academic requirements specified in the regulations for the issuance of the licence and has passed such examinations as the Council has set or approved in accordance with the regulations or is exempted therefrom by the Council;
- (d) has complied with the experience requirements specified in the regulations for the issuance of the licence; and

(e) is of good character.

Grounds for
refusal
to issue
licence

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity.

Referral
to
committee

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence,

(a) to the Academic Requirements Committee for a determination as to whether or not the applicant has met the academic requirements prescribed by the regulations for the issuance of the licence;

(b) to the Experience Requirements Committee for a determination as to whether or not the applicant has met the experience requirements prescribed by the regulations for the issuance of the licence; or

(c) first to the Academic Requirements Committee and then to the Experience Requirements Committee for determinations under clauses (a) and (b).

Determi-
nation
by
committee
Hearing

(4) A determination by a committee under subsection (3) is final and is binding on the Registrar and on the applicant.

(5) A committee shall receive written representations from an applicant but is not required to hold or to afford to any person a hearing or an opportunity to make oral submissions before making a determination under subsection (3).

Notice
of
determination

(6) The Registrar shall give notice to the applicant of a determination by a committee under subsection (3) and, if the applicant is rejected, the notice shall detail the specific requirements that the applicant must meet.

Issuance
of
certificate
of
authorization

15.—(1) The Registrar shall issue a certificate of authorization to a natural person, a partnership or a corporation that applies therefor in accordance with the regulations if the requirements and qualifications for the issuance of the certificate of authorization set out in the regulations are met.

General and
standard
certificate

(2) Where the Registrar proposes to issue a certificate of authorization to an applicant, the Registrar shall issue a standard certificate of authorization or, where the primary function of the applicant is or will be to provide to the public ser-

vices that are within the practice of professional engineering and the applicant requests a general certificate of authorization, the Registrar shall issue a general certificate of authorization to the applicant.

(3) The Registrar shall issue a standard certificate of authorization to a partnership of corporations that applies therefor in accordance with the regulations if at least one of the corporations holds a certificate of authorization. Partnership of corporations

(4) Where a holder of a temporary licence assumes responsibility for and supervises the practice of professional engineering related to the services provided by the holder of a certificate of authorization, the certificate of authorization is subject to the same terms and conditions prescribed by the regulations that apply to the temporary licence. Terms and conditions

(5) A holder of a certificate of authorization ceases to be entitled to offer to the public or to provide to the public services that are within the practice of professional engineering as soon as there is no holder of a licence or a temporary licence who assumes responsibility for and supervises the practice of professional engineering provided by the holder of the certificate of authorization. Suspension of effect of certificate of authorization

(6) The holder of a certificate of authorization must give notice to the Registrar when there ceases to be a holder of a licence or a temporary licence who assumes responsibility for and supervises the practice of professional engineering by the holder of the certificate of authorization and when the holder of the certificate of authorization designates another holder of a licence or a temporary licence to assume such responsibility and carry out such supervision. Notice to Registrar by holder of certificate of authorization

(7) A holder of a licence or a temporary licence who ceases to be responsible for and to supervise the practice of professional engineering by a holder of a certificate of authorization as the person so designated by the holder of the certificate of authorization shall give notice of the cessation forthwith to the Registrar. Notice to Registrar by person in position of professional responsibility

(8) The Registrar may refuse to issue or may suspend or revoke a certificate of authorization where the Registrar is of the opinion, upon reasonable and probable grounds, Past conduct

- (a) that the past conduct of a person who is in a position of authority or responsibility in the operation of the business of the applicant for or the holder of the certificate of authorization affords grounds for the belief that the applicant or holder will not

engage in the business of providing services that are within the practice of professional engineering in accordance with the law and with honesty and integrity;

- (b) that the holder of the certificate of authorization does not meet the requirements or the qualifications for the issuance of the certificate of authorization set out in the regulations; or
- (c) that there has been a breach of a condition of the certificate of authorization.

Issuance of licence or certificate of authorization on direction of Council
Supervision by professional engineer

16. The Registrar shall issue a licence or a certificate of authorization upon a direction of the Council made in accordance with a recommendation by the Joint Practice Board.

17.—(1) It is a condition of every certificate of authorization that the holder of the certificate shall provide services that are within the practice of professional engineering only under the personal supervision and direction of a member of the Association or the holder of a temporary licence.

Professional responsibility of supervising professional engineer

(2) A member of the Association or a holder of a temporary licence who personally supervises and directs the providing of services within the practice of professional engineering by a holder of a certificate of authorization or who assumes responsibility for and supervises the practice of professional engineering related to the providing of services by a holder of a certificate of authorization is subject to the same standards of professional conduct and competence in respect of the services and the related practice of professional engineering as if the services were provided or the practice of professional engineering was engaged in by the member of the Association or the holder of the temporary licence.

Issuance of temporary licence or limited licence

18.—(1) The Registrar shall issue a temporary licence or a limited licence to a natural person who applies therefor in accordance with the regulations and who meets the requirements and qualifications for the issuance of the temporary licence or the limited licence set out in the regulations, provided that, in the case of a limited licence, the applicant is a Canadian citizen or has the status of a permanent resident of Canada.

Grounds for refusal, suspension or revocation

(2) The Registrar may refuse to issue or may suspend or revoke a temporary licence or a limited licence where the

Registrar is of the opinion, upon reasonable and probable grounds,

- (a) that the past conduct of the applicant for or the holder of the temporary licence or the limited licence affords grounds for the belief that the applicant or holder will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity;
- (b) that the holder of the temporary licence or the limited licence does not meet the requirements or the qualifications for the issuance of the temporary licence or the limited licence set out in the regulations; or
- (c) that there has been a breach of a condition of the temporary licence or the limited licence.

(3) Subsections 14 (3) to (6) (which relate to the Academic Requirements Committee and the Experience Requirements Committee) apply with necessary modifications in respect of an applicant for a temporary licence or a limited licence.

Referral to committee

(4) Subsection (1) does not apply in respect of a member of the Association or a holder of a certificate of authorization.

Application of subs. (1)

(5) A holder of a temporary licence or a limited licence is not a member of the Association.

Membership

19.—(1) Where the Registrar proposes,

- (a) to refuse to issue a licence; or
- (b) to refuse to issue, to suspend or to revoke a temporary licence, a limited licence or a certificate of authorization,

Hearing by Registration Committee

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant.

(2) Subsection (1) does not apply in respect of a proposal to refuse to issue a licence, a temporary licence or a limited licence where,

Exceptions

- (a) the Academic Requirements Committee has determined that the applicant has not met the academic requirements set out in the regulations for the issuance of the licence, the temporary licence or the limited licence;

- (b) the Experience Requirements Committee has determined that the applicant has not met the experience requirements set out in the regulations for the issuance of the licence, the temporary licence or the limited licence; or
- (c) the applicant previously held a licence, a certificate of authorization, a temporary licence or a limited licence that was suspended or revoked as a result of a decision of the Discipline Committee.

Notice

(3) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant mails or delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee and the applicant may so require such a hearing.

Power of Registrar where no hearing

(4) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (3), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(5) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (3), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Continuation on expiry of committee membership

(6) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceeding in the same manner as if the member's term of office had not expired or been terminated.

Powers of Registration Committee

(7) Following upon a hearing under this section in respect of a proposal by the Registrar, the Registration Committee may, by order,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, direct the Registrar to issue a licence, certificate of

authorization, temporary licence or limited licence, as the case may be, to the applicant;

- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,
 - (i) direct the Registrar to refuse to issue a licence, certificate of authorization, temporary licence or limited licence, or to suspend or revoke the certificate of authorization issued to the applicant, as the case may be, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of professional engineering with competence and integrity, exempt the applicant from any of the requirements of this Act and the regulations and direct the Registrar to issue a licence, certificate of authorization, temporary licence or limited licence, as the case may be; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, direct the Registrar to issue a licence, certificate of authorization, temporary licence or limited licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies.

(8) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Extension
of time for
requiring
hearing

(9) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Parties

Opportunity
to show
compliance

(10) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue of the licence, the certificate of authorization, the temporary licence or the limited licence.

Examination
of
documentary
evidence

(11) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

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

(12) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Registration Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

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

Only
members
at hearing
to participate
in decision

(14) No member of the Registration Committee shall participate in a decision of the Registration Committee following upon a hearing unless he or she was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

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

Applicant

(16) In this section, "applicant" means applicant for a licence or applicant for or holder of a temporary licence, a limited licence or a certificate of authorization.

Fiduciary,
etc.,
relationship
between
corporation
and client

20. A corporation that holds a certificate of authorization has the same rights and is subject to the same obligations in respect of fiduciary, confidential and ethical relationships with each client of the corporation that exist at law between a member of the Association and his client.

21.—(1) The Registrar shall maintain one or more registers in which is entered every person who is licensed under this Act and every holder of a certificate of authorization, temporary licence or limited licence, identifying the terms, conditions and limitations attached to the licence, certificate of authorization, temporary licence or limited licence, and shall note on the register every revocation, suspension and cancellation or termination of a licence, certificate of authorization, temporary licence or limited licence and such other information as the Registration Committee or Discipline Committee directs. Registers

(2) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar. Inspection

(3) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers mentioned in subsection (1) maintained by the Registrar. Copies

22.—(1) Every person who is a member of the Association immediately before this Act comes into force shall be deemed to be the holder of a licence and is a member of the Association. Continuation of memberships

(2) Every licence or certificate of authorization issued under the *Professional Engineers Act*, being chapter 394 of the Revised Statutes of Ontario, 1980, or a predecessor thereof, and in effect immediately before this Act comes into force continues in the same manner as if issued as a temporary licence or a standard certificate of authorization, as the case requires, under this Act. Continuation of licences and certificates

23.—(1) The Registrar may cancel a licence, certificate of authorization, temporary licence or limited licence for non-payment of any fee prescribed by the regulations or the by-laws after giving the member or the holder of the certificate of authorization, temporary licence or limited licence at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member or holder. Cancellation for default of fees

(2) A person who was a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence whose licence, certificate of authorization, temporary licence or limited licence was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of authorization, temporary licence or limited licence Reinstatement

reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Complaints
Committee

24.—(1) The Complaints Committee shall be composed of not fewer than three members of the Association appointed to the Committee by the Council, including at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be chairman.

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum.

Duties
of
Complaints
Committee

25.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of a member of the Association or holder of a certificate of authorization, a temporary licence or a limited licence, but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint in a form that shall be provided by the Association has been filed with the Registrar and the member or holder whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member or holder may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor.

Decision and reasons

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 27.

Notice

(5) The Committee is not required to hold a hearing or to afford to any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this section.

Hearing

26.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council under clause 3 (2) (c).

Complaints Review Councillor

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee.

Idem

27.—(1) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association.

Examination by Complaints Review Councillor

(2) Where a complaint respecting a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Registrar, upon application by the complainant or on his own initiative the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee.

Review by Complaints Review Councillor

(3) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint.

Application to Complaints Review Councillor

Complaints
Review
Councillor
not to
inquire
into merit
of complaint

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

Discretionary
power of
Complaints
Review
Councillor

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

- (a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or
- (b) in the opinion of the Complaints Review Councillor,
 - (i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or
 - (ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

Notice

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Office
accommodation

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

Privacy

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private.

Receipt
of
information

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit.

Hearing
not
required

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in

relation to an examination, review or report in respect of the Association.

(11) Every person who is,

Duty to furnish information

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association.

Report by Complaints Review Councillor

(13) Where the report follows upon an examination of the procedure for the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council.

Report following upon examination

(14) Where the report follows upon a review of the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against.

Report following upon review

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister where, in the opinion of the Complaints Review Councillor, the report should be brought to the attention of the Minister.

Report to Minister

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Recommendations

Consideration
by Council

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Discipline
Committee

28.—(1) The Discipline Committee shall be composed of,

- (a) at least one person appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council;
- (b) at least one person who is a member of the Association and who is a member of the Council appointed by the Lieutenant Governor in Council; and
- (c) the persons appointed to the Committee by the Council from among the members of the Association who have not less than ten years experience in the practice of professional engineering.

Quorum
and votes

(2) Five members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council and one shall be a person elected to the Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability
of member

(3) Where the Discipline Committee commences a hearing and the member or members thereof who are appointed to the Council by the Lieutenant Governor in Council or who are elected members of the Council become unable to continue to act, the remaining members may complete the hearing notwithstanding the absence of the member or members and may render a decision as effectually as if all members of the Discipline Committee were present throughout the hearing, notwithstanding the absence of a quorum of the Committee.

Chairman

(4) The members of the Discipline Committee shall name one of them to be chairman of the Discipline Committee.

Reference
by Council
or Executive
Committee

(5) The Council or the Executive Committee, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence specified in the resolution.

Duties of
Discipline
Committee

29.—(1) The Discipline Committee shall,

- (a) when so directed by the Council, the Executive Committee or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence;
- (b) hear and determine matters referred to it under section 25, 28 or 38; and
- (c) perform such other duties as are assigned to it by the Council.

(2) A member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence may be found guilty of professional misconduct by the Committee if,

Professional misconduct

- (a) the member or holder has been found guilty of an offence relevant to suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(3) The Discipline Committee may find a member of the Association or a holder of a temporary licence or a limited licence to be incompetent if in its opinion,

Incompetence

- (a) the member or holder has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public of a nature or to an extent that demonstrates the member or holder is unfit to carry out the responsibilities of a professional engineer; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member or holder that the member or holder no longer be permitted to engage in the practice of professional engineering or that his practice of professional engineering be restricted.

(4) Where the Discipline Committee finds a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence guilty of professional misconduct or to be incompetent it may, by order,

Powers of Discipline Committee

- (a) revoke the licence of the member or the certificate of authorization, temporary licence or limited licence of the holder;
- (b) suspend the licence of the member or the certificate of authorization, temporary licence or limited licence of the holder for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member or holder to limit the professional work of the member or holder in the practice of professional engineering to the extent specified in the undertaking;
- (d) impose terms, conditions or limitations on the licence or certificate of authorization, temporary licence or limited licence, of the member or holder, including but not limited to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence or certificate of authorization, temporary licence or limited licence, including but not limited to,
 - (i) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to engage in the practice of professional engineering only under the personal supervision and direction of a member,
 - (ii) requiring the member to not alone engage in the practice of professional engineering,
 - (iii) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to accept periodic inspections by the Committee or its delegate of documents and records in the possession or under the control of the member or the holder in connection with the practice of professional engineering,
 - (iv) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such matters in respect of the member's or holder's practice for such period of time, at such times and in

such form, as the Discipline Committee may specify;

- (f) require that the member or the holder of the certificate of authorization, temporary licence or limited licence be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register for a stated or unlimited period of time;
- (g) revoke or suspend for a stated period of time the designation of the member or holder by the Association as a specialist, consulting engineer or otherwise;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in detail or in summary and either with or without including the name of the member or holder in the official publication of the Association and in such other manner or medium as the Discipline Committee considers appropriate in the particular case;
- (j) fix and impose costs to be paid by the member or the holder to the Association;
- (k) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose, including but not limited to,
 - (i) the successful completion by the member or the holder of the temporary licence or the limited licence of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

Publication of revocation or suspension

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence or certificate of authorization, temporary licence or limited licence to be published, with or without the reasons therefor, in the official publication of the Association together with the name of the member or holder of the revoked or suspended licence or certificate of authorization, temporary licence or limited licence.

Publication on request

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in the official publication of the Association, upon the request of the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence against whom the allegation was made.

Costs

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence for his costs or such portion thereof as the Discipline Committee fixes.

Stay of decision on appeal, incompetence

30.—(1) Where the Discipline Committee revokes, suspends or restricts a licence, temporary licence or limited licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay of decision on appeal, professional misconduct

(2) Where the Discipline Committee revokes, suspends or restricts a licence or a certificate of authorization, temporary licence or limited licence on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Discipline proceedings, parties

31.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association or the holder of a certificate of authorization, a temporary licence or a limited licence whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A member or holder of a certificate of authorization, a temporary licence or a limited licence whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

In camera
R.S.O. 1980,
c. 484

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters of a person other than the person whose conduct is being investigated outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties upon the same terms as in the Supreme Court.

Recording of evidence

(6) Notwithstanding the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Evidence
R.S.O.1980,
c. 484

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing

Only members at hearing to participate in decision

unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Continuation
of expiry of
Committee
membership

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Service of
decision of
Discipline
Committee

(10) Where the Discipline Committee finds a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Appeal
to court

32.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Powers of
court on
appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

33.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Fees
Mediation
Committee

(2) The Fees Mediation Committee,

Duties of
Fees
Mediation
Committee

(a) shall, unless the Committee considers it inappropriate to do so, mediate any written complaint by a client of a member of the Association or of a holder of a certificate of authorization, a temporary licence or limited licence in respect of a fee charged for professional engineering services provided to the client; and

(b) shall perform such other duties as are assigned to it by the Council.

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Arbitration
by Fees
Mediation
Committee

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

Application
of
R.S.O.1980,
c. 25

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Enforcement

34.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association or a holder of a certificate of authorization, a temporary licence or limited licence has committed an act of professional misconduct or incompetence or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization, the Registrar by order may appoint one or more persons to investigate whether such act has occurred or there is such cause, and the person or persons appointed shall report the result of the investigation to the Registrar.

Registrar's
investigation

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of authorization, temporary licence or limited licence in respect of whom the investi-

Powers of
investigator

gation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar had grounds for appointing and by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of authorization, a temporary licence or a limited licence whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

Execution of
order

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order.

Expiry of
order

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued.

Ex parte
application

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of authorization, temporary licence or a limited licence whose affairs are being investigated.

(8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under this section relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated.

Removal of books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents.

Admissibility of copies

(10) The Registrar shall report the results of the investigation to the Council or such committee as the Registrar considers appropriate.

Report of Registrar

35. It is a condition of every certificate of authorization that the holder of the certificate shall not offer or provide to the public services that are within the practice of professional engineering unless the holder is insured in respect of professional liability in accordance with the regulations.

Liability insurance

36.—(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of professional engineering.

Interpretation

(2) Upon the request of the Registrar, an insurer shall furnish to the Registrar all documents that relate to a claim for indemnity in respect of the practice of professional engineering and that are in the possession or under the control of the insurer and have been prepared by a professional engineer and relate to engineering matters.

Information re insurance claims

(3) Subsection (2) does not apply in respect of a document prepared by an insured person related to a claim for indemnity in respect of the practice of professional engineering by the insured person.

Exception

(4) The Registrar may forward any information referred to in subsection (2) to the Council or to such committee as the Registrar considers appropriate.

Transmittal of information

37. Where a licence, certificate of authorization, temporary licence or limited licence is revoked or cancelled, the former holder thereof shall forthwith deliver the licence, certi-

Surrender of revoked licence or certificate

ficate of authorization, temporary licence or limited licence and related seal to the Registrar.

Application for licence, etc., after revocation

38.—(1) A person whose licence, certificate of authorization, temporary licence or limited licence has been revoked for cause under this Act, or whose membership has been cancelled for cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of authorization, temporary licence or limited licence, but such application shall not be made sooner than two years after the revocation.

Removal of suspension

(2) A person whose licence, certificate of authorization, temporary licence or limited licence has been suspended for cause under this Act, or whose membership has been suspended for cause under a predecessor of this Act, may apply in writing to the Registrar for the removal of the suspension, but, where the suspension is for more than one year, the application shall not be made sooner than one year after the commencement of the suspension.

Reference to Discipline Committee

(3) The Registrar shall refer an application under subsection (1) or (2) in respect of a licence or a certificate of authorization, a temporary licence or a limited licence to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and the applicant.

Procedures

(4) The provisions of this Act applying to hearings by the Registration Committee, except section 32, apply with necessary modifications to proceedings of the Discipline Committee or the Registration Committee under this section.

Confidentiality

39.—(1) Every person engaged in the administration of this Act, including any person making an examination or review under section 27 or an investigation under section 34, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, examination, review or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of,

(i) this Act and the regulations and by-laws, or

(ii) the *Architects Act, 1984* and the regulations and by-laws under that Act,

1984, c...

or any proceedings under,

(iii) this Act or the regulations, or

(iv) the *Architects Act, 1984* or the regulations under that Act; 1984, c...

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, examination, review or investigation except in a proceeding under this Act or the regulations or by-laws or a proceeding under the *Architects Act, 1984* or the regulations or by-laws under that Act. Testimony in civil action

40.—(1) Where it appears to the Association that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Association may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make the order or such other order as the judge thinks fit. Order directing compliance

(2) An appeal lies to the Court of Appeal from an order made under subsection (1). Appeal

41.—(1) Every person who contravenes section 12 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000. Penalties

(2) Every person who is not a holder of a licence or a temporary licence and who, Idem, use of term "professional engineer", etc.

(a) uses the title "professional engineer" or an abbreviation or variation thereof as an occupational or business designation;

(b) uses a term, title or description that will lead to the belief that the person may engage in the practice of professional engineering; or

(c) uses a seal that will lead to the belief that the person is a professional engineer,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
services of
professional
engineer

(3) Every person who is not acting under and in accordance with a certificate of authorization and who,

- (a) uses a term, title or description that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering; or
- (b) uses a seal that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(4) Any person who obstructs a person appointed to make an investigation under section 34 in the course of his or her duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Idem,
partner

(6) Where a person who is guilty of an offence under subsection (1), (2), (3) or (4) is a member or an employee of a partnership, every member of the partnership who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Limitation

(7) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4), (5) or (6) after two years after the date on which the offence was, or is alleged to have been, committed.

Application
of subs. (2)

(8) Subsection (2) does not apply to a holder of a limited licence who uses a term, title or description authorized or permitted by the regulations.

Falsification
of
documents

42.—(1) Any person who makes or causes to be made a wilful falsification in a matter relating to a register or issues a false licence, certificate, temporary licence, limited licence or

document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

(2) Every person who wilfully procures or attempts to procure the issuance of a licence, a certificate of authorization, a temporary licence or a limited licence under this Act by knowingly making a false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting such person therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
for false
representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) or (2) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed.

Limitation
period

43. Where licensing or the holding of a certificate of authorization, a temporary licence or a limited licence or acting under and in accordance with a certificate of authorization under this Act is required to permit the lawful doing of an act or thing, if in any prosecution it is proven that the defendant has done the act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of authorization, temporary licence or limited licence or that he acted under and in accordance with a certificate of authorization under this Act rests upon the defendant.

Onus of
proof
respecting
licensing

44.—(1) A notice or document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or by mail.

Service
of notice
or document

(2) Where a notice or document under this Act or the regulations is sent to a person by mail addressed to the person at the last address of the person in the records of the Association, there is a rebuttable presumption that the notice or document is delivered to the person on the tenth day after the day of mailing.

Idem

45. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's
certificate
as evidence

46.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the

Immunity of
Association

Association or a member of the Association or committee of the Association, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor indemnified in suits respecting execution of his office

(2) Every member of the Council, a committee of the Association and every officer and employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given by the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

Limitation of action

47.—(1) Proceedings shall not be commenced against a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence for damages arising from the provision of a service that is within the practice of professional engineering after twelve months after the date on which the service was, or ought to have been, performed.

Extension of time

(2) The court in which an action mentioned in subsection (1) has been or may be brought may extend the limitation period specified in subsection (1) before or after the expiration of the period if the court is satisfied that there are apparent grounds for the proceedings and that there are reasonable grounds for applying for the extension.

Application

(3) Subsections (1) and (2) do not apply to proceedings under any other section of this Act.

Joint Practice Board

48.—(1) The Council shall appoint to the Joint Practice Board (composed of a chairman, three members representing

the Ontario Association of Architects and three members representing the Association of Professional Engineers of Ontario) the three members of the Joint Practice Board representing the Association and shall prescribe the term of each appointment.

(2) The Joint Practice Board may recommend to the Council that the Council direct the Registrar to issue a licence or a certificate of authorization to a holder of a certificate of practice issued under the *Architects Act, 1984*.

Recommendation

1984, c....

(3) The Council, upon the recommendation of the Joint Practice Board, may direct the Registrar to issue a licence or a certificate of authorization to a holder of a certificate of practice under the *Architects Act, 1984* and, if the Council does not direct the issuance of the licence or the certificate of authorization, the Council shall give its reasons therefor in writing to the Joint Practice Board and to the applicant for the licence or the certificate of authorization.

Direction by Council

(4) Where a dispute arises between an architect and a professional engineer or a holder of a certificate of authorization as to jurisdiction in respect of professional services, the Registrar may refer the matter to the Joint Practice Board and the Joint Practice Board shall consider the matter and assist the architect and the professional engineer or the holder of the certificate of authorization to resolve the dispute in accordance with the rules in section 12.

Referral of dispute to Joint Practice Board

(5) Proceedings shall not be commenced under this Act in respect of a matter mentioned in subsection (4) except upon the certificate of the chairman of the Joint Practice Board that the Board has considered the matter and has been unable to resolve the dispute.

Commencement of proceedings

(6) The certificate of the chairman is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the chairman.

Certificate

49.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Annual report

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

50.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that

Application of R.S.O. 1980, c. 95

Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2), and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).
5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 297 (which relates to directions by a court as to holding a meeting).
14. Section 299 (which relates to minutes of meetings).

15. Section 302 (which relates to books of account).
16. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
17. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Minister shall be deemed to be the Minister referred to in the section.
18. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
19. Section 310 (which relates to investigations and audits).
20. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
21. Section 329 (which relates to removal of proceedings into the Supreme Court).
22. Section 330 (which relates to appeals).
23. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Minister and the Deputy Minister to the Minister shall be deemed to be the Minister and the Deputy Minister referred to in the section.
24. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

(2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder. Interpretation

51.—(1) The *Professional Engineers Act*, being chapter 394 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

References
R.S.O.1980,
c. 394

(2) Any reference in any Act or regulation to the *Professional Engineers Act* shall be deemed to be a reference to this Act.

Idem

(3) Any reference in any Act or regulation to a professional engineer as a member of the Association under the *Professional Engineers Act* shall be deemed to be a reference to a professional engineer licensed under this Act.

Commence-
ment

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

Short title

53. The short title of this Act is the *Professional Engineers Act, 1984*.

Bill 123

*(Chapter 13
Statutes of Ontario, 1984)*

An Act to revise the Professional Engineers Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	March 20th, 1984
<i>2nd Reading</i>	March 20th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 123

1984

An Act to revise the Professional Engineers 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:

1. In this Act,

Interpretation

1984, c. 12

- (a) "Academic Requirements Committee" means the Academic Requirements Committee appointed pursuant to the regulations;
- (b) "architect" means a person who is licensed or who holds a certificate of practice or a temporary licence under the *Architects Act, 1984*;
- (c) "Association" means Association of Professional Engineers of Ontario;
- (d) "by-laws" means by-laws made under this Act;
- (e) "certificate of authorization" means certificate of authorization issued under this Act to engage in the business of providing services that are within the practice of professional engineering;
- (f) "Complaints Review Councillor" means Complaints Review Councillor appointed under this Act;
- (g) "Council" means Council of the Association;
- (h) "Experience Requirements Committee" means the Experience Requirements Committee appointed pursuant to the regulations;
- (i) "Joint Practice Board" means Joint Practice Board established under the *Architects Act, 1984*;
- (j) "licence" means licence to engage in the practice of professional engineering issued under this Act;
- (k) "limited licence" means limited licence to engage in the practice of professional engineering issued under this Act;
- (l) "Minister" means the Attorney General or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (m) "practice of professional engineering" means any act of designing, composing, evaluating, advising, reporting, directing or supervising wherein the safeguarding of life, health, property or the public welfare is concerned and that requires the application of engineering principles, but does not include practising as a natural scientist;

- (n) "professional engineer" means a person who holds a licence or a temporary licence;
- (o) "Registrar" means Registrar of the Association;
- (p) "regulations" means regulations made under this Act;
- (q) "temporary licence" means temporary licence to engage in the practice of professional engineering issued under this Act.

2.—(1) The Association of Professional Engineers of the Province of Ontario, a body corporate, is continued as a corporation without share capital under the name of "Association of Professional Engineers of Ontario".

Association continued

(2) The head office of the Association shall be at The Municipality of Metropolitan Toronto.

Head office

(3) The principal object of the Association is to regulate the practice of professional engineering and to govern its members, holders of certificates of authorization, holders of temporary licences and holders of limited licences in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Principal object

(4) For the purpose of carrying out its principal object, the Association has the following additional objects:

Additional objects

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and standards of practice for the practice of professional engineering.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To promote public awareness of the role of the Association.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

Capacity
and powers
of
Association

(5) For the purpose of carrying out its objects, the Association has the capacity and the powers of a natural person.

Council
of
Association

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs.

Composition
of
Council

(2) The Council shall be composed of,

- (a) not fewer than fifteen and not more than twenty persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;
- (b) not fewer than five and not more than seven persons who are members of the Association and who are appointed by the Lieutenant Governor in Council;
- (c) not fewer than three and not more than five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (d) the holders of offices prescribed by the regulations who are not members of the Council under clause (a), (b) or (c).

Idem

(3) No person shall be elected or appointed to the Council unless he is a Canadian citizen resident in Ontario.

Remuneration
of lay
members

(4) The persons appointed under clause (2) (c) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Term of
office of
appointed
members

(5) In each year, the persons to be appointed by the Lieutenant Governor in Council shall be appointed for one year, two year or three year terms in order that one-third, or as near thereto as possible, shall be appointed in each year.

Qualifica-
tions to
vote

(6) Every member of the Association who is not in default of payment of an annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council.

(7) The Association shall have the officers provided for by the regulations. Officers

(8) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association. Registrar and staff

(9) A majority of the members of the Council constitutes a quorum. Quorum

(10) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum. Vacancies

(11) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled as soon as practicable by a member of the Association, Filling of vacancy

(a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the member so appointed shall be deemed to be an elected member of the Council; or

(b) where no quorum of the Council remains in office, elected in accordance with the regulations,

and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.

(12) The Council shall meet at least four times a year. Meetings of Council

(13) The members of the Council of the Association of Professional Engineers of the Province of Ontario who were elected or appointed and in office immediately before this Act comes into force shall continue in office and shall be deemed to be elected or appointed, as the case requires, under subsection (2) until the expiration of the term for which they were elected or appointed or until the office otherwise becomes vacant. Continuation of Council members

4. The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting. Annual meetings

Membership

5.—(1) Every person who holds a licence is a member of the Association subject to any term, condition or limitation to which the licence is subject.

Resignation
of
membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

Powers
of
Minister

6. In addition to his other powers and duties under this Act, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

7.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. fixing the number of members to be elected to the Council under clause 3 (2) (a) and defining constituencies, and prescribing the number of representatives;
2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. prescribing positions of officers of the Association and providing for their election or appointment;
5. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the

committees and procedures ancillary to those specified in this Act in respect of any committee;

6. respecting matters of practice and procedure before committees required under this Act that do not conflict with the *Statutory Powers Procedure Act*;
7. prescribing the quorums of the committees required by this Act other than the Complaints Committee and the Discipline Committee;
8. prescribing classes of persons whose interests are related to those of the Association and the privileges of members of the classes in relation to the Association;
9. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of authorization, temporary licences and limited licences, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination set or approved by the Council as a licensing requirement,
 - ii. the curricula and standards of professional training programs offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs,
 - iv. classes of licences,
 - v. the academic and experience requirements for the issuance of a licence or any class of licence, and
 - vi. classes of certificates of authorization, temporary licences and limited licences, including prescribing requirements and qualifications for the issuance of specified classes of certificates of authorization, temporary licences and limited licences, and terms and conditions that shall apply to specified classes of certificates of authorization, temporary licences and limited licences;

R.S.O. 1980,
c. 484

10. prescribing forms of applications for licences, certificates of authorization, temporary licences and limited licences and requiring their use;
11. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of authorization and in respect of the interests of partners that apply for or hold certificates of authorization and prescribing and requiring the use of forms of such returns;
12. requiring and governing the signing and sealing of documents and designs by members of the Association, holders of temporary licences and holders of limited licences, specifying the forms of seals and respecting the issuance and ownership of seals;
13. requiring the making of returns of information by members of the Association and holders of certificates of authorization, temporary licences and limited licences in respect of names, addresses, telephone numbers, professional associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;
14. requiring and governing the disclosure of the identity of holders of certificates of authorization on documents and designs involving the practice of professional engineering issued by such holders and specifying the form and manner of such disclosure;
15. governing the use of names and designations in the practice of professional engineering by members of the Association and holders of certificates of authorization, temporary licences and limited licences;
16. providing for the maintenance and inspection of registers of members of the Association, holders of temporary licences, holders of limited licences and holders of certificates of authorization;
17. prescribing and governing standards of practice and performance standards for the profession;
18. providing for the setting of schedules of suggested fees for professional engineering services and for the publication of the schedules;

19. respecting the advertising of the practice of professional engineering;
20. prescribing a code of ethics;
21. defining professional misconduct for the purposes of this Act;
22. providing for the designation of members of the Association and holders of temporary licences as specialists, prescribing the qualifications and requirements for designation as a specialist, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association, a holder of a temporary licence or a certificate of authorization;
23. providing for the designation of members of the Association as consulting engineers, prescribing the qualifications and requirements for designation as a consulting engineer, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association, a holder of a temporary licence or a certificate of authorization;
24. prescribing the minimum requirements for professional liability insurance, requiring the delivery to the Registrar of proof of such insurance and prescribing the form of such proof and the manner and time of the delivery;
25. prescribing the amount of and requiring the payment of annual fees by holders of certificates of authorization, temporary and limited licences and by students and members of related classes recognized by the Association, and fees for temporary licences, limited licences, certification, registration, designations, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
26. providing for the entering into of arrangements by the Association for its members and holders of certificates of authorization, temporary licences and limited licences respecting indemnity for professional liability and requiring the payment and remittance of premiums in connection therewith and pre-

scribing levies to be paid by members and holders of certificates of authorization, temporary licences and limited licences in respect of such indemnity for professional liability;

27. providing for continuing education of members;
28. respecting the duties and authority of the Registrar;
29. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence, certificate of authorization, temporary licence or limited licence that was cancelled by the Registrar;
30. classifying and exempting any class of holders of licences, certificates of authorization, temporary licences or limited licences from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
31. exempting any act within the practice of professional engineering from the application of this Act;
32. specifying acts within the practice of professional engineering that are exempt from the application of this Act when performed or provided by a member of a prescribed class of persons, and prescribing classes of persons for the purpose of the exemption.

Distribution
of
regulations

- (2) A copy of each regulation made under subsection (1),
 - (a) shall be forwarded to each member of the Association and to each holder of a certificate of authorization, temporary licence or limited licence; and
 - (b) shall be available for public inspection in the office of the Association.

By-laws

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

1. prescribing the seal and other insignia of the Association and providing for their use;
2. providing for the execution of documents by the Association;

3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;
5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
6. providing for meetings of the Council and committees, except in a proceeding in respect of a membership, certificate of authorization, temporary licence or limited licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
7. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence, certificate of authorization, temporary licence or limited licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
8. respecting the calling, holding and conducting of meetings of the membership of the Association;
9. authorizing voting by mail by the general membership of the Association on any of the business of the Association and prescribing procedures for such voting;
10. prescribing the duties of officers of the Association;
11. prescribing forms and providing for their use;
12. providing procedures for the making, amending and revoking of the by-laws;
13. respecting management of the property of the Association;

14. providing for the appointment, composition, powers, duties and quorums of additional or special committees;
15. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
16. prescribing the amount and requiring the payment of annual fees by members of the Association;
17. respecting the borrowing of money by the Association and the giving of security therefor;
18. respecting membership of the Association in other organizations the objects of which are not inconsistent with and are complementary to those of the Association, the payment of annual assessments and provision for representatives at meetings;
19. providing for the establishment and dissolution and governing the operation of groups of members of the Association and respecting grants by the Association to any such groups;
20. authorizing the making of grants for any purpose that may tend to advance knowledge of professional engineering education, or maintain or improve the standards of practice in professional engineering or support and encourage public information and interest in the past and present role of professional engineering in society;
21. respecting scholarships, bursaries and prizes related to the study of professional engineering;
22. respecting the establishment and operation and use of publications of the Association;
23. providing for an employment advisory service and for the continuance of the retirement savings plans in which members of the Association may participate on a voluntary basis;
24. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

- (2) A by-law passed by the Council is not effective until confirmed by the members of the Association. When by-laws come into force
- (3) A by-law passed by the Council may be confirmed by the members of the Association only by means of a vote conducted by mail. Confirmation of by-laws
- (4) A copy of the by-laws made under subsection (1) and amendments thereto, Distribution of by-laws
- (a) shall be forwarded to the Minister;
 - (b) shall be forwarded to each member of the Association; and
 - (c) shall be available for public inspection in the office of the Association.
- 9.** The Council shall establish and designate an official publication of the Association. Official publication
- 10.—(1)** The Council shall establish and appoint the following committees: Establishment of committees
- (a) Executive Committee;
 - (b) Academic Requirements Committee;
 - (c) Experience Requirements Committee;
 - (d) Registration Committee;
 - (e) Complaints Committee;
 - (f) Discipline Committee;
 - (g) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum. Vacancies

11. The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council other than to make, amend or revoke a regulation or a by-law. Executive Committee

Licence
or limited
licence
required

12.—(1) No person shall engage in the practice of professional engineering or hold himself out as engaging in the practice of professional engineering unless the person is the holder of a licence, a temporary licence or a limited licence.

Certificate
of
authorization

(2) No person shall offer to the public or engage in the business of providing to the public services that are within the practice of professional engineering except under and in accordance with a certificate of authorization.

Exceptions

(3) Subsections (1) and (2) do not apply to prevent a person,

- (a) from doing an act that is within the practice of professional engineering in relation to machinery or equipment, other than equipment of a structural nature, for use in the facilities of the person's employer in the production of products by the person's employer;
- (b) from doing an act that is within the practice of professional engineering where a professional engineer assumes responsibility for the services within the practice of professional engineering to which the act is related;
- (c) from designing or providing tools and dies;
- (d) from doing an act that is within the practice of professional engineering but that is exempt from the application of this Act when performed or provided by a member of a class of persons prescribed by the regulations for the purpose of the exemption, if the person is a member of the class;
- (e) from doing an act that is exempt by the regulations from the application of this Act.

Idem

(4) Subsections (1) and (2) do not apply to the preparation or provision of a design for the construction, enlargement or alteration of a building,

- (a) that is not more than three storeys and not more than 600 square metres in gross area as constructed, enlarged or altered;
- (b) that is used or intended for one or more of residential occupancy, business occupancy, personal services occupancy, mercantile occupancy or industrial occupancy; and

- (c) is not designed to house and is not part of an apparatus, process, facility or works the design of which is within the practice of professional engineering.

(5) Subsections (1) and (2) do not apply to,

Idem

- (a) the preparation or provision of a design for the construction, enlargement or alteration of a building that is not more than three storeys and that is used or intended for residential occupancy and,

(i) that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or

(ii) that is not more than 600 square metres in building area as constructed, enlarged or altered and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit; or

- (b) the preparation or provision of a design for alterations within a dwelling unit that will not affect or are not likely to affect fire separations, firewalls, the strength or safety of the building or the safety of persons in the building.

(6) The following rules govern the relationship between professional engineers and architects and subsections (1) and (2) do not apply to prevent an architect from preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building in accordance with these rules:

Idem

1. Only an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. used or intended for residential occupancy,
 - ii. that exceeds 600 square metres in gross area, and
 - iii. that does not exceed three storeys,

and carry out the general review of the construction, enlargement or alteration of the building but an architect who prepares or provides such a design may engage a professional engineer to provide ser-

VICES within the practice of professional engineering in connection with the design and the professional engineer may provide the services.

2. A professional engineer or an architect may prepare or provide a design for the construction, enlargement or alteration of a building,
 - i. that exceeds 600 square metres in gross area or three storeys, and
 - ii. that is used or intended for,
 - A. industrial occupancy, or
 - B. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where none of the other occupancies exceeds 600 square metres of the gross area,

but only a professional engineer may provide services within the practice of professional engineering in connection with the design.

3. Subject to rules 4 and 5, a professional engineer shall provide services that are within the practice of professional engineering and an architect shall provide services that are within the practice of architecture related to the construction, enlargement or alteration of a building used or intended for,
 - i. assembly occupancy,
 - ii. institutional occupancy,
 - iii. business occupancy or personal services occupancy that exceeds 600 square metres in gross area or three storeys,
 - iv. mercantile occupancy that exceeds 600 square metres in gross area or three storeys,
 - v. residential occupancy that exceeds three storeys,
 - vi. mixed occupancy consisting of industrial occupancy and one or more other occupancies, where one of the other occupancies exceeds 600 square metres in gross area,

vii. mixed occupancy consisting of a combination of,

A. assembly occupancy and any other occupancy, except industrial occupancy,

B. institutional occupancy and any other occupancy, except industrial occupancy,

C. one or more of,

1. business occupancy,

2. personal services occupancy, or

3. mercantile occupancy,

and any other occupancy, except assembly occupancy, institutional occupancy or industrial occupancy,

where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

D. residential occupancy that exceeds three storeys and any other occupancy, where the building as constructed, enlarged or altered exceeds 600 square metres in gross area, or

viii. any other occupancy where the building as constructed, enlarged or altered exceeds 600 square metres in gross area or three storeys,

but a professional engineer may provide a design for the industrial occupancy of a mixed occupancy described in subparagraph vi.

4. An architect may perform or provide services that are within the practice of professional engineering in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 2 or 3 where to do so does not constitute a substantial part of the services within the practice of professional engineering related to the construction, enlargement or alteration of the building and is necessary,

- i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of architecture by the architect in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
5. A professional engineer may perform or provide services that are within the practice of architecture in preparing or providing a design for and carrying out the general review of the construction, enlargement or alteration of a building described in rule 1 or 3 where to do so does not constitute a substantial part of the services within the practice of architecture related to the construction, enlargement or alteration of the building and is necessary,
 - i. for the construction, enlargement or alteration of the building and is incidental to other services provided as part of the practice of professional engineering by the professional engineer in respect of the construction, enlargement or alteration of the building, or
 - ii. for co-ordination purposes.
6. Only an architect may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by an architect, or
 - ii. in relation to services that are provided by an architect in connection with the design in accordance with which the building is constructed, enlarged or altered.
7. Only a professional engineer may carry out or provide the general review of the construction, enlargement or alteration of a building,
 - i. that is constructed, enlarged or altered in accordance with a design prepared or provided by a professional engineer, or

- ii. in relation to services that are provided by a professional engineer in connection with the design in accordance with which the building is constructed, enlarged or altered.
8. A professional engineer or an architect may act as prime consultant for the construction, enlargement or alteration of a building.
 9. A reference in these rules to the provision of a design or services by a professional engineer applies equally to a holder of a certificate of authorization.

(7) Subsections (1) and (2) do not apply to prevent a person from carrying out a general review of the construction, enlargement or alteration of a building that does not or is not intended to take the place of a general review required to be done by a professional engineer. Idem

(8) In this section, Interpretation

- (a) "assembly occupancy" means occupancy for gatherings of persons for civic, educational, political, recreational, religious, social, travel or other similar purpose, or for the consumption of food or drink;
- (b) "building" means a structure consisting of a wall, roof and floor, or any one or more of them;
- (c) "building area" means the greatest horizontal area of a building within the outside surface of exterior walls or, where a firewall is to be constructed, within the outside surface of exterior walls and the centre line of firewalls;
- (d) "business occupancy" means occupancy for the transaction of business;
- (e) "construction" means the doing of anything in the erection, installation, extension or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and "constructed" has a corresponding meaning;
- (f) "design" means a plan, sketch, drawing, graphic representation or specification intended to govern the construction, enlargement or alteration of a building or a part of a building;

- (g) “dwelling unit” means a room or suite of rooms used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- (h) “fire separation” means a construction assembly that acts as a barrier against the spread of fire and that may or may not have a fire-resistance rating or a fire-protection rating;
- (i) “firewall” means a type of fire separation of non-combustible construction that subdivides a building or separates adjoining buildings to resist the spread of fire and that has a fire-resistance rating as prescribed in Ontario Regulation 583/83 (known as the Building Code), as amended from time to time, and has structural stability to remain intact under fire conditions for the fire-resistance time for which it is rated;
- (j) “general review”, in relation to the construction, enlargement or alteration of a building, means an examination of the building to determine whether the construction, enlargement or alteration is in general conformity with the design governing the construction, enlargement or alteration, and reporting thereon;
- (k) “grade” means the lowest of the average levels of finished ground adjoining each exterior wall of a building, but does not include localized depressions such as for vehicle or pedestrian entrances;
- (l) “graphic representation” means a representation produced by electrical, electronic, photographic or printing methods and includes a representation produced on a video display terminal;
- (m) “gross area” means the total area of all floors above grade measured between the outside surfaces of exterior walls or, where no access or building service penetrates a firewall, between the outside surfaces of exterior walls and the centre line of firewalls but in a residential occupancy where access or a building service penetrates a firewall, the measurement may be taken to the centre line of the firewall;
- (n) “industrial occupancy” means occupancy for assembling, fabricating, manufacturing, processing,

repairing or storing of goods or materials or for producing, converting, processing or storing of energy, waste or natural resources;

- (o) "institutional occupancy" means occupancy for the harbouring, housing or detention of persons who require special care or treatment on account of their age or mental or physical limitations or who are involuntarily detained;
- (p) "mercantile occupancy" means occupancy or use for displaying or selling retail goods, wares or merchandise;
- (q) "personal services occupancy" means occupancy for the rendering or receiving of professional or personal services;
- (r) "residential occupancy" means occupancy for providing sleeping accommodation for persons, but does not include institutional occupancy.

(9) For the purposes of this section, proof of the performance of one act in the practice of professional engineering on one occasion is sufficient to establish engaging in the practice of professional engineering.

Proof of
practice

13. A corporation that holds a certificate of authorization may provide services that are within the practice of professional engineering.

Corporation

14.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

Issuance
of
licence

- (a) is a citizen of Canada or has the status of a permanent resident of Canada;
- (b) is not less than eighteen years of age;
- (c) has complied with the academic requirements specified in the regulations for the issuance of the licence and has passed such examinations as the Council has set or approved in accordance with the regulations or is exempted therefrom by the Council;
- (d) has complied with the experience requirements specified in the regulations for the issuance of the licence; and

(e) is of good character.

Grounds for
refusal
to issue
licence

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity.

Referral
to
committee

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence,

(a) to the Academic Requirements Committee for a determination as to whether or not the applicant has met the academic requirements prescribed by the regulations for the issuance of the licence;

(b) to the Experience Requirements Committee for a determination as to whether or not the applicant has met the experience requirements prescribed by the regulations for the issuance of the licence; or

(c) first to the Academic Requirements Committee and then to the Experience Requirements Committee for determinations under clauses (a) and (b).

Determi-
nation
by
committee
Hearing

(4) A determination by a committee under subsection (3) is final and is binding on the Registrar and on the applicant.

(5) A committee shall receive written representations from an applicant but is not required to hold or to afford to any person a hearing or an opportunity to make oral submissions before making a determination under subsection (3).

Notice
of
determination

(6) The Registrar shall give notice to the applicant of a determination by a committee under subsection (3) and, if the applicant is rejected, the notice shall detail the specific requirements that the applicant must meet.

Issuance
of
certificate
of
authorization

15.—(1) The Registrar shall issue a certificate of authorization to a natural person, a partnership or a corporation that applies therefor in accordance with the regulations if the requirements and qualifications for the issuance of the certificate of authorization set out in the regulations are met.

General and
standard
certificate

(2) Where the Registrar proposes to issue a certificate of authorization to an applicant, the Registrar shall issue a standard certificate of authorization or, where the primary function of the applicant is or will be to provide to the public ser-

vices that are within the practice of professional engineering and the applicant requests a general certificate of authorization, the Registrar shall issue a general certificate of authorization to the applicant.

(3) The Registrar shall issue a standard certificate of authorization to a partnership of corporations that applies therefor in accordance with the regulations if at least one of the corporations holds a certificate of authorization. Partnership of corporations

(4) Where a holder of a temporary licence assumes responsibility for and supervises the practice of professional engineering related to the services provided by the holder of a certificate of authorization, the certificate of authorization is subject to the same terms and conditions prescribed by the regulations that apply to the temporary licence. Terms and conditions

(5) A holder of a certificate of authorization ceases to be entitled to offer to the public or to provide to the public services that are within the practice of professional engineering as soon as there is no holder of a licence or a temporary licence who assumes responsibility for and supervises the practice of professional engineering provided by the holder of the certificate of authorization. Suspension of effect of certificate of authorization

(6) The holder of a certificate of authorization must give notice to the Registrar when there ceases to be a holder of a licence or a temporary licence who assumes responsibility for and supervises the practice of professional engineering by the holder of the certificate of authorization and when the holder of the certificate of authorization designates another holder of a licence or a temporary licence to assume such responsibility and carry out such supervision. Notice to Registrar by holder of certificate of authorization

(7) A holder of a licence or a temporary licence who ceases to be responsible for and to supervise the practice of professional engineering by a holder of a certificate of authorization as the person so designated by the holder of the certificate of authorization shall give notice of the cessation forthwith to the Registrar. Notice to Registrar by person in position of professional responsibility

(8) The Registrar may refuse to issue or may suspend or revoke a certificate of authorization where the Registrar is of the opinion, upon reasonable and probable grounds, Past conduct

- (a) that the past conduct of a person who is in a position of authority or responsibility in the operation of the business of the applicant for or the holder of the certificate of authorization affords grounds for the belief that the applicant or holder will not

engage in the business of providing services that are within the practice of professional engineering in accordance with the law and with honesty and integrity;

- (b) that the holder of the certificate of authorization does not meet the requirements or the qualifications for the issuance of the certificate of authorization set out in the regulations; or
- (c) that there has been a breach of a condition of the certificate of authorization.

Issuance of licence or certificate of authorization on direction of Council
Supervision by professional engineer

16. The Registrar shall issue a licence or a certificate of authorization upon a direction of the Council made in accordance with a recommendation by the Joint Practice Board.

17.—(1) It is a condition of every certificate of authorization that the holder of the certificate shall provide services that are within the practice of professional engineering only under the personal supervision and direction of a member of the Association or the holder of a temporary licence.

Professional responsibility of supervising professional engineer

(2) A member of the Association or a holder of a temporary licence who personally supervises and directs the providing of services within the practice of professional engineering by a holder of a certificate of authorization or who assumes responsibility for and supervises the practice of professional engineering related to the providing of services by a holder of a certificate of authorization is subject to the same standards of professional conduct and competence in respect of the services and the related practice of professional engineering as if the services were provided or the practice of professional engineering was engaged in by the member of the Association or the holder of the temporary licence.

Issuance of temporary licence or limited licence

18.—(1) The Registrar shall issue a temporary licence or a limited licence to a natural person who applies therefor in accordance with the regulations and who meets the requirements and qualifications for the issuance of the temporary licence or the limited licence set out in the regulations, provided that, in the case of a limited licence, the applicant is a Canadian citizen or has the status of a permanent resident of Canada.

Grounds for refusal, suspension or revocation

(2) The Registrar may refuse to issue or may suspend or revoke a temporary licence or a limited licence where the

Registrar is of the opinion, upon reasonable and probable grounds,

- (a) that the past conduct of the applicant for or the holder of the temporary licence or the limited licence affords grounds for the belief that the applicant or holder will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity;
- (b) that the holder of the temporary licence or the limited licence does not meet the requirements or the qualifications for the issuance of the temporary licence or the limited licence set out in the regulations; or
- (c) that there has been a breach of a condition of the temporary licence or the limited licence.

(3) Subsections 14 (3) to (6) (which relate to the Academic Requirements Committee and the Experience Requirements Committee) apply with necessary modifications in respect of an applicant for a temporary licence or a limited licence. Referral to committee

(4) Subsection (1) does not apply in respect of a member of the Association or a holder of a certificate of authorization. Application of subs. (1)

(5) A holder of a temporary licence or a limited licence is not a member of the Association. Membership

19.—(1) Where the Registrar proposes,

- (a) to refuse to issue a licence; or
- (b) to refuse to issue, to suspend or to revoke a temporary licence, a limited licence or a certificate of authorization,

Hearing by Registration Committee

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant.

(2) Subsection (1) does not apply in respect of a proposal to refuse to issue a licence, a temporary licence or a limited licence where, Exceptions

- (a) the Academic Requirements Committee has determined that the applicant has not met the academic requirements set out in the regulations for the issuance of the licence, the temporary licence or the limited licence;

- (b) the Experience Requirements Committee has determined that the applicant has not met the experience requirements set out in the regulations for the issuance of the licence, the temporary licence or the limited licence; or
- (c) the applicant previously held a licence, a certificate of authorization, a temporary licence or a limited licence that was suspended or revoked as a result of a decision of the Discipline Committee.

Notice

(3) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant mails or delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee and the applicant may so require such a hearing.

Power of Registrar where no hearing

(4) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (3), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(5) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (3), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Continuation on expiry of committee membership

(6) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceeding in the same manner as if the member's term of office had not expired or been terminated.

Powers of Registration Committee

(7) Following upon a hearing under this section in respect of a proposal by the Registrar, the Registration Committee may, by order,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, direct the Registrar to issue a licence, certificate of

authorization, temporary licence or limited licence, as the case may be, to the applicant;

- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,
 - (i) direct the Registrar to refuse to issue a licence, certificate of authorization, temporary licence or limited licence, or to suspend or revoke the certificate of authorization issued to the applicant, as the case may be, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of professional engineering with competence and integrity, exempt the applicant from any of the requirements of this Act and the regulations and direct the Registrar to issue a licence, certificate of authorization, temporary licence or limited licence, as the case may be; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, direct the Registrar to issue a licence, certificate of authorization, temporary licence or limited licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifies.

(8) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Extension
of time for
requiring
hearing

(9) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Parties

Opportunity to show compliance

(10) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue of the licence, the certificate of authorization, the temporary licence or the limited licence.

Examination of documentary evidence

(11) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(12) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Registration Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

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

Only members at hearing to participate in decision

(14) No member of the Registration Committee shall participate in a decision of the Registration Committee following upon a hearing unless he or she was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

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

Applicant

(16) In this section, "applicant" means applicant for a licence or applicant for or holder of a temporary licence, a limited licence or a certificate of authorization.

Fiduciary, etc., relationship between corporation and client

20. A corporation that holds a certificate of authorization has the same rights and is subject to the same obligations in respect of fiduciary, confidential and ethical relationships with each client of the corporation that exist at law between a member of the Association and his client.

21.—(1) The Registrar shall maintain one or more registers in which is entered every person who is licensed under this Act and every holder of a certificate of authorization, temporary licence or limited licence, identifying the terms, conditions and limitations attached to the licence, certificate of authorization, temporary licence or limited licence, and shall note on the register every revocation, suspension and cancellation or termination of a licence, certificate of authorization, temporary licence or limited licence and such other information as the Registration Committee or Discipline Committee directs.

Registers

(2) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar.

Inspection

(3) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers mentioned in subsection (1) maintained by the Registrar.

Copies

22.—(1) Every person who is a member of the Association immediately before this Act comes into force shall be deemed to be the holder of a licence and is a member of the Association.

Continuation
of
memberships

(2) Every licence or certificate of authorization issued under the *Professional Engineers Act*, being chapter 394 of the Revised Statutes of Ontario, 1980, or a predecessor thereof, and in effect immediately before this Act comes into force continues in the same manner as if issued as a temporary licence or a standard certificate of authorization, as the case requires, under this Act.

Continuation
of licences
and
certificates

23.—(1) The Registrar may cancel a licence, certificate of authorization, temporary licence or limited licence for non-payment of any fee prescribed by the regulations or the by-laws after giving the member or the holder of the certificate of authorization, temporary licence or limited licence at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member or holder.

Cancellation
for default
of fees

(2) A person who was a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence whose licence, certificate of authorization, temporary licence or limited licence was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of authorization, temporary licence or limited licence

Reinstatement

reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Complaints
Committee

24.—(1) The Complaints Committee shall be composed of not fewer than three members of the Association appointed to the Committee by the Council, including at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be chairman.

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum.

Duties
of
Complaints
Committee

25.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of a member of the Association or holder of a certificate of authorization, a temporary licence or a limited licence, but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint in a form that shall be provided by the Association has been filed with the Registrar and the member or holder whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member or holder may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or

- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor. Decision and reasons

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 27. Notice

(5) The Committee is not required to hold a hearing or to afford to any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this section. Hearing

26.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council under clause 3 (2) (c). Complaints Review Councillor

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee. Idem

27.—(1) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association. Examination by Complaints Review Councillor

(2) Where a complaint respecting a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Registrar, upon application by the complainant or on his own initiative the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee. Review by Complaints Review Councillor

(3) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint. Application to Complaints Review Councillor

Complaints
Review
Councillor
not to
inquire
into merit
of complaint
Discretionary
power of
Complaints
Review
Councillor

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

- (a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or
- (b) in the opinion of the Complaints Review Councillor,
 - (i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or
 - (ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

Notice

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Office
accommo-
dation

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

Privacy

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private.

Receipt
of
information

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit.

Hearing
not
required

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in

relation to an examination, review or report in respect of the Association.

(11) Every person who is,

Duty to furnish information

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association.

Report by Complaints Review Councillor

(13) Where the report follows upon an examination of the procedure for the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council.

Report following upon examination

(14) Where the report follows upon a review of the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against.

Report following upon review

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister where, in the opinion of the Complaints Review Councillor, the report should be brought to the attention of the Minister.

Report to Minister

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Recommendations

Consideration
by Council

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Discipline
Committee

28.—(1) The Discipline Committee shall be composed of,

- (a) at least one person appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council;
- (b) at least one person who is a member of the Association and who is a member of the Council appointed by the Lieutenant Governor in Council; and
- (c) the persons appointed to the Committee by the Council from among the members of the Association who have not less than ten years experience in the practice of professional engineering.

Quorum
and votes

(2) Five members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council and one shall be a person elected to the Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Disability
of member

(3) Where the Discipline Committee commences a hearing and the member or members thereof who are appointed to the Council by the Lieutenant Governor in Council or who are elected members of the Council become unable to continue to act, the remaining members may complete the hearing notwithstanding the absence of the member or members and may render a decision as effectually as if all members of the Discipline Committee were present throughout the hearing, notwithstanding the absence of a quorum of the Committee.

Chairman

(4) The members of the Discipline Committee shall name one of them to be chairman of the Discipline Committee.

Reference
by Council
or Executive
Committee

(5) The Council or the Executive Committee, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence specified in the resolution.

Duties of
Discipline
Committee

29.—(1) The Discipline Committee shall,

- (a) when so directed by the Council, the Executive Committee or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence;
- (b) hear and determine matters referred to it under section 25, 28 or 38; and
- (c) perform such other duties as are assigned to it by the Council.

(2) A member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence may be found guilty of professional misconduct by the Committee if, Professional misconduct

- (a) the member or holder has been found guilty of an offence relevant to suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(3) The Discipline Committee may find a member of the Association or a holder of a temporary licence or a limited licence to be incompetent if in its opinion, Incompetence

- (a) the member or holder has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public of a nature or to an extent that demonstrates the member or holder is unfit to carry out the responsibilities of a professional engineer; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member or holder that the member or holder no longer be permitted to engage in the practice of professional engineering or that his practice of professional engineering be restricted.

(4) Where the Discipline Committee finds a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence guilty of professional misconduct or to be incompetent it may, by order, Powers of Discipline Committee

- (a) revoke the licence of the member or the certificate of authorization, temporary licence or limited licence of the holder;
- (b) suspend the licence of the member or the certificate of authorization, temporary licence or limited licence of the holder for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member or holder to limit the professional work of the member or holder in the practice of professional engineering to the extent specified in the undertaking;
- (d) impose terms, conditions or limitations on the licence or certificate of authorization, temporary licence or limited licence, of the member or holder, including but not limited to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence or certificate of authorization, temporary licence or limited licence, including but not limited to,
 - (i) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to engage in the practice of professional engineering only under the personal supervision and direction of a member,
 - (ii) requiring the member to not alone engage in the practice of professional engineering,
 - (iii) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to accept periodic inspections by the Committee or its delegate of documents and records in the possession or under the control of the member or the holder in connection with the practice of professional engineering,
 - (iv) requiring the member or the holder of the certificate of authorization, temporary licence or limited licence to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such matters in respect of the member's or holder's practice for such period of time, at such times and in

such form, as the Discipline Committee may specify;

- (f) require that the member or the holder of the certificate of authorization, temporary licence or limited licence be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register for a stated or unlimited period of time;
- (g) revoke or suspend for a stated period of time the designation of the member or holder by the Association as a specialist, consulting engineer or otherwise;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in detail or in summary and either with or without including the name of the member or holder in the official publication of the Association and in such other manner or medium as the Discipline Committee considers appropriate in the particular case;
- (j) fix and impose costs to be paid by the member or the holder to the Association;
- (k) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose, including but not limited to,
 - (i) the successful completion by the member or the holder of the temporary licence or the limited licence of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

Publication
of revocation
or suspension

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence or certificate of authorization, temporary licence or limited licence to be published, with or without the reasons therefor, in the official publication of the Association together with the name of the member or holder of the revoked or suspended licence or certificate of authorization, temporary licence or limited licence.

Publication
on request

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in the official publication of the Association, upon the request of the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence against whom the allegation was made.

Costs

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member of the Association or the holder of the certificate of authorization, temporary licence or limited licence for his costs or such portion thereof as the Discipline Committee fixes.

Stay of
decision
on appeal,
incompetence

30.—(1) Where the Discipline Committee revokes, suspends or restricts a licence, temporary licence or limited licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay of
decision
on appeal,
professional
misconduct

(2) Where the Discipline Committee revokes, suspends or restricts a licence or a certificate of authorization, temporary licence or limited licence on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Discipline
proceedings,
parties

31.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association or the holder of a certificate of authorization, a temporary licence or a limited licence whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A member or holder of a certificate of authorization, a temporary licence or a limited licence whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination
of
documentary
evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members
holding
hearing
not to have
taken part in
investigation,
etc.

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

In camera
R.S.O. 1980,
c. 484

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters of a person other than the person whose conduct is being investigated outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties upon the same terms as in the Supreme Court.

Recording
of
evidence

(6) Notwithstanding the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Evidence
R.S.O. 1980,
c. 484

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing

Only
members
at hearing to
participate
in decision

unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Continuation
of expiry of
Committee
membership

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Service of
decision of
Discipline
Committee

(10) Where the Discipline Committee finds a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Appeal
to court

32.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Powers of
court on
appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

33.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Fees
Mediation
Committee

(2) The Fees Mediation Committee,

Duties of
Fees
Mediation
Committee

(a) shall, unless the Committee considers it inappropriate to do so, mediate any written complaint by a client of a member of the Association or of a holder of a certificate of authorization, a temporary licence or limited licence in respect of a fee charged for professional engineering services provided to the client; and

(b) shall perform such other duties as are assigned to it by the Council.

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of authorization, temporary licence or limited licence and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Arbitration
by Fees
Mediation
Committee

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

Application
of
R.S.O.1980,
c. 25

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Enforcement

34.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association or a holder of a certificate of authorization, a temporary licence or limited licence has committed an act of professional misconduct or incompetence or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization, the Registrar by order may appoint one or more persons to investigate whether such act has occurred or there is such cause, and the person or persons appointed shall report the result of the investigation to the Registrar.

Registrar's
investigation

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of authorization, temporary licence or limited licence in respect of whom the investi-

Powers of
investigator

gation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar had grounds for appointing and by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of authorization, a temporary licence or a limited licence whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

Execution of
order

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order.

Expiry of
order

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued.

Ex parte
application

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of authorization, temporary licence or a limited licence whose affairs are being investigated.

- (8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under this section relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated. Removal of books, etc.
- (9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents. Admissibility of copies
- (10) The Registrar shall report the results of the investigation to the Council or such committee as the Registrar considers appropriate. Report of Registrar
- 35.** It is a condition of every certificate of authorization that the holder of the certificate shall not offer or provide to the public services that are within the practice of professional engineering unless the holder is insured in respect of professional liability in accordance with the regulations. Liability insurance
- 36.—**(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of professional engineering. Interpretation
- (2) Upon the request of the Registrar, an insurer shall furnish to the Registrar all documents that relate to a claim for indemnity in respect of the practice of professional engineering and that are in the possession or under the control of the insurer and have been prepared by a professional engineer and relate to engineering matters. Information re insurance claims
- (3) Subsection (2) does not apply in respect of a document prepared by an insured person related to a claim for indemnity in respect of the practice of professional engineering by the insured person. Exception
- (4) The Registrar may forward any information referred to in subsection (2) to the Council or to such committee as the Registrar considers appropriate. Transmittal of information
- 37.** Where a licence, certificate of authorization, temporary licence or limited licence is revoked or cancelled, the former holder thereof shall forthwith deliver the licence, certi- Surrender of revoked licence or certificate

ificate of authorization, temporary licence or limited licence and related seal to the Registrar.

Application for licence, etc., after revocation

38.—(1) A person whose licence, certificate of authorization, temporary licence or limited licence has been revoked for cause under this Act, or whose membership has been cancelled for cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of authorization, temporary licence or limited licence, but such application shall not be made sooner than two years after the revocation.

Removal of suspension

(2) A person whose licence, certificate of authorization, temporary licence or limited licence has been suspended for cause under this Act, or whose membership has been suspended for cause under a predecessor of this Act, may apply in writing to the Registrar for the removal of the suspension, but, where the suspension is for more than one year, the application shall not be made sooner than one year after the commencement of the suspension.

Reference to Discipline Committee

(3) The Registrar shall refer an application under subsection (1) or (2) in respect of a licence or a certificate of authorization, a temporary licence or a limited licence to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and the applicant.

Procedures

(4) The provisions of this Act applying to hearings by the Registration Committee, except section 32, apply with necessary modifications to proceedings of the Discipline Committee or the Registration Committee under this section.

Confidentiality

39.—(1) Every person engaged in the administration of this Act, including any person making an examination or review under section 27 or an investigation under section 34, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, examination, review or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of,

(i) this Act and the regulations and by-laws, or

(ii) the *Architects Act, 1984* and the regulations and by-laws under that Act,

or any proceedings under,

(iii) this Act or the regulations, or

(iv) the *Architects Act, 1984* or the regulations under that Act; 1984, c. 12

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, examination, review or investigation except in a proceeding under this Act or the regulations or by-laws or a proceeding under the *Architects Act, 1984* or the regulations or by-laws under that Act. Testimony in civil action

40.—(1) Where it appears to the Association that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Association may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make the order or such other order as the judge thinks fit. Order directing compliance

(2) An appeal lies to the Court of Appeal from an order made under subsection (1). Appeal

41.—(1) Every person who contravenes section 12 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000. Penalties

(2) Every person who is not a holder of a licence or a temporary licence and who, Idem, use of term "professional engineer", etc.

(a) uses the title "professional engineer" or an abbreviation or variation thereof as an occupational or business designation;

(b) uses a term, title or description that will lead to the belief that the person may engage in the practice of professional engineering; or

(c) uses a seal that will lead to the belief that the person is a professional engineer,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
services of
professional
engineer

(3) Every person who is not acting under and in accordance with a certificate of authorization and who,

- (a) uses a term, title or description that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering; or
- (b) uses a seal that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(4) Any person who obstructs a person appointed to make an investigation under section 34 in the course of his or her duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Idem,
partner

(6) Where a person who is guilty of an offence under subsection (1), (2), (3) or (4) is a member or an employee of a partnership, every member of the partnership who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Limitation

(7) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4), (5) or (6) after two years after the date on which the offence was, or is alleged to have been, committed.

Application
of subs. (2)

(8) Subsection (2) does not apply to a holder of a limited licence who uses a term, title or description authorized or permitted by the regulations.

Falsification
of
documents

42.—(1) Any person who makes or causes to be made a wilful falsification in a matter relating to a register or issues a false licence, certificate, temporary licence, limited licence or

document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

(2) Every person who wilfully procures or attempts to procure the issuance of a licence, a certificate of authorization, a temporary licence or a limited licence under this Act by knowingly making a false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting such person therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
for false
representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) or (2) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed.

Limitation
period

43. Where licensing or the holding of a certificate of authorization, a temporary licence or a limited licence or acting under and in accordance with a certificate of authorization under this Act is required to permit the lawful doing of an act or thing, if in any prosecution it is proven that the defendant has done the act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of authorization, temporary licence or limited licence or that he acted under and in accordance with a certificate of authorization under this Act rests upon the defendant.

Onus of
proof
respecting
licensing

44.—(1) A notice or document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or by mail.

Service
of notice
or document

(2) Where a notice or document under this Act or the regulations is sent to a person by mail addressed to the person at the last address of the person in the records of the Association, there is a rebuttable presumption that the notice or document is delivered to the person on the tenth day after the day of mailing.

Idem

45. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Registrar's
certificate
as evidence

46.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the

Immunity of
Association

Association or a member of the Association or committee of the Association, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor indemnified in suits respecting execution of his office

(2) Every member of the Council, a committee of the Association and every officer and employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given by the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

Limitation of action

47.—(1) Proceedings shall not be commenced against a member of the Association or a holder of a certificate of authorization, a temporary licence or a limited licence for damages arising from the provision of a service that is within the practice of professional engineering after twelve months after the date on which the service was, or ought to have been, performed.

Extension of time

(2) The court in which an action mentioned in subsection (1) has been or may be brought may extend the limitation period specified in subsection (1) before or after the expiration of the period if the court is satisfied that there are apparent grounds for the proceedings and that there are reasonable grounds for applying for the extension.

Application

(3) Subsections (1) and (2) do not apply to proceedings under any other section of this Act.

Joint Practice Board

48.—(1) The Council shall appoint to the Joint Practice Board (composed of a chairman, three members representing

the Ontario Association of Architects and three members representing the Association of Professional Engineers of Ontario) the three members of the Joint Practice Board representing the Association and shall prescribe the term of each appointment.

(2) The Joint Practice Board may recommend to the Council that the Council direct the Registrar to issue a licence or a certificate of authorization to a holder of a certificate of practice issued under the *Architects Act, 1984*.

Recommendation

1984, c. 12

(3) The Council, upon the recommendation of the Joint Practice Board, may direct the Registrar to issue a licence or a certificate of authorization to a holder of a certificate of practice under the *Architects Act, 1984* and, if the Council does not direct the issuance of the licence or the certificate of authorization, the Council shall give its reasons therefor in writing to the Joint Practice Board and to the applicant for the licence or the certificate of authorization.

Direction by Council

(4) Where a dispute arises between an architect and a professional engineer or a holder of a certificate of authorization as to jurisdiction in respect of professional services, the Registrar may refer the matter to the Joint Practice Board and the Joint Practice Board shall consider the matter and assist the architect and the professional engineer or the holder of the certificate of authorization to resolve the dispute in accordance with the rules in section 12.

Referral of dispute to Joint Practice Board

(5) Proceedings shall not be commenced under this Act in respect of a matter mentioned in subsection (4) except upon the certificate of the chairman of the Joint Practice Board that the Board has considered the matter and has been unable to resolve the dispute.

Commencement of proceedings

(6) The certificate of the chairman is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the chairman.

Certificate

49.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Annual report

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

50.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that

Application of R.S.O. 1980, c. 95

Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2), and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).
5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 297 (which relates to directions by a court as to holding a meeting).
14. Section 299 (which relates to minutes of meetings).

15. Section 302 (which relates to books of account).
16. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
17. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Minister shall be deemed to be the Minister referred to in the section.
18. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
19. Section 310 (which relates to investigations and audits).
20. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
21. Section 329 (which relates to removal of proceedings into the Supreme Court).
22. Section 330 (which relates to appeals).
23. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Minister and the Deputy Minister to the Minister shall be deemed to be the Minister and the Deputy Minister referred to in the section.
24. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

(2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder. Interpretation

51.—(1) The *Professional Engineers Act*, being chapter 394 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

References
R.S.O.1980,
c. 394

(2) Any reference in any Act or regulation to the *Professional Engineers Act* shall be deemed to be a reference to this Act.

Idem

(3) Any reference in any Act or regulation to a professional engineer as a member of the Association under the *Professional Engineers Act* shall be deemed to be a reference to a professional engineer licensed under this Act.

Commence-
ment

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

Short title

53. The short title of this Act is the *Professional Engineers Act, 1984*.

Bill 124

An Act to amend the Beds of Navigable Waters Act

Mr. Haggerty

1st Reading June 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would establish the high water mark as the boundary of property described in a Crown grant as being bounded by navigable water, to provide a uniform interpretation in such cases.

Bill 124

1984

An Act to amend the Beds of Navigable Waters Act

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

1.—(1) The *Beds of Navigable Waters Act*, being chapter 40 of the Revised Statutes of Ontario, 1980, is amended by renumbering section 1 as section 1a and by adding thereto the following section:

1. In this Act,

Interpretation

- (a) “bed”, where used with reference to a navigable body of water, includes all land and land under water that lie below the high water mark; and
- (b) “high water mark” means the level at which the water in a navigable body of water has stood for a sufficient period to leave a watermark along the bank of the navigable body of water.

(2) Section 1a of the said Act, as renumbered by subsection (1), is amended by adding thereto the following subsections:

(2) Where in any patent, conveyance or deed from the Crown made heretofore or hereafter the boundary of land is described as a navigable body of water or the edge, bank, beach, shore, shoreline or high water mark thereof or in any other manner with reference to the navigable body of water, the boundary shall be deemed always to have been the high water mark of the navigable body of water.

Where
boundary
body of
navigable
water

(3) The Minister of Natural Resources may, upon the recommendation of the Surveyor General, fix the high water mark of any navigable body of water or any part thereof, and the Minister's decision shall be final and conclusive.

Minister
may fix
high water
mark

2. Section 2 of the said Act is amended by striking out “Section 1” in the first line and inserting in lieu thereof “Section 1a”.

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 *Beds of Navigable Waters Amendment Act, 1984*.

Bill 125

**An Act respecting Labour Disputes between the
Toronto Transit Commission, Gray Coach Lines,
Limited and GO Transit and Locals 113 and 1587,
Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union of
Public Employees, Local No. 2**

The Hon. R. H. Ramsay
Minister of Labour

1st Reading August 29th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Part I of the Bill provides for the compulsory arbitration of the labour disputes involving the Toronto Transit Commission, Gray Coach Lines, Limited and the unions representing their employees, to ensure continuity of operations. Part II ensures that the existing understanding regarding GO Transit's takeover of certain Gray Coach Lines routes will be incorporated into the collective agreement between GO Transit and the union representing its employees.

Bill 125

1984

**An Act respecting Labour Disputes between the
Toronto Transit Commission, Gray Coach Lines,
Limited and GO Transit and Locals 113 and 1587,
Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union of
Public Employees, Local No. 2**

Whereas the Toronto Transit Commission and Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers and the Canadian Union of Public Employees, Local No. 2, have been parties to collective agreements, all of which have expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under the *Labour Relations Act*; and whereas the parties have not achieved a settlement of the disputes; and whereas strikes by the unions against the employers would cause a cessation of the operation of public transportation facilities, rendering travel difficult and endangering the public safety; and whereas the public interest and welfare require that means be provided to avert the strikes and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties; and whereas the matters in dispute between the Toronto Transit Commission, Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union are affected by related negotiations between GO Transit and Local 1587, Amalgamated Transit Union under the *Crown Employees Collective Bargaining Act* because of the intended transfer of routes from Gray Coach Lines, Limited to GO Transit;

Preamble

R.S.O. 1980,
c. 228R.S.O. 1980,
c. 108

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

PART I

1.—(1) In this Part,

Interpretation

- (a) "employers" means the Toronto Transit Commission and Gray Coach Lines, Limited;
- (b) "expiry date" means, in the case of the collective agreement between the Toronto Transit Commission and,
 - (i) Local 113, Amalgamated Transit Union, the 30th day of June, 1984,
 - (ii) Lodge 235, International Association of Machinists and Aerospace Workers, the 31st day of March, 1984, and
 - (iii) the Canadian Union of Public Employees, Local No. 2, the 31st day of March, 1984,

and in the case of the collective agreement between Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union, the 30th day of June, 1984;

- (c) "Minister" means the Minister of Labour;
- (d) "parties" means the employers and the unions;
- (e) "unions" means Local 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers, and the Canadian Union of Public Employees, Local No. 2 or any one of them.

Idem

R.S.O. 1980,
c. 228

(2) Unless a contrary intention appears, expressions used in this Part have the same meaning as in the *Labour Relations Act*.

Application
of Act

2.—(1) This Part applies to the parties and to the employees of the employers on whose behalf the unions are entitled to bargain with the employers under the *Labour Relations Act*.

Application
of
R.S.O. 1980,
c. 228

(2) Except as modified by this Part, the *Labour Relations Act* applies to the parties and to the employees mentioned in subsection (1).

Appointment
of arbitrator

3.—(1) The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine and decide upon the matters referred to in section 4.

Replacement
of arbitrator

(2) Where the arbitrator is unable to take up or to carry on his or her duties so as to enable him or her to render a deci-

sion within the period of time mentioned in subsection 4 (4), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator and the inquiry shall begin anew.

(3) The arbitrator shall determine his or her own procedure, but shall give full opportunity to the employers and the unions to present their evidence and make their submissions. Procedure

(4) The arbitrator has all the powers of an arbitrator under the *Labour Relations Act*. Powers of arbitrator
R.S.O. 1980,
c. 228

4.—(1) The arbitrator shall examine and decide all matters remaining in dispute between the employers and the unions immediately before the coming into force of this Act, including any matter that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude collective agreements between the parties. Duty of arbitrator

(2) The arbitrator shall remain seized of and may deal with all matters within the arbitrator's jurisdiction until collective agreements between the employers and the unions are in effect. Arbitrator to remain seized of matters in dispute

(3) Where, before or during the proceedings before the arbitrator, the employers and the unions agree upon some matters to be included in the collective agreements and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to, Agreement upon some matters

(a) the matters not agreed upon between the employers and the unions; and

(b) any further matters that the employers and the unions agree should be decided by the arbitrator or that appear to the arbitrator to be necessary to be decided in order to conclude the collective agreements.

(4) The arbitrator's decision shall be made within forty-five days after the date of appointment or within such further period of time as the Minister may permit. Decision of arbitrator

5.—(1) The arbitrator's decision shall be binding upon the employers and the unions and the employees on whose behalf the unions are entitled to bargain with the employers under the *Labour Relations Act*. Decision binding

Execution
of agreement

(2) Within seven days of the date of the arbitrator's decision or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the arbitrator's decision and any agreement of the parties, and the documents thereupon constitute collective agreements.

Preparation
of agreement
by arbitrator

(3) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the arbitrator's decision and any agreement of the parties within the period mentioned in subsection (2), they shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare documents in the form of collective agreements giving effect to the decision and any agreement of the parties and submit the documents to the parties for execution.

Failure to
execute
agreement

(4) If the parties or any of them fail to execute the documents prepared by the arbitrator within a period of seven days from the day the arbitrator submits the documents to them, the documents shall come into effect as though they had been executed by the parties and the documents thereupon constitute collective agreements.

R.S.O. 1980,
cc. 25, 484
not
to apply

6. The *Arbitrations Act* and Part I of the *Statutory Powers Procedure Act* do not apply to the arbitration and the arbitrator's decision under this Part.

Hourly rates
of wages:
interim
increase

7. The basic hourly rates of wages for employees to whom this Part applies are hereby increased by 5 per cent over the basic hourly wage rates in effect on the expiry date, retroactive in each case to the day immediately following the expiry date, but the final basic hourly wage rates for the terms of the collective agreements shall be determined by the arbitrator.

No strike
or lock-out,
etc.

8.—(1) Upon the coming into force of this Part,

- (a) the unions and the employers shall not call or threaten to call a strike or lock-out;
- (b) no employee, member, officer, official or agent of the employers or the unions or of any one of them shall engage in, declare, threaten, authorize or acquiesce in a strike, lock-out or picketing; and
- (c) no person shall counsel, procure, support or encourage a strike, lock-out or picketing contrary to this Part and no person shall do any act if the person knows or ought to know that, as a probable and reasonable consequence of the act, another person

or persons will engage in a strike or lock-out contrary to this Part.

(2) Upon the coming into force of this Part, the employers shall not, except with the unions' consent, alter the rates of wages of the employees as increased by this Part, or any other term or condition of employment, or any right, privilege or duty of the unions or the employees, that were in operation on the expiry date.

Terms of employment not to be altered

(3) Upon the coming into force of this Part, the unions shall not, except with the employers' consent, alter any term or condition of employment or any right, privilege or duty of the employers, the unions or the employees, that were in operation on the expiry date.

Idem

(4) Any difference between the parties as to whether or not subsections (2) and (3) have been complied with may be referred to arbitration by the parties or any of them as if the collective agreements were still in operation, and sections 44 and 45 of the *Labour Relations Act* apply to the arbitration with necessary modifications.

Compliance with subss. (2, 3)

R.S.O. 1980, c. 228

9. Sections 92, 93, 94, 95, 97, 98, 99 and 100 of the *Labour Relations Act* apply to the parties and to the employees mentioned in subsection 2 (1) with necessary modifications.

Application of R.S.O. 1980, c. 228

10.—(1) A person or union who contravenes any provision of this Part is guilty of an offence and on summary conviction is liable,

Penalty

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation or trade union, to a fine of not more than \$10,000.

(2) Each day that a person or union contravenes any provision of this Part constitutes a separate offence.

Continued offences

11.—(1) No prosecution for an offence under this Part shall be instituted except with the written consent of the Minister.

Consent

(2) Section 101 of the *Labour Relations Act* does not apply to a prosecution for an offence under this Part.

R.S.O. 1980, c. 228, s. 101 not to apply

(3) In a prosecution for an offence under this Part, a copy of a consent purporting to have been signed by the Minister is

Evidence of consent

sufficient evidence of the Minister's consent without proof of the signature.

Costs

12. The employers and the unions shall assume their own costs of the proceedings under this Part, and the remuneration and expense of the arbitrator shall be paid out of the Consolidated Revenue Fund.

PART II

Interpretation
R.S.O. 1980,
c. 505

13.—(1) In this Part, "GO Transit" means the Toronto Area Transit Operating Authority continued by the *Toronto Area Transit Operating Authority Act*.

Items
incorporated
in collective
agreement
R.S.O. 1980,
c. 108

(2) Any collective agreement made between GO Transit and Local 1587, Amalgamated Transit Union under the *Crown Employees Collective Bargaining Act* shall be deemed to contain items 2 to 10, both inclusive, of Appendix R to the Memorandum of Agreement between the Toronto Transit Commission, Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union, dated the 3rd day of August, 1984, as amended by item 1 of the Supplementary Memorandum of Settlement between GO Transit and Locals 113 and 1587, Amalgamated Transit Union, dated the 17th day of August, 1984.

Crown
bound

(3) This Part binds the Crown.

Commence-
ment

14.—(1) This Act comes into force on the day it receives Royal Assent.

Repeal

(2) Part I is repealed on the day on which the last of the collective agreements made under Part I comes into operation.

Idem

(3) Part II is repealed on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Toronto Transit Commission, Gray Coach Lines, Limited and GO Transit Labour Disputes Settlement Act, 1984*.

Bill 125

**An Act respecting Labour Disputes between
the Toronto Transit Commission
and GO Transit and Locals 113 and 1587,
Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union of
Public Employees, Local No. 2**

The Hon. R. H. Ramsay
Minister of Labour

1st Reading August 29th, 1984
2nd Reading August 29th, 1984
3rd Reading
Royal Assent

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

EXPLANATORY NOTE

Part I of the Bill provides for the compulsory arbitration of the labour disputes involving the Toronto Transit Commission and the unions representing its employees, to ensure continuity of operations. Part II ensures that the existing understanding regarding GO Transit's takeover of certain Gray Coach Lines routes will be incorporated into the collective agreement between GO Transit and the union representing its employees.

Bill 125

1984

**An Act respecting Labour Disputes between
the Toronto Transit Commission
and GO Transit and Locals 113 and 1587,
Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union of
Public Employees, Local No. 2**

Whereas the Toronto Transit Commission and Local 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers and the Canadian Union of Public Employees, Local No. 2, have been parties to collective agreements, all of which have expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under the *Labour Relations Act*; and whereas the parties have not achieved a settlement of the disputes; and whereas strikes by the unions against the employer would cause a cessation of the operation of public transportation facilities, rendering travel difficult and endangering the public safety; and whereas the public interest and welfare require that means be provided to avert the strikes and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties; and whereas the matters in dispute between the Toronto Transit Commission, Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union are affected by related negotiations between GO Transit and Local 1587, Amalgamated Transit Union under the *Crown Employees Collective Bargaining Act* because of the intended transfer of routes from Gray Coach Lines, Limited to GO Transit;

Preamble

R.S.O. 1980,
c. 228R.S.O. 1980,
c. 108

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

PART I

1.—(1) In this Part,

Interpretation

- ➔
- (a) “employer” means the Toronto Transit Commission;
 - (b) “expiry date” means, in the case of the collective agreement between the Toronto Transit Commission and,
 - (i) Local 113, Amalgamated Transit Union, the 30th day of June, 1984,
 - (ii) Lodge 235, International Association of Machinists and Aerospace Workers, the 31st day of March, 1984, and
 - (iii) the Canadian Union of Public Employees, Local No. 2, the 31st day of March, 1984;
 - ➔ (c) “Minister” means the Minister of Labour;
 - (d) “parties” means the employer and the unions;
 - (e) “unions” means Local 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers, and the Canadian Union of Public Employees, Local No. 2 or any one of them.

Idem

R.S.O. 1980,
c. 228

(2) Unless a contrary intention appears, expressions used in this Part have the same meaning as in the *Labour Relations Act*.

Application
of Act

2.—(1) This Part applies to the parties and to the employees of the employer on whose behalf the unions are entitled to bargain with the employer under the *Labour Relations Act*.

Application
of
R.S.O. 1980,
c. 228

(2) Except as modified by this Part, the *Labour Relations Act* applies to the parties and to the employees mentioned in subsection (1).

Appointment
of arbitrator

3.—(1) The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine and decide upon the matters referred to in section 4.

Replacement
of arbitrator

(2) Where the arbitrator is unable to take up or to carry on his or her duties so as to enable him or her to render a decision within the period of time mentioned in subsection 4 (4), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator and the inquiry shall begin anew.

(3) The arbitrator shall determine his or her own procedure, but shall give full opportunity to the employer and the unions to present their evidence and make their submissions. Procedure

(4) The arbitrator has all the powers of an arbitrator under the *Labour Relations Act*. Powers of arbitrator
R.S.O. 1980,
c. 228

4.—(1) The arbitrator shall examine and decide all matters remaining in dispute between the employer and the unions immediately before the coming into force of this Act, including any matter that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude collective agreements between the parties. Duty of arbitrator

(2) The arbitrator shall remain seized of and may deal with all matters within the arbitrator's jurisdiction until collective agreements between the employer and the unions are in effect. Arbitrator to remain seized of matters in dispute

(3) Where, before or during the proceedings before the arbitrator, the employer and the unions agree upon some matters to be included in the collective agreements and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to, Agreement upon some matters

(a) the matters not agreed upon between the employer and the unions; and

(b) any further matters that the employer and the unions agree should be decided by the arbitrator or that appear to the arbitrator to be necessary to be decided in order to conclude the collective agreements.

(4) The arbitrator's decision shall be made within forty-five days after the date of appointment or within such further period of time as the Minister may permit. Decision of arbitrator

5.—(1) The arbitrator's decision shall be binding upon the employer and the unions and the employees on whose behalf the unions are entitled to bargain with the employer under the *Labour Relations Act*. Decision binding

R.S.O. 1980,
c. 228

(2) Within seven days of the date of the arbitrator's decision or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the arbitrator's decision and any agreement of the parties, and the documents thereupon constitute collective agreements. Execution of agreement

Preparation
of agreement
by arbitrator

(3) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the arbitrator's decision and any agreement of the parties within the period mentioned in subsection (2), they shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare documents in the form of collective agreements giving effect to the decision and any agreement of the parties and submit the documents to the parties for execution.

Failure to
execute
agreement

(4) If the parties or any of them fail to execute the documents prepared by the arbitrator within a period of seven days from the day the arbitrator submits the documents to them, the documents shall come into effect as though they had been executed by the parties and the documents thereupon constitute collective agreements.

R.S.O. 1980,
cc. 25, 484
not
to apply

6. The *Arbitrations Act* and Part I of the *Statutory Powers Procedure Act* do not apply to the arbitration and the arbitrator's decision under this Part.

Hourly rates
of wages:
interim
increase

7. The basic hourly rates of wages for employees to whom this Part applies are hereby increased by 5 per cent over the basic hourly wage rates in effect on the expiry date, retroactive in each case to the day immediately following the expiry date, but the final basic hourly wage rates for the terms of the collective agreements shall be determined by the arbitrator.

No strike
or lock-out,
etc.

8.—(1) Upon the coming into force of this Part,

- (a) the unions and the employer shall not call or threaten to call a strike or lock-out;
- (b) no employee, member, officer, official or agent of the employer or the unions or of any one of them shall engage in, declare, threaten, authorize or acquiesce in a strike, lock-out or picketing; and
- (c) no person shall counsel, procure, support or encourage a strike, lock-out or picketing contrary to this Part and no person shall do any act if the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in a strike or lock-out contrary to this Part.

Terms of
employment
not to be
altered

(2) Upon the coming into force of this Part, the employers shall not, except with the unions' consent, alter the rates of wages of the employees as increased by this Part, or any other term or condition of employment, or any right, privilege or

duty of the unions or the employees, that were in operation on the expiry date.

(3) Upon the coming into force of this Part, the unions shall not, except with the employer's consent, alter any term or condition of employment or any right, privilege or duty of the employer, the unions or the employees, that were in operation on the expiry date. Idem

(4) Any difference between the parties as to whether or not subsections (2) and (3) have been complied with may be referred to arbitration by the parties or any of them as if the collective agreements were still in operation, and sections 44 and 45 of the *Labour Relations Act* apply to the arbitration with necessary modifications. Compliance with subss. (2, 3)
R.S.O. 1980, c. 228

9. Sections 92, 93, 94, 95, 97, 98, 99 and 100 of the *Labour Relations Act* apply to the parties and to the employees mentioned in subsection 2 (1) with necessary modifications. Application of R.S.O. 1980, c. 228

10.—(1) A person or union who contravenes any provision of this Part is guilty of an offence and on summary conviction is liable, Penalty

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation or trade union, to a fine of not more than \$10,000.

(2) Each day that a person or union contravenes any provision of this Part constitutes a separate offence. Continued offences

11.—(1) No prosecution for an offence under this Part shall be instituted except with the written consent of the Minister. Consent

(2) Section 101 of the *Labour Relations Act* does not apply to a prosecution for an offence under this Part. R.S.O. 1980, c. 228, s. 101 not to apply

(3) In a prosecution for an offence under this Part, a copy of a consent purporting to have been signed by the Minister is sufficient evidence of the Minister's consent without proof of the signature. Evidence of consent

12. The employer and the unions shall assume their own costs of the proceedings under this Part, and the remuneration and expense of the arbitrator shall be paid out of the Consolidated Revenue Fund. Costs

PART II

- Interpretation
R.S.O. 1980,
c. 505
- 13.**—(1) In this Part, “GO Transit” means the Toronto Area Transit Operating Authority continued by the *Toronto Area Transit Operating Authority Act*.
- Items incorporated in collective agreement
R.S.O. 1980,
c. 108
- (2) Any collective agreement made between GO Transit and Local 1587, Amalgamated Transit Union under the *Crown Employees Collective Bargaining Act* shall be deemed to contain items 2 to 10, both inclusive, of Appendix R to the Memorandum of Agreement between the Toronto Transit Commission, Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union, dated the 3rd day of August, 1984, as amended by item 1 of the Supplementary Memorandum of Settlement between GO Transit and Locals 113 and 1587, Amalgamated Transit Union, dated the 17th day of August, 1984.
- Crown bound
- (3) This Part binds the Crown.
- Commence-
ment
- 14.**—(1) This Act comes into force on the day it receives Royal Assent.
- Repeal
- (2) Part I is repealed on the day on which the last of the collective agreements made under Part I comes into operation.
- Idem
- (3) Part II is repealed on a day to be named by proclamation of the Lieutenant Governor.
- Short title
- 15.** The short title of this Act is the *Toronto Transit Commission, Gray Coach Lines, Limited and GO Transit Labour Disputes Settlement Act, 1984*.

Bill 125

*(Chapter 42
Statutes of Ontario, 1984)*

**An Act respecting Labour Disputes between
the Toronto Transit Commission
and GO Transit and Locals 113 and 1587,
Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union of
Public Employees, Local No. 2**

The Hon. R. H. Ramsay
Minister of Labour

<i>1st Reading</i>	August 29th, 1984
<i>2nd Reading</i>	August 29th, 1984
<i>3rd Reading</i>	August 29th, 1984
<i>Royal Assent</i>	August 29th, 1984

Bill 125

1984

**An Act respecting Labour Disputes between
the Toronto Transit Commission
and GO Transit and Locals 113 and 1587,
Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union of
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Whereas the Toronto Transit Commission and Local 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers and the Canadian Union of Public Employees, Local No. 2, have been parties to collective agreements, all of which have expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under the *Labour Relations Act*; and whereas the parties have not achieved a settlement of the disputes; and whereas strikes by the unions against the employer would cause a cessation of the operation of public transportation facilities, rendering travel difficult and endangering the public safety; and whereas the public interest and welfare require that means be provided to avert the strikes and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties; and whereas the matters in dispute between the Toronto Transit Commission, Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union are affected by related negotiations between GO Transit and Local 1587, Amalgamated Transit Union under the *Crown Employees Collective Bargaining Act* because of the intended transfer of routes from Gray Coach Lines, Limited to GO Transit;

Preamble

R.S.O. 1980,
c. 228

R.S.O. 1980,
c. 108

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

PART I

1.—(1) In this Part,

Interpretation

- (a) “employer” means the Toronto Transit Commission;
- (b) “expiry date” means, in the case of the collective agreement between the Toronto Transit Commission and,
 - (i) Local 113, Amalgamated Transit Union, the 30th day of June, 1984,
 - (ii) Lodge 235, International Association of Machinists and Aerospace Workers, the 31st day of March, 1984, and
 - (iii) the Canadian Union of Public Employees, Local No. 2, the 31st day of March, 1984;
- (c) “Minister” means the Minister of Labour;
- (d) “parties” means the employer and the unions;
- (e) “unions” means Local 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers, and the Canadian Union of Public Employees, Local No. 2 or any one of them.

Idem

R.S.O. 1980,
c. 228

(2) Unless a contrary intention appears, expressions used in this Part have the same meaning as in the *Labour Relations Act*.

Application
of Act

2.—(1) This Part applies to the parties and to the employees of the employer on whose behalf the unions are entitled to bargain with the employer under the *Labour Relations Act*.

Application
of
R.S.O. 1980,
c. 228

(2) Except as modified by this Part, the *Labour Relations Act* applies to the parties and to the employees mentioned in subsection (1).

Appointment
of arbitrator

3.—(1) The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine and decide upon the matters referred to in section 4.

Replacement
of arbitrator

(2) Where the arbitrator is unable to take up or to carry on his or her duties so as to enable him or her to render a decision within the period of time mentioned in subsection 4 (4), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator and the inquiry shall begin anew.

(3) The arbitrator shall determine his or her own procedure, but shall give full opportunity to the employer and the unions to present their evidence and make their submissions. Procedure

(4) The arbitrator has all the powers of an arbitrator under the *Labour Relations Act*. Powers of arbitrator
R.S.O. 1980,
c. 228

4.—(1) The arbitrator shall examine and decide all matters remaining in dispute between the employer and the unions immediately before the coming into force of this Act, including any matter that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude collective agreements between the parties. Duty of arbitrator

(2) The arbitrator shall remain seized of and may deal with all matters within the arbitrator's jurisdiction until collective agreements between the employer and the unions are in effect. Arbitrator to remain seized of matters in dispute

(3) Where, before or during the proceedings before the arbitrator, the employer and the unions agree upon some matters to be included in the collective agreements and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to, Agreement upon some matters

(a) the matters not agreed upon between the employer and the unions; and

(b) any further matters that the employer and the unions agree should be decided by the arbitrator or that appear to the arbitrator to be necessary to be decided in order to conclude the collective agreements.

(4) The arbitrator's decision shall be made within forty-five days after the date of appointment or within such further period of time as the Minister may permit. Decision of arbitrator

5.—(1) The arbitrator's decision shall be binding upon the employer and the unions and the employees on whose behalf the unions are entitled to bargain with the employer under the *Labour Relations Act*. Decision binding
R.S.O. 1980,
c. 228

(2) Within seven days of the date of the arbitrator's decision or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the arbitrator's decision and any agreement of the parties, and the documents thereupon constitute collective agreements. Execution of agreement

Preparation
of agreement
by arbitrator

(3) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the arbitrator's decision and any agreement of the parties within the period mentioned in subsection (2), they shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare documents in the form of collective agreements giving effect to the decision and any agreement of the parties and submit the documents to the parties for execution.

Failure to
execute
agreement

(4) If the parties or any of them fail to execute the documents prepared by the arbitrator within a period of seven days from the day the arbitrator submits the documents to them, the documents shall come into effect as though they had been executed by the parties and the documents thereupon constitute collective agreements.

R.S.O. 1980,
cc. 25, 484
not
to apply

6. The *Arbitrations Act* and Part I of the *Statutory Powers Procedure Act* do not apply to the arbitration and the arbitrator's decision under this Part.

Hourly rates
of wages:
interim
increase

7. The basic hourly rates of wages for employees to whom this Part applies are hereby increased by 5 per cent over the basic hourly wage rates in effect on the expiry date, retroactive in each case to the day immediately following the expiry date, but the final basic hourly wage rates for the terms of the collective agreements shall be determined by the arbitrator.

No strike
or lock-out,
etc.

8.—(1) Upon the coming into force of this Part,

- (a) the unions and the employer shall not call or threaten to call a strike or lock-out;
- (b) no employee, member, officer, official or agent of the employer or the unions or of any one of them shall engage in, declare, threaten, authorize or acquiesce in a strike, lock-out or picketing; and
- (c) no person shall counsel, procure, support or encourage a strike, lock-out or picketing contrary to this Part and no person shall do any act if the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in a strike or lock-out contrary to this Part.

Terms of
employment
not to be
altered

(2) Upon the coming into force of this Part, the employers shall not, except with the unions' consent, alter the rates of wages of the employees as increased by this Part, or any other term or condition of employment, or any right, privilege or

duty of the unions or the employees, that were in operation on the expiry date.

(3) Upon the coming into force of this Part, the unions shall not, except with the employer's consent, alter any term or condition of employment or any right, privilege or duty of the employer, the unions or the employees, that were in operation on the expiry date. Idem

(4) Any difference between the parties as to whether or not subsections (2) and (3) have been complied with may be referred to arbitration by the parties or any of them as if the collective agreements were still in operation, and sections 44 and 45 of the *Labour Relations Act* apply to the arbitration with necessary modifications. Compliance with subss. (2, 3)
R.S.O. 1980, c. 228

9. Sections 92, 93, 94, 95, 97, 98, 99 and 100 of the *Labour Relations Act* apply to the parties and to the employees mentioned in subsection 2 (1) with necessary modifications. Application of R.S.O. 1980, c. 228

10.—(1) A person or union who contravenes any provision of this Part is guilty of an offence and on summary conviction is liable, Penalty

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation or trade union, to a fine of not more than \$10,000.

(2) Each day that a person or union contravenes any provision of this Part constitutes a separate offence. Continued offences

11.—(1) No prosecution for an offence under this Part shall be instituted except with the written consent of the Minister. Consent

(2) Section 101 of the *Labour Relations Act* does not apply to a prosecution for an offence under this Part. R.S.O. 1980, c. 228, s. 101 not to apply

(3) In a prosecution for an offence under this Part, a copy of a consent purporting to have been signed by the Minister is sufficient evidence of the Minister's consent without proof of the signature. Evidence of consent

12. The employer and the unions shall assume their own costs of the proceedings under this Part, and the remuneration and expense of the arbitrator shall be paid out of the Consolidated Revenue Fund. Costs

PART II

Interpretation
R.S.O. 1980,
c. 505

13.—(1) In this Part, “GO Transit” means the Toronto Area Transit Operating Authority continued by the *Toronto Area Transit Operating Authority Act*.

Items
incorporated
in collective
agreement
R.S.O. 1980,
c. 108

(2) Any collective agreement made between GO Transit and Local 1587, Amalgamated Transit Union under the *Crown Employees Collective Bargaining Act* shall be deemed to contain items 2 to 10, both inclusive, of Appendix R to the Memorandum of Agreement between the Toronto Transit Commission, Gray Coach Lines, Limited and Local 113, Amalgamated Transit Union, dated the 3rd day of August, 1984, as amended by item 1 of the Supplementary Memorandum of Settlement between GO Transit and Locals 113 and 1587, Amalgamated Transit Union, dated the 17th day of August, 1984.

Crown
bound

(3) This Part binds the Crown.

Commence-
ment

14.—(1) This Act comes into force on the day it receives Royal Assent.

Repeal

(2) Part I is repealed on the day on which the last of the collective agreements made under Part I comes into operation.

Idem

(3) Part II is repealed on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Toronto Transit Commission, Gray Coach Lines, Limited and GO Transit Labour Disputes Settlement Act, 1984*.

Bill 126

An Act to provide for a Right of Access by Patients to their own Medical Records

Mr. Grande

1st Reading October 15th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that patients are entitled to see their own medical records on request, unless the attending physician states in writing that this would harm the patient or another person.

**An Act to provide for a Right of Access
by Patients to their own Medical Records**

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, "medical record", when used in reference to a person, means all recorded information regardless of physical form or characteristics that, Medical record defined

- (a) relates to the person;
- (b) is recorded in connection with the person's medical care or treatment; and
- (c) is kept by a hospital that is approved under the *Public Hospitals Act* or by a person who has provided medical care or treatment to the person. R.S.O. 1980, c. 410

2. This Act applies despite any other law, Act or regulation. Act overrides other laws

3.—(1) Subject to subsection (2), a person who is sixteen years of age or older has a right to and shall on request be given access to, Right of access to medical records

- (a) his or her own medical records;
- (b) the medical records of his or her child who is under the age of sixteen years; and
- (c) the medical records of a child who is in his or her lawful custody or charge and is under the age of sixteen years.

(2) The keeper of a medical record may refuse to give a person access to all or part of the person's own medical record where the person's attending physician states in writing that, Exception

in his or her opinion, having access to the medical record or to a specified part of it is likely to result in,

- (a) harm to the person's treatment or recovery; or
- (b) physical or emotional harm to another person.

Duty of
record
keeper

4. Where a person referred to in subsection 3 (1) requests access to a medical record, the keeper of the medical record shall, within ten days of receiving the request,

- (a) give the person access to the medical record;
- (b) notify the person that the keeper of the medical record refuses to give him or her access to part of the record for the reason set out in subsection 3 (2), give the person a copy of the attending physician's opinion and give the person access to the rest of the medical record;
- (c) notify the person that the keeper of the medical record refuses to give him or her access to the record for the reason set out in subsection 3 (2) and give the person a copy of the attending physician's opinion; or
- (d) notify the person that the medical record does not exist or that the keeper of the medical record does not have the medical record in his or her control or possession, if that is the case.

Commence-
ment

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

Short title

6. The short title of this Act is the *Access to Medical Records Act, 1984*.

Bill 127

An Act to amend the Public Vehicles Act

Mr. Martel

1st Reading October 23rd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would prevent school bus passengers from standing in the aisles while the bus is in motion.

Subsection 23 (1) of the Act now reads:

(1) No driver or operator shall allow passengers to ride on the fenders or any other part of a public vehicle other than the seats thereof, except that a vehicle may carry as standing passengers in the aisles thereof not more than one-third the number of persons for which seats are provided.

Bill 127**1984****An Act to amend the Public Vehicles Act**

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

1. Subsection 23 (1) of the *Public Vehicles Act*, being chapter 425 of the Revised Statutes of Ontario, 1980, is amended by inserting after “vehicle” where it appears the second time in the third line “other than a school bus as defined in section 151 of the *Highway Traffic Act*”.

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

3. The short title of this Act is the *Public Vehicles Amendment Act, 1984*. Short title

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Bill 128

An Act to amend the City of Toronto Act, 1984

Mr. Peterson

1st Reading November 1st, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Self-explanatory.

Bill 128

1984

**An Act to amend the
City of Toronto 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 1 of the *City of Toronto Act, 1984*, being chapter Pr6, is amended by adding thereto the following subsection:

(14) Notwithstanding the decision of any court, the council of the Corporation may under this section refuse to issue a demolition permit although the application for the demolition permit was made or the building permit was issued before the 17th day of May, 1984. Application

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

3. The short title of this Act is the *City of Toronto Amendment Act, 1984*. Short title

Bill 129

An Act to amend the Assessment Act

The Hon. B. Gregory
Minister of Revenue

1st Reading November 6th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The amendment to subsection 63 (1) of the Act provides for the return of assessment rolls for municipal taxation at present levels of assessment except where a reassessment is introduced by proclamation at full market value or by equalization of assessment based on market value. Subsection 63 (1) now reads as follows:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act,

- (a) the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;*
- (b) the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975;*
- (c) the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976;*
- (d) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977;*
- (e) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1978 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1977 for taxation in the year 1978 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1978;*
- (f) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1979 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1978 for taxation in the year 1979 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1980 is returned;*
- (g) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1980 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1979 for taxation in the year 1980 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1981 is returned;*
- (h) subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1981 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1980 for taxation in the year 1981 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1982 is returned;*
- (i) subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1982 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1981 for taxation in the year 1982 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1983 is returned; and*

(j) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1983 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1982 for taxation in the year 1983 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1984 is returned,*

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1983 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

SECTION 2. The re-enactment of section 68 is consequent upon the amendment made by section 2 of the Bill. Section 68 now reads as follows:

68. Section 65 ceases to be in force on the 18th day of December, 1984, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1984.

SECTION 3. The re-enactment of section 69 relates to the change made by section 2 of the Bill and provides that the provisions of the Act with respect to depreciation of pipe lines will come into effect on January 1st, 1985. Section 69 now reads as follows:

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1984.

Bill 129**1984****An Act to amend the Assessment Act**

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

1. Subsection 63 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, 1982, chapter 56, section 4 and 1983, chapter 58, section 4, is further amended,

- (a) by striking out “and” at the end of clause (i);
- (b) by adding “and” at the end of clause (j);
- (c) by striking out all that part of the subsection immediately following clause (j) and inserting in lieu thereof:
 - (k) subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1984 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1983 for taxation in the year 1984 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1985 is returned,

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1984 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

2. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 5, is repealed and the following substituted therefor:

Application

68. Section 65 ceases to be in force on the 17th day of December, 1985, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1985.

3. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 6, is repealed and the following substituted therefor:

Application

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1985.

Commence-
ment

4. This Act comes into force on the 1st day of December, 1984.

Short title

5. The short title of this Act is the *Assessment Amendment Act, 1984*.

Bill 129

*(Chapter 49
Statutes of Ontario, 1984)*

An Act to amend the Assessment Act

The Hon. B. Gregory
Minister of Revenue

<i>1st Reading</i>	November 6th, 1984
<i>2nd Reading</i>	November 20th, 1984
<i>3rd Reading</i>	November 23rd, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 129**1984****An Act to amend the Assessment Act**

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

1. Subsection 63 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, 1982, chapter 56, section 4 and 1983, chapter 58, section 4, is further amended,

- (a) by striking out “and” at the end of clause (i);
- (b) by adding “and” at the end of clause (j);
- (c) by striking out all that part of the subsection immediately following clause (j) and inserting in lieu thereof:
 - (k) subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1984 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1983 for taxation in the year 1984 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1985 is returned,

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1984 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

2. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 5, is repealed and the following substituted therefor:

Application **68.** Section 65 ceases to be in force on the 17th day of December, 1985, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1985.

3. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 6, is repealed and the following substituted therefor:

Application **69.** Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1985.

Commence-
ment **4. This Act comes into force on the 1st day of December, 1984.**

Short title **5. The short title of this Act is the *Assessment Amendment Act, 1984*.**

Bill 130

**An Act respecting a Labour Dispute between
the Ontario Public Service Employees Union
and the Ontario Council of Regents for
Colleges of Applied Arts and Technology
and the Boards of Governors of
Colleges of Applied Arts and Technology**

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading November 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the compulsory arbitration, other than for instructional assignments, of the labour dispute between the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union on behalf of the employees in the academic staff bargaining unit under the *Colleges Collective Bargaining Act* and for the resumption of operation of the colleges of applied arts and technology.

Bill 130**1984**

**An Act respecting a Labour Dispute between
the Ontario Public Service Employees Union
and the Ontario Council of Regents for
Colleges of Applied Arts and Technology
and the Boards of Governors of
Colleges of Applied Arts and Technology**

Whereas the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union have been parties to an agreement in respect of the academic staff bargaining unit of employees of colleges of applied arts and technology that expired on the 31st day of August, 1984, and have been negotiating terms and conditions of employment for the employees; and whereas a strike by the employees against the Ontario Council of Regents for Colleges of Applied Arts and Technology and the boards of governors of the colleges of applied arts and technology has been in effect since the 17th day of October, 1984; and whereas the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union, on behalf of the employees, have been unable to make an agreement as to the terms and conditions of employment; and whereas the College Relations Commission has advised the Lieutenant Governor in Council that the continuance of the strike will place in jeopardy the successful completion of courses of study by the students affected by the strike; and whereas the public interest, and in particular the interest of students, requires that all members of the academic staff bargaining unit of employees of colleges of applied arts and technology return to and resume their duties and that means be provided to bring the strike to an end and to settle all matters that are in dispute between the parties, other than instructional assignments, in order that a new collective agreement may be concluded between the parties;

Preamble

Therefore, 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,R.S.O. 1980,
c. 74

- (a) "agreement" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (b) "Council" means the Council of Regents of Colleges of Applied Arts and Technology;
- (c) "employees" means the persons employed by one of the employers in a position or classification that is within the academic staff bargaining unit set out in Schedule 1 to the *Colleges Collective Bargaining Act*;
- (d) "employer" means a board of governors of a college of applied arts and technology;

R.S.O. 1980,
c. 74

- (e) "lock-out" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (f) "Minister" means Minister of Colleges and Universities;
- (g) "parties" means the Union and the Council;
- (h) "strike" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (i) "Union" means the Ontario Public Service Employees Union.

2.—(1) Upon the coming into force of this Act,Strike
terminated

- (a) the strike shall be terminated immediately by the Union and the employees;

Employees
to return
to work

- (b) every employee shall report for work and shall perform the duties assigned by the employer including duties assigned in order to afford students the opportunity to complete courses of study affected by the strike;

Resumption
of
operations

- (c) the employers shall operate and continue to operate the colleges of applied arts and technology; and

No strike
or lock-out

- (d) no person, employee or officer, official or agent of an employer, the Council or the Union shall engage in, declare, authorize, counsel, threaten or acquiesce in a lock-out, strike, picketing or any similar activity.

(2) The agreement between the parties that was in effect on the 31st day of August, 1984 shall be in force from and including the day this Act comes into force as varied by or under this Act.

Agreement
continued

(3) Nothing in this Act precludes an employee from not returning to and resuming his duties with his employer for reasons of health or by mutual consent in writing of the employee and the employer.

Exception

3.—(1) The salaries and rates of wages set out in the salary schedules for teaching masters and counsellors, instructors, librarians and partial-load employees set out in the appendices to the agreement between the parties that expired on the 31st day of August, 1984 are hereby increased to the salaries and rates of wages set out in the Schedule to this Act retroactive in each case to the 1st day of September, 1984 and the decision of the arbitrator shall include such increases, but, subject to subsection (2), nothing in this section prevents the arbitrator from granting increases in excess of those established in this section.

Salaries
and rates
of wages

(2) For each employee, the salary in the Schedule to this Act shall be reduced by 1/261 for each working day from and including the 17th day of October, 1984 to the date on which this Act comes into force and by the amounts received by the employee with respect to the period from and including the 1st day of September, 1984 to and including the 16th day of October, 1984, but this subsection does not apply to partial-load employees.

Adjustments

4.—(1) The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine into and decide upon the matters referred to in section 5.

Appointment
of
arbitrator

(2) Where the arbitrator is unable to enter on or to carry on his duties so as to enable him to render his decision within the period of time mentioned in subsection 5 (6), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator in his place and the inquiry shall begin anew.

Replacement
of
arbitrator

(3) The arbitrator shall determine his own procedure, but shall give full opportunity to the Council and the Union to present their evidence and make their submissions.

Procedure

(4) Subject to this Act, the arbitrator has all the powers of an arbitrator under the *Colleges Collective Bargaining Act*.

Powers of
arbitrator
R.S.O. 1980,
c. 74

Duty of
arbitrator

5.—(1) The arbitrator shall examine into and decide all matters, other than instructional assignments, in dispute between the Council and the Union including any matter, other than instructional assignments, that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided between the parties.

Arbitrator
to remain
seized of
matters in
dispute

(2) The arbitrator shall remain seized of and may deal with all matters within his jurisdiction until the arbitrator has decided all matters mentioned in subsection (1).

Agreement
upon some
matters

(3) Where, before or during the proceedings before the arbitrator, the Council and the Union agree upon some matters to be included in the agreement and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to,

- (a) the matters not agreed upon between the Council and the Union; and
- (b) such other matters as may be agreed upon by the Council and the Union or may appear to the arbitrator to be necessary to be decided in order to conclude the agreement.

Term of
agreement

(4) The agreement between the parties shall be for the period expiring on the 31st day of August, 1985.

Provincial
fiscal
policy

(5) In making his decision, the arbitrator shall consider as a factor the ability of the employers to pay in light of the existing provincial fiscal policy.

Decision of
arbitrator

(6) The decision of the arbitrator shall be made within sixty days after the date of his appointment or within such further period of time as the Minister may permit.

Decision
binding

6.—(1) The decision of the arbitrator shall be binding upon the Council, the employers, the Union and the employees.

Execution
of agreement

(2) Within seven days of the date of the decision of the arbitrator or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute a document giving effect to the provisions of this Act and the decision of the arbitrator and any agreement of the parties, and the document thereupon constitutes an agreement.

Preparation
of agreement
by board

(3) If the parties fail to prepare and execute a document in the form of an agreement giving effect to the provisions of this

Act and the decision of the arbitrator and any agreement of the parties within the period mentioned in subsection (2), the parties or either of them shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare a document in the form of an agreement giving effect to the provisions of this Act and the decision of the arbitrator and any agreement of the parties and submit the document to the parties for execution.

(4) If the parties or either of them fail to execute the document prepared by the arbitrator within a period of seven days from the day of submission of the document by the arbitrator to them, the document shall come into effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

Failure to execute agreement

7.—(1) The *Arbitrations Act* does not apply to the proceedings under this Act.

R.S.O. 1980, c. 25 not to apply

(2) Part I of the *Statutory Powers Procedure Act* does not apply to the proceedings under this Act.

Idem
R.S.O. 1980, c. 484

8. Sections 62, 78 and 90 of the *Colleges Collective Bargaining Act* apply with necessary modifications under this Act as if such sections were enacted in and form part of this Act.

Application of R.S.O. 1980, c. 74

9.—(1) 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 \$500 for each day upon which the contravention occurs or continues.

Contravention of Act by person

(2) Every employer or Union that 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 for each day upon which such contravention occurs or continues.

Contravention of Act by employer or Union

(3) Where the Union is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence is guilty of the offence and is liable to a fine of not more than \$500 for each day upon which the contravention by the Union occurs or continues.

Where officer guilty of offence

(4) Where an employer is convicted of an offence under this Act,

Directors, officers, employees and agents

(a) each member of the board of the employer; and

(b) each officer, employee or agent of the employer who was in whole or in part responsible for the con-

duct of that part of the business of the employer that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence and is liable to a fine of not more than \$500 for each day upon which the contravention by the employer occurs or continues.

Consent

(5) No prosecution for an offence under this Act shall be instituted except with the written consent of the Minister.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent and is repealed on the day on which the agreement is made under this Act.

Short title

11. The short title of this Act is the *Colleges of Applied Arts and Technology Labour Dispute Settlement Act, 1984*.

SCHEDULE

(a) TEACHING MASTERS AND COUNSELLORS

Minimum	\$22,476
Step 1	23,813
Step 2	25,154
Step 3	26,491
Step 4	27,832
Step 5	29,169
Step 6	30,508
Step 7	31,847
Step 8	33,186
Step 9	34,525
Step 10	35,863
Step 11	37,202
Step 12	38,540
Step 13	39,880
Step 14	41,218
Step 15	42,556
Step 16	43,895

(b) INSTRUCTORS

Minimum	\$19,188
Step 1	20,530
Step 2	21,866
Step 3	23,205
Step 4	24,544
Step 5	25,884
Step 6	27,222
Step 7	28,561
Step 8	29,900
Step 9	31,240
Step 10	32,577

(c) LIBRARIANS

LIBRARIANS I

Minimum	\$23,252
Step 1	24,590
Step 2	25,929
Step 3	27,271
Step 4	28,608
Step 5	29,945
Step 6	31,285

LIBRARIANS II

Minimum	\$27,229
Step 1	28,566
Step 2	29,907
Step 3	31,244
Step 4	32,583
Step 5	33,923
Step 6	35,260

(d) PARTIAL-LOAD EMPLOYEES

MINIMUM	\$15.77 per hour
MAXIMUM	\$35.03 per hour

Bill 130

**An Act respecting a Labour Dispute between
the Ontario Public Service Employees Union
and the Ontario Council of Regents for
Colleges of Applied Arts and Technology
and the Boards of Governors of
Colleges of Applied Arts and Technology**

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading November 8th, 1984

2nd Reading November 9th, 1984

3rd Reading

Royal Assent

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

EXPLANATORY NOTE

The purpose of the Bill is to provide for the compulsory arbitration, other than for instructional assignments, of the labour dispute between the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union on behalf of the employees in the academic staff bargaining unit under the *Colleges Collective Bargaining Act* and for the resumption of operation of the colleges of applied arts and technology.

Bill 130**1984**

**An Act respecting a Labour Dispute between
the Ontario Public Service Employees Union
and the Ontario Council of Regents for
Colleges of Applied Arts and Technology
and the Boards of Governors of
Colleges of Applied Arts and Technology**

Whereas the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union have been parties to an agreement in respect of the academic staff bargaining unit of employees of colleges of applied arts and technology that expired on the 31st day of August, 1984, and have been negotiating terms and conditions of employment for the employees; and whereas a strike by the employees against the Ontario Council of Regents for Colleges of Applied Arts and Technology and the boards of governors of the colleges of applied arts and technology has been in effect since the 17th day of October, 1984; and whereas the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union, on behalf of the employees, have been unable to make an agreement as to the terms and conditions of employment; and whereas the College Relations Commission has advised the Lieutenant Governor in Council that the continuance of the strike will place in jeopardy the successful completion of courses of study by the students affected by the strike; and whereas the public interest, and in particular the interest of students, requires that all members of the academic staff bargaining unit of employees of colleges of applied arts and technology return to and resume their duties and that means be provided to bring the strike to an end and to settle all matters that are in dispute between the parties, other than instructional assignments, in order that a new collective agreement may be concluded between the parties;

Therefore, 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,R.S.O. 1980,
c. 74

- (a) "agreement" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (b) "Council" means the Council of Regents of Colleges of Applied Arts and Technology;
- (c) "employees" means the persons employed by one of the employers in a position or classification that is within the academic staff bargaining unit set out in Schedule 1 to the *Colleges Collective Bargaining Act*;
- (d) "employer" means a board of governors of a college of applied arts and technology;

R.S.O. 1980,
c. 74

- (e) "lock-out" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (f) "Minister" means Minister of Colleges and Universities;
- (g) "parties" means the Union and the Council;
- (h) "strike" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (i) "Union" means the Ontario Public Service Employees Union.

2.—(1) Upon the coming into force of this Act,Strike
terminated

- (a) the strike shall be terminated immediately by the Union and the employees;

Employees
to return
to work

- (b) every employee shall report for work and shall perform the duties assigned by the employer including duties assigned by mutual consent in order to afford students the opportunity to complete courses of study affected by the strike;

Resumption
of
operations

- (c) the employers shall operate and continue to operate the colleges of applied arts and technology; and

No strike
or lock-out

- (d) no person, employee or officer, official or agent of an employer, the Council or the Union shall engage in, declare, authorize, counsel, threaten or acquiesce in a lock-out, strike or any similar activity.

(2) The agreement between the parties that was in effect on the 31st day of August, 1984 shall be in force from and including the day this Act comes into force as varied by or under this Act.

Agreement
continued

(3) Nothing in this Act precludes an employee from not returning to and resuming his duties with his employer for reasons of health or by mutual consent in writing of the employee and the employer.

Exception

3.—(1) The salaries and rates of wages set out in the salary schedules for teaching masters and counsellors, instructors, librarians and partial-load employees set out in the appendices to the agreement between the parties that expired on the 31st day of August, 1984 are hereby increased to the salaries and rates of wages set out in the Schedule to this Act retroactive in each case to the 1st day of September, 1984 and the decision of the arbitrator shall include such increases, but, subject to subsection (2), nothing in this section prevents the arbitrator from granting increases in excess of those established in this section.

Salaries
and rates
of wages

(2) For each employee, the salary in the Schedule to this Act shall be reduced by $1/261$ for each working day from and including the 17th day of October, 1984 to the date on which this Act comes into force and by the amounts received by the employee with respect to the period from and including the 1st day of September, 1984 to and including the 16th day of October, 1984, but this subsection does not apply to partial-load employees.

Adjustments

4.—(1) Consistent with the spirit of section 23 of the *Colleges Collective Bargaining Act*, the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine into and decide upon the matters referred to in section 5.

Appointment
of
arbitrator
R.S.O. 1970,
c. 74

(2) Where the arbitrator is unable to enter on or to carry on his duties so as to enable him to render his decision within the period of time mentioned in subsection 5 (6), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator in his place and the inquiry shall begin anew.

Replacement
of
arbitrator

(3) The arbitrator shall determine his own procedure, but shall give full opportunity to the Council and the Union to present their evidence and make their submissions.

Procedure

(4) Subject to this Act, the arbitrator has all the powers of an arbitrator under the *Colleges Collective Bargaining Act*.

Powers of
arbitrator
R.S.O. 1980,
c. 74

Duty of
arbitrator

5.—(1) The arbitrator shall examine into and decide all matters, other than instructional assignments, in dispute between the Council and the Union including any matter, other than instructional assignments, that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided between the parties.

Arbitrator
to remain
seized of
matters in
dispute

(2) The arbitrator shall remain seized of and may deal with all matters within his jurisdiction until the arbitrator has decided all matters mentioned in subsection (1).

Agreement
upon some
matters

(3) Where, before or during the proceedings before the arbitrator, the Council and the Union agree upon some matters to be included in the agreement and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to,

- (a) the matters not agreed upon between the Council and the Union; and
- (b) such other matters as may be agreed upon by the Council and the Union or may appear to the arbitrator to be necessary to be decided in order to conclude the agreement.

Term of
agreement

(4) The agreement between the parties shall be for the period expiring on the 31st day of August, 1985.

Provincial
fiscal
policy

(5) In making his decision, the arbitrator shall consider as a factor the ability of the employers to pay in light of the existing provincial fiscal policy.

Decision of
arbitrator

(6) The decision of the arbitrator shall be made within sixty days after the date of his appointment or within such further period of time as the Minister may permit.

Decision
binding

6.—(1) The decision of the arbitrator shall be binding upon the Council, the employers, the Union and the employees.

Execution
of agreement

(2) Within seven days of the date of the decision of the arbitrator or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute a document giving effect to the provisions of this Act and the decision of the arbitrator and any agreement of the parties, and the document thereupon constitutes an agreement.

Preparation
of agreement
by board

(3) If the parties fail to prepare and execute a document in the form of an agreement giving effect to the provisions of this

Act and the decision of the arbitrator and any agreement of the parties within the period mentioned in subsection (2), the parties or either of them shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare a document in the form of an agreement giving effect to the provisions of this Act and the decision of the arbitrator and any agreement of the parties and submit the document to the parties for execution.

(4) If the parties or either of them fail to execute the document prepared by the arbitrator within a period of seven days from the day of submission of the document by the arbitrator to them, the document shall come into effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

Failure to execute agreement

7.—(1) The *Arbitrations Act* does not apply to the proceedings under this Act.

R.S.O. 1980, c. 25 not to apply

(2) Part I of the *Statutory Powers Procedure Act* does not apply to the proceedings under this Act.

Idem
R.S.O. 1980, c. 484

8. Sections 62, 78 and 90 of the *Colleges Collective Bargaining Act* apply with necessary modifications under this Act as if such sections were enacted in and form part of this Act.

Application of R.S.O. 1980, c. 74

9.—(1) 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 \$500 for each day upon which the contravention occurs or continues.

Contra-vention of Act by person

(2) Every employer or Union that 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 for each day upon which such contravention occurs or continues.

Contra-vention of Act by employer or Union

(3) Where the Union is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence is guilty of the offence and is liable to a fine of not more than \$500 for each day upon which the contravention by the Union occurs or continues.

Where officer guilty of offence

(4) Where an employer is convicted of an offence under this Act,

Directors, officers, employees and agents

(a) each member of the board of the employer; and

(b) each officer, employee or agent of the employer who was in whole or in part responsible for the con-

duct of that part of the business of the employer that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence and is liable to a fine of not more than \$500 for each day upon which the contravention by the employer occurs or continues.

Consent

(5) No prosecution for an offence under this Act shall be instituted except with the written consent of the Minister.

Instructional
Assignment
Review
Committee

10.—(1) There shall be a committee to be known as the Instructional Assignment Review Committee to be composed of three persons who shall be appointed by the Minister.

Chairman

(2) The Minister shall designate one of the members of the Committee to be chairman.

Remunera-
tion
and expenses

(3) The chairman and the other members of the Committee shall be paid such remuneration and expenses as are determined by the Minister.

Review

(4) The Committee shall conduct a comprehensive review of all aspects of instructional assignments in the colleges of applied arts and technology.

Consultation

(5) As part of its review, the Committee shall consult with persons representing the views of the Ontario Council of Regents for Colleges of Applied Arts and Technology, the boards of governors of the colleges of applied arts and technology, the Ontario Public Service Employees Union, students attending the colleges of applied arts and technology, parents of such students and other persons who the Committee is satisfied have an interest in instructional assignments in the colleges of applied arts and technology.

Report

(6) The committee shall submit its report and recommendations to the Minister not later than the 30th day of June, 1985 and is thereupon dissolved.

Commence-
ment

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

Short title

12. The short title of this Act is the *Colleges of Applied Arts and Technology Labour Dispute Settlement Act, 1984*.

SCHEDULE

(a) TEACHING MASTERS AND COUNSELLORS

Minimum	\$22,476
Step 1	23,813
Step 2	25,154
Step 3	26,491
Step 4	27,832
Step 5	29,169
Step 6	30,508
Step 7	31,847
Step 8	33,186
Step 9	34,525
Step 10	35,863
Step 11	37,202
Step 12	38,540
Step 13	39,880
Step 14	41,218
Step 15	42,556
Step 16	43,895

(b) INSTRUCTORS

Minimum	\$19,188
Step 1	20,530
Step 2	21,866
Step 3	23,205
Step 4	24,544
Step 5	25,884
Step 6	27,222
Step 7	28,561
Step 8	29,900
Step 9	31,240
Step 10	32,577

(c) LIBRARIANS

LIBRARIANS I

Minimum	\$23,252
Step 1	24,590
Step 2	25,929
Step 3	27,271
Step 4	28,608
Step 5	29,945
Step 6	31,285

LIBRARIANS II

Minimum	\$27,229
Step 1	28,566
Step 2	29,907
Step 3	31,244
Step 4	32,583
Step 5	33,923
Step 6	35,260

(d) PARTIAL-LOAD EMPLOYEES

MINIMUM	\$15.77 per hour
MAXIMUM	\$35.03 per hour

Bill 130

*(Chapter 43
Statutes of Ontario, 1984)*

**An Act respecting a Labour Dispute between
the Ontario Public Service Employees Union
and the Ontario Council of Regents for
Colleges of Applied Arts and Technology
and the Boards of Governors of
Colleges of Applied Arts and Technology**

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

<i>1st Reading</i>	November 8th, 1984
<i>2nd Reading</i>	November 9th, 1984
<i>3rd Reading</i>	November 9th, 1984
<i>Royal Assent</i>	November 9th, 1984

Bill 130**1984**

**An Act respecting a Labour Dispute between
the Ontario Public Service Employees Union
and the Ontario Council of Regents for
Colleges of Applied Arts and Technology
and the Boards of Governors of
Colleges of Applied Arts and Technology**

Whereas the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union have been parties to an agreement in respect of the academic staff bargaining unit of employees of colleges of applied arts and technology that expired on the 31st day of August, 1984, and have been negotiating terms and conditions of employment for the employees; and whereas a strike by the employees against the Ontario Council of Regents for Colleges of Applied Arts and Technology and the boards of governors of the colleges of applied arts and technology has been in effect since the 17th day of October, 1984; and whereas the Ontario Council of Regents for Colleges of Applied Arts and Technology and the Ontario Public Service Employees Union, on behalf of the employees, have been unable to make an agreement as to the terms and conditions of employment; and whereas the College Relations Commission has advised the Lieutenant Governor in Council that the continuance of the strike will place in jeopardy the successful completion of courses of study by the students affected by the strike; and whereas the public interest, and in particular the interest of students, requires that all members of the academic staff bargaining unit of employees of colleges of applied arts and technology return to and resume their duties and that means be provided to bring the strike to an end and to settle all matters that are in dispute between the parties, other than instructional assignments, in order that a new collective agreement may be concluded between the parties;

Preamble

Therefore, 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,R.S.O. 1980,
c. 74

- (a) "agreement" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (b) "Council" means the Council of Regents of Colleges of Applied Arts and Technology;
- (c) "employees" means the persons employed by one of the employers in a position or classification that is within the academic staff bargaining unit set out in Schedule 1 to the *Colleges Collective Bargaining Act*;
- (d) "employer" means a board of governors of a college of applied arts and technology;

R.S.O. 1980,
c. 74

- (e) "lock-out" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (f) "Minister" means Minister of Colleges and Universities;
- (g) "parties" means the Union and the Council;
- (h) "strike" has the same meaning as in the *Colleges Collective Bargaining Act*;
- (i) "Union" means the Ontario Public Service Employees Union.

2.—(1) Upon the coming into force of this Act,Strike
terminated

- (a) the strike shall be terminated immediately by the Union and the employees;

Employees
to return
to work

- (b) every employee shall report for work and shall perform the duties assigned by the employer including duties assigned by mutual consent in order to afford students the opportunity to complete courses of study affected by the strike;

Resumption
of
operations

- (c) the employers shall operate and continue to operate the colleges of applied arts and technology; and

No strike
or lock-out

- (d) no person, employee or officer, official or agent of an employer, the Council or the Union shall engage in, declare, authorize, counsel, threaten or acquiesce in a lock-out, strike or any similar activity.

(2) The agreement between the parties that was in effect on the 31st day of August, 1984 shall be in force from and including the day this Act comes into force as varied by or under this Act.

Agreement continued

(3) Nothing in this Act precludes an employee from not returning to and resuming his duties with his employer for reasons of health or by mutual consent in writing of the employee and the employer.

Exception

3.—(1) The salaries and rates of wages set out in the salary schedules for teaching masters and counsellors, instructors, librarians and partial-load employees set out in the appendices to the agreement between the parties that expired on the 31st day of August, 1984 are hereby increased to the salaries and rates of wages set out in the Schedule to this Act retroactive in each case to the 1st day of September, 1984 and the decision of the arbitrator shall include such increases, but, subject to subsection (2), nothing in this section prevents the arbitrator from granting increases in excess of those established in this section.

Salaries and rates of wages

(2) For each employee, the salary in the Schedule to this Act shall be reduced by 1/261 for each working day from and including the 17th day of October, 1984 to the date on which this Act comes into force and by the amounts received by the employee with respect to the period from and including the 1st day of September, 1984 to and including the 16th day of October, 1984, but this subsection does not apply to partial-load employees.

Adjustments

4.—(1) Consistent with the spirit of section 23 of the *Colleges Collective Bargaining Act*, the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine into and decide upon the matters referred to in section 5.

Appointment of arbitrator
R.S.O. 1970, c. 74

(2) Where the arbitrator is unable to enter on or to carry on his duties so as to enable him to render his decision within the period of time mentioned in subsection 5 (6), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator in his place and the inquiry shall begin anew.

Replacement of arbitrator

(3) The arbitrator shall determine his own procedure, but shall give full opportunity to the Council and the Union to present their evidence and make their submissions.

Procedure

(4) Subject to this Act, the arbitrator has all the powers of an arbitrator under the *Colleges Collective Bargaining Act*.

Powers of arbitrator
R.S.O. 1980, c. 74

Duty of
arbitrator

5.—(1) The arbitrator shall examine into and decide all matters, other than instructional assignments, in dispute between the Council and the Union including any matter, other than instructional assignments, that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided between the parties.

Arbitrator
to remain
seized of
matters in
dispute

(2) The arbitrator shall remain seized of and may deal with all matters within his jurisdiction until the arbitrator has decided all matters mentioned in subsection (1).

Agreement
upon some
matters

(3) Where, before or during the proceedings before the arbitrator, the Council and the Union agree upon some matters to be included in the agreement and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to,

- (a) the matters not agreed upon between the Council and the Union; and
- (b) such other matters as may be agreed upon by the Council and the Union or may appear to the arbitrator to be necessary to be decided in order to conclude the agreement.

Term of
agreement

(4) The agreement between the parties shall be for the period expiring on the 31st day of August, 1985.

Provincial
fiscal
policy

(5) In making his decision, the arbitrator shall consider as a factor the ability of the employers to pay in light of the existing provincial fiscal policy.

Decision of
arbitrator

(6) The decision of the arbitrator shall be made within sixty days after the date of his appointment or within such further period of time as the Minister may permit.

Decision
binding

6.—(1) The decision of the arbitrator shall be binding upon the Council, the employers, the Union and the employees.

Execution
of agreement

(2) Within seven days of the date of the decision of the arbitrator or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute a document giving effect to the provisions of this Act and the decision of the arbitrator and any agreement of the parties, and the document thereupon constitutes an agreement.

Preparation
of agreement
by board

(3) If the parties fail to prepare and execute a document in the form of an agreement giving effect to the provisions of this

Act and the decision of the arbitrator and any agreement of the parties within the period mentioned in subsection (2), the parties or either of them shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare a document in the form of an agreement giving effect to the provisions of this Act and the decision of the arbitrator and any agreement of the parties and submit the document to the parties for execution.

(4) If the parties or either of them fail to execute the document prepared by the arbitrator within a period of seven days from the day of submission of the document by the arbitrator to them, the document shall come into effect as though it had been executed by the parties and the document thereupon constitutes an agreement.

Failure to execute agreement

7.—(1) The *Arbitrations Act* does not apply to the proceedings under this Act.

R.S.O. 1980, c. 25 not to apply

(2) Part I of the *Statutory Powers Procedure Act* does not apply to the proceedings under this Act.

Idem R.S.O. 1980, c. 484

8. Sections 62, 78 and 90 of the *Colleges Collective Bargaining Act* apply with necessary modifications under this Act as if such sections were enacted in and form part of this Act.

Application of R.S.O. 1980, c. 74

9.—(1) 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 \$500 for each day upon which the contravention occurs or continues.

Contravention of Act by person

(2) Every employer or Union that 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 for each day upon which such contravention occurs or continues.

Contravention of Act by employer or Union

(3) Where the Union is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence is guilty of the offence and is liable to a fine of not more than \$500 for each day upon which the contravention by the Union occurs or continues.

Where officer guilty of offence

(4) Where an employer is convicted of an offence under this Act,

Directors, officers, employees and agents

(a) each member of the board of the employer; and

(b) each officer, employee or agent of the employer who was in whole or in part responsible for the con-

duct of that part of the business of the employer that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence and is liable to a fine of not more than \$500 for each day upon which the contravention by the employer occurs or continues.

Consent (5) No prosecution for an offence under this Act shall be instituted except with the written consent of the Minister.

Instructional Assignment Review Committee **10.**—(1) There shall be a committee to be known as the Instructional Assignment Review Committee to be composed of three persons who shall be appointed by the Minister.

Chairman (2) The Minister shall designate one of the members of the Committee to be chairman.

Remuneration and expenses (3) The chairman and the other members of the Committee shall be paid such remuneration and expenses as are determined by the Minister.

Review (4) The Committee shall conduct a comprehensive review of all aspects of instructional assignments in the colleges of applied arts and technology.

Consultation (5) As part of its review, the Committee shall consult with persons representing the views of the Ontario Council of Regents for Colleges of Applied Arts and Technology, the boards of governors of the colleges of applied arts and technology, the Ontario Public Service Employees Union, students attending the colleges of applied arts and technology, parents of such students and other persons who the Committee is satisfied have an interest in instructional assignments in the colleges of applied arts and technology.

Report (6) The committee shall submit its report and recommendations to the Minister not later than the 30th day of June, 1985 and is thereupon dissolved.

Commencement **11.** This Act comes into force on the day it receives Royal Assent.

Short title **12.** The short title of this Act is the *Colleges of Applied Arts and Technology Labour Dispute Settlement Act, 1984*.

SCHEDULE

(a) TEACHING MASTERS AND COUNSELLORS

Minimum	\$22,476
Step 1	23,813
Step 2	25,154
Step 3	26,491
Step 4	27,832
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Step 14	41,218
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Step 16	43,895

(b) INSTRUCTORS

Minimum	\$19,188
Step 1	20,530
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Step 6	27,222
Step 7	28,561
Step 8	29,900
Step 9	31,240
Step 10	32,577

(c) LIBRARIANS

LIBRARIANS I

Minimum	\$23,252
Step 1	24,590
Step 2	25,929
Step 3	27,271
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Step 6	31,285

LIBRARIANS II

Minimum	\$27,229
Step 1	28,566
Step 2	29,907
Step 3	31,244
Step 4	32,583
Step 5	33,923
Step 6	35,260

(d) PARTIAL-LOAD EMPLOYEES

MINIMUM	\$15.77 per hour
MAXIMUM	\$35.03 per hour





Bill 131

An Act to amend the Income Tax Act

The Hon. B. Gregory
Minister of Revenue

1st Reading November 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill provides for legislative amendments consequential upon the passage of amendments to the *Income Tax Act* (Canada).

SECTION 1. The re-enactment of section 2a ensures that the calculation of the amount of the temporary surcharge for the 1983 and 1984 taxation years is not affected by the forward averaging provisions in the Federal Act.

SECTION 2.—Subsection 1. The subsections added ensure that for the 1982 taxation year a taxpayer who elects to use the forward averaging provisions in the Federal Act is both taxed and permitted a forward averaging tax credit under this Act on the same basis that he is subject to tax on other income under this Act in the taxation year.

Subsection 2. The amendment provides that the special share purchase tax credit in section 127.2 of the Federal Act, which is applied against tax owing under the Federal Act, does not affect the amount of tax payable under this Act.

Subsection 3. The amendment ensures that, in determining the amount of the foreign tax credit, amounts not subject to tax in Canada by reason of a tax convention or agreement with another country will not be taken into consideration, in order that only amounts subject to tax under this Act will be used in the calculation of the amount of the tax credit.

Subsection 4. The amendment provides that worker's compensation and social assistance payments, which were formerly exempted from taxable income by annual Federal and Ontario Orders in Council will continue to be excluded from the calculation of the foreign tax credit.

Subsection 5. The re-enactment of the clause ensures that in the determination of the foreign tax credit in subsection 3 (8) of the Act, the amount of tax payable on an amount the taxpayer has elected to forward average will not be taken into consideration.

SECTION 3. The enactment of the clause ensures that the amount of tax payable under the Act on an amount a taxpayer has elected to forward average will not be affected by the property tax credit, sales tax credit, temporary home heating tax credit and political contribution tax credit.

SECTION 4.—Subsections 1 and 2. The amendments provide that all amounts paid as salary, wages or other remuneration are subject to tax withholding at source, whether or not the recipient is an officer or employee of the payer.

Subsection 3. The re-enactment of the clause is consequential upon an amendment to paragraph 153 (1) (i) of the Federal Act.

Clause 11 (1) (j) now reads as follows:

(j) *an adult training allowance under the Adult Occupational Training Act (Canada).*

Subsection 5. The re-enactment of clause (n) and the enactment of clause (o) are consequential upon the repeal of the definition of "termination payment" in the Federal Act and permits a taxpayer to elect to have an amount paid to him to be subject to the tax withholding at source provisions.

Clause 11 (1) (n) now reads as follows:

(n) *a termination payment.*

Subsection 6. The amendment ensures that all of the receipts from which tax has been deducted under subsection 11 (1) are included in the determination of whether quarterly tax instalment payments are required.

SECTION 5. The amendment to subsection 12 (1) ensures that farmers and fishermen are not required to make tax instalment payments when payments received by them totalling at least three-quarters of their income in the taxation year have been subject to tax withholding at source.

SECTION 6. The subsection added provides that where an underpayment of tax under this Act arises by reason of an adjustment in the amount of foreign income tax payable by a taxpayer on foreign source income, no interest is payable by the taxpayer for the first ninety days after notification to him of the foreign tax adjustment.

SECTION 7.—Subsection 1. The re-enacted clauses permit the issuance of a garnishment order where the Minister has knowledge or suspects that a person is or will, within ninety days, be liable to make a payment to a taxpayer who owes tax or that an institution, employer or non-arm's length company is or will, within ninety days, be loaning funds to or making a payment on behalf of a tax debtor.

Subsections 33 (1) and (1a) now read as follows:

(1) Where the Provincial Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to another person who is liable to make a payment under this Act (in this section referred to as the "tax debtor"), he may, by registered letter or by a letter served personally, require that person to pay the moneys otherwise payable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor's liability under this Act.

(1a) Without limiting the generality of subsection (1), where the Provincial Minister has knowledge or suspects that a bank, credit union, trust company or other similar person (in this section referred to as the "institution") is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security to the institution in respect of the indebtedness, he may, by registered letter or by a letter served personally, require the institution to pay to the Treasurer on account of the tax debtor's liability under this Act the moneys that would otherwise be so advanced or paid.

Subsection 2. The re-enactment of the subsection provides for the liability of any institution, employer and non-arm's length corporation for the failure to comply with a garnishment order under subsection 33 (1a).

Subsection 33 (4a) now reads as follows:

(4a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

(a) the aggregate of the moneys advanced or paid; and

(b) the amount that it was required under subsection (1a) to pay to the Treasurer.

SECTION 8. The addition of sections 33a and 33b enable the Minister to acquire and dispose of property acquired in legal proceedings to collect unpaid taxes and permit the equivalent of a garnishment order when moneys belonging to a tax debtor are seized by police in the course of a criminal proceeding.

SECTION 9. The addition of section 36a renders directors of corporations personally liable for the amount of tax required to be withheld on payments made to taxpayers, where the directors have not exercised reasonable care and diligence and where the corporation has not remitted the tax before becoming insolvent or commencing dissolution proceedings.

SECTION 10. The amendment permits the destruction of financial records of a taxpayer without the prior consent of the Minister, if the records may be destroyed for the purposes of the Federal Act.

Subsection 37 (3) now reads as follows:

(3) Every person required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Provincial Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account.

Bill 131

1984

An Act to amend the Income 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 2a of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 37, section 1, is repealed and the following substituted therefor:

2a. Every individual whose taxable income exceeds the amount prescribed for the purposes of subsection 6 (2) for the 1983 or 1984 taxation year shall, in addition to the income tax otherwise payable by him under this Act, pay, Temporary surcharge

- (a) in respect of the 1983 taxation year, a tax of 2.5 per cent; and
- (b) in respect of the 1984 taxation year, a tax of 5 per cent,

of the tax that exceeds the amount prescribed for the purposes of this section and that would, but for section 120.1 of the Federal Act, be payable by him under the provisions of this Act, other than this section, before any deduction authorized by subsection 3 (8) or section 7.

2.—(1) Section 3 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 1, 1981, chapter 46, section 2 and 1983, chapter 37, section 2, is further amended by adding thereto the following subsections:

(2a) For the 1982 taxation year, the tax payable by an individual described in clause (2) (a) for the year is the amount equal to the aggregate of, Idem

- (a) the amount determined under subsection (2) for the 1982 taxation year; and

- (b) an amount that bears the same relationship to the product of the amount added under subsection 120.1 (2) of the Federal Act for the year by the percentage specified in subsection (5) for the year that his income earned in the taxation year outside of Ontario bears to his income for the year.

Idem

(2b) For the 1982 taxation year, the tax payable by an individual described in clause (2) (b) for the year is the amount by which,

- (a) the amount determined under subsection (2) for the year,

exceeds

- (b) an amount that bears the same relation to the product of the amount added under subsection 120.1 (2) of the Federal Act for the year by the percentage specified in subsection (5) for the year that his income earned in the taxation year in Ontario bears to his income for the year.

Idem

(2c) An individual to whom section 2 is applicable for a taxation year is deemed to have paid on account of his tax for the year an amount determined by applying the percentage specified in subsection (5) for the year to an amount that bears the same relation to the excess determined under subsection 120.1 (4) of the Federal Act for the year that his income earned in the taxation year in Ontario bears to his income for the year.

(2) Clause 3 (6) (a) of the said Act is amended by striking out "or 127" in the seventh line and inserting in lieu thereof "127 or 127.2".

(3) Subclause 3 (8) (b) (i) of the said Act is amended by inserting after "country" in the second line "excluding any portion thereof that was deductible by him for the year under subparagraph 110 (1) (f) (i) of the Federal Act".

(4) Subclause 3 (8) (b) (ii) of the said Act is amended by inserting after "under" in the eighth line "paragraph 110 (1) (f)".

(5) Clause 3 (9) (b) of the said Act is repealed and the following substituted therefor:

- (b) the expressions "tax payable" and "tax otherwise payable" means the amount of tax calculated under

this Act that would be payable but for section 120.1 of the Federal Act, without the deduction authorized by subsection 7 (2) or (6), other than any tax payable pursuant to subsection (3).

3. Subsection 7 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 3, is further amended by adding thereto the following clause:

- (k) “tax payable” and “tax otherwise payable” means the amount of tax that would, but for section 120.1 of the Federal Act and this section, be otherwise payable under this Act.

4.—(1) Subsection 11 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 5, is further amended,

- (a) by inserting after “paying” in the first line “at any time in a taxation year”; and
- (b) by striking out in the first line of that part of the subsection immediately following the clauses “at any time in a taxation year”.

(2) Clause 11 (1) (a) of the said Act is amended by striking out “to an officer or employee” in the first and second lines.

(3) Clause 11 (1) (j) of the said Act is repealed and the following substituted therefor:

- (j) a training allowance under the *National Training Act* (Canada). 1980-81-82,
c. 109 (Can.)

(4) Clause 11 (1) (m) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 5, is further amended by striking out “or” at the end thereof.

(5) Clause 11 (1) (n) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 46, section 5, is repealed and the following substituted therefor:

- (n) an amount as a benefit under the *Labour Adjustment Benefits Act* (Canada); or 1980-81-82,
c. 89 (Can.)
- (o) one or more amounts to an individual who has elected for the year in prescribed form in respect of all such amounts.

(6) Subsection 11 (2) of the said Act is amended by inserting after “remuneration” in the second line “or other payments”.

5. Subsection 12 (1) of the said Act is amended by inserting after “fishing” in the second line “other than an individual to whom subsection 11 (2) applies”.

6. Section 16 of the said Act is amended by adding thereto the following subsection:

Idem

(6a) Notwithstanding any other provision of this section, where tax payable under this Act by a taxpayer for a taxation year is increased by virtue of an adjustment of an income or profits tax payable by him to the government of a country other than Canada or to the government of a state, province or other political subdivision of such country, no interest is payable, in respect of such increase in his tax payable, for the period ending ninety days after the day on which he is first notified of the amount of the adjustment.

7.—(1) Subsections 33 (1) and (1a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 46, section 8, are repealed and the following substituted therefor:

Garnishment

(1) Where the Provincial Minister has knowledge or suspects that a person is or will be, within ninety days, liable to make a payment to another person who is liable to make a payment under this Act (in this section referred to as the “tax debtor”), he may, by registered letter or by a letter served personally, require that person to pay forthwith, where the moneys are immediately payable, and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor’s liability under this Act.

Idem

(1a) Notwithstanding subsection (1), where the Provincial Minister has knowledge or suspects that within ninety days,

- (a) a bank, credit union, trust company or other similar person (in this section referred to as the “institution”) will loan or advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a tax debtor who is indebted to the institution and who has granted security in respect of the indebtedness; or
- (b) a person other than an institution will loan or advance moneys to, or make a payment on behalf of, a tax debtor who the Provincial Minister knows or suspects,

- (i) is employed by or is engaged in providing services or property to that person, or was or will be, within ninety days, employed by or engaged, or
- (ii) where that person is a corporation, the tax debtor is not dealing at arm's length with that person,

he may, by registered letter or by a letter served personally, require the institution or the person, as the case may be, to pay in whole or in part to the Treasurer, on account of the tax debtor's liability under this Act, the moneys that would otherwise be loaned, advanced or paid, and any moneys paid to the Treasurer shall be deemed to have been loaned, advanced or paid, as the case may be, to the tax debtor.

(2) Subsection 33 (4a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 46, section 8, is repealed and the following substituted therefor:

(4a) Every institution or person who fails to comply with a requirement under subsection (1a) with respect to moneys to be loaned, advanced or paid is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of, Idem

- (a) the aggregate of moneys so loaned, advanced or paid; and
- (b) the amount that the institution or person was required by subsection (1a) to pay to the Treasurer.

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

33a. For the purpose of collecting debts owed by a person to Her Majesty in right of Ontario under this Act, the Provincial Minister may purchase or otherwise acquire any interest in the person's property that the Provincial Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest so acquired in such manner as he considers reasonable. Acquisition of debtor's property

33b.—(1) Where the Provincial Minister knows or suspects that a person is holding moneys that were seized by a police officer in the course of administering or enforcing the criminal law of Canada from another person who is liable to make a payment under this Act (in this section referred to as the "tax debtor") and that are restorable to the tax debtor, he Moneys seized in criminal proceedings

may, by registered letter or by a letter served personally, require that person to turn over the moneys otherwise restorable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor's liability under this Act.

Receipt

(2) The receipt of the Treasurer for moneys turned over as required by this section is a good and sufficient discharge of the requirement to restore the moneys to the tax debtor to the extent of the amount so turned over.

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

Directors' liability

36a.—(1) Where a corporation has failed to deduct or withhold an amount as required by section 11, or has failed to remit such amount, the directors of the corporation at the time the corporation was required to deduct or withhold the amount, or remit the amount, are jointly and severally liable, together with the corporation, to pay any amount that the corporation is liable to pay under this Act in respect of that amount, including any interest or penalties related thereto.

Exception

(2) A director shall not be liable under subsection (1) unless,

- (a) a certificate for the amount of the corporation's liability referred to in subsection (1) has been registered in the Supreme Court under subsection 31 (2) and execution for such amount has been returned unsatisfied in whole or in part;
- (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the earlier of the date of commencement of the proceedings and the date of the dissolution; or
- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in that subsection has been proved within six months after the date of the assignment or receiving order.

R.S.C. 1970,
c. B-3

Standard
of care

(3) A director is not liable for a failure under subsection (1) where he exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

(4) No action or proceedings to recover any amount payable by a director under subsection (1) shall be commenced more than two years after he last ceased to be a director of that corporation. Limitation period

(5) Where the execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution. Amount of liability

(6) Where a director pays an amount in respect of a corporation's liability referred to in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, he is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had such amount not been so paid and, where a certificate that relates to such amount has been registered, he is entitled to an assignment of the certificate to the extent of his payment, which assignment the Treasurer is hereby authorized to make. Crown preference

(7) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim. Directors' recovery

10. Subsection 37 (3) of the said Act is repealed and the following substituted therefor:

(3) Every person required by this section to keep records and books of account shall retain the records and books of account and every account and voucher necessary to verify the information in the records and books of account until the disposal thereof is permitted for the purposes of the Federal Act pursuant to the provisions of Part XV thereof. Records retention

11.—(1) Section 1 and subsection 3 (2c) of the said Act, as enacted by subsection 2 (1), shall be deemed to have come into force on the 1st day of January, 1983 and apply to the 1983 and subsequent taxation years. Commencement and application

(2) Subsections 3 (2a) and (2b) of the said Act, as enacted by subsection 2 (1), subsections 2 (3), (4) and (5), and section 3 shall be deemed to have come into force on the 1st day of January, 1982 and apply to the 1982 and subsequent taxation years. Idem

(3) Subsection 2 (2) shall be deemed to have come into force on the 1st day of July, 1983 with respect to shares issued after the 30th day of June, 1983 and applies to the 1982 and subsequent taxation years. Idem

- Idem **(4) Subsections 4 (1), (2) and (6), and sections 5, 7 and 8 shall be deemed to have come into force on the 30th day of March, 1983.**
- Idem **(5) Subsection 4 (3) shall be deemed to have come into force on the 2nd day of August, 1982.**
- Idem **(6) Subsections 4 (4) and (5) shall be deemed to have come into force on the 30th day of March, 1983, provided that clause 11 (1) (n) of the said Act, as re-enacted by subsection 4 (5), is applicable with respect to amounts paid after 1981, except that in its application to payments made after the 12th day of November, 1981 in respect of a termination of an office or employment that occurred on or before that date, that clause shall be read as follows:**
- (n) a termination payment.**
- Idem **(7) Section 6 shall be deemed to have come into force on the 1st day of January, 1981 and applies to notifications made after 1980.**
- Idem **(8) Section 9 shall be deemed to have come into force on the 13th day of November, 1981, and applies with respect to amounts required to be deducted and remitted, or withheld and remitted, after the 12th day of November, 1981.**
- Idem **(9) Section 10 comes into force on the day this Act receives Royal Assent.**
- Short title **12. The short title of this Act is the *Income Tax Amendment Act, 1984.***

Bill 131

*(Chapter 50
Statutes of Ontario, 1984)*

An Act to amend the Income Tax Act

The Hon. B. Gregory
Minister of Revenue

<i>1st Reading</i>	November 8th, 1984
<i>2nd Reading</i>	November 20th, 1984
<i>3rd Reading</i>	November 23rd, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 131

1984

An Act to amend the Income 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 2a of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 37, section 1, is repealed and the following substituted therefor:

2a. Every individual whose taxable income exceeds the amount prescribed for the purposes of subsection 6 (2) for the 1983 or 1984 taxation year shall, in addition to the income tax otherwise payable by him under this Act, pay, Temporary surcharge

- (a) in respect of the 1983 taxation year, a tax of 2.5 per cent; and
- (b) in respect of the 1984 taxation year, a tax of 5 per cent,

of the tax that exceeds the amount prescribed for the purposes of this section and that would, but for section 120.1 of the Federal Act, be payable by him under the provisions of this Act, other than this section, before any deduction authorized by subsection 3 (8) or section 7.

2.—(1) Section 3 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 1, 1981, chapter 46, section 2 and 1983, chapter 37, section 2, is further amended by adding thereto the following subsections:

(2a) For the 1982 taxation year, the tax payable by an individual described in clause (2) (a) for the year is the amount equal to the aggregate of, Idem

- (a) the amount determined under subsection (2) for the 1982 taxation year; and

- (b) an amount that bears the same relationship to the product of the amount added under subsection 120.1 (2) of the Federal Act for the year by the percentage specified in subsection (5) for the year that his income earned in the taxation year outside of Ontario bears to his income for the year.

Idem

(2b) For the 1982 taxation year, the tax payable by an individual described in clause (2) (b) for the year is the amount by which,

- (a) the amount determined under subsection (2) for the year,

exceeds

- (b) an amount that bears the same relation to the product of the amount added under subsection 120.1 (2) of the Federal Act for the year by the percentage specified in subsection (5) for the year that his income earned in the taxation year in Ontario bears to his income for the year.

Idem

(2c) An individual to whom section 2 is applicable for a taxation year is deemed to have paid on account of his tax for the year an amount determined by applying the percentage specified in subsection (5) for the year to an amount that bears the same relation to the excess determined under subsection 120.1 (4) of the Federal Act for the year that his income earned in the taxation year in Ontario bears to his income for the year.

(2) Clause 3 (6) (a) of the said Act is amended by striking out “or 127” in the seventh line and inserting in lieu thereof “127 or 127.2”.

(3) Subclause 3 (8) (b) (i) of the said Act is amended by inserting after “country” in the second line “excluding any portion thereof that was deductible by him for the year under subparagraph 110 (1) (f) (i) of the Federal Act”.

(4) Subclause 3 (8) (b) (ii) of the said Act is amended by inserting after “under” in the eighth line “paragraph 110 (1) (f)”.

(5) Clause 3 (9) (b) of the said Act is repealed and the following substituted therefor:

- (b) the expressions “tax payable” and “tax otherwise payable” means the amount of tax calculated under

this Act that would be payable but for section 120.1 of the Federal Act, without the deduction authorized by subsection 7 (2) or (6), other than any tax payable pursuant to subsection (3).

3. Subsection 7 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 13, section 3, is further amended by adding thereto the following clause:

- (k) “tax payable” and “tax otherwise payable” means the amount of tax that would, but for section 120.1 of the Federal Act and this section, be otherwise payable under this Act.

4.—(1) Subsection 11 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 5, is further amended,

- (a) by inserting after “paying” in the first line “at any time in a taxation year”; and
- (b) by striking out in the first line of that part of the subsection immediately following the clauses “at any time in a taxation year”.

(2) Clause 11 (1) (a) of the said Act is amended by striking out “to an officer or employee” in the first and second lines.

(3) Clause 11 (1) (j) of the said Act is repealed and the following substituted therefor:

- (j) a training allowance under the *National Training Act* (Canada). 1980-81-82,
c. 109 (Can.)

(4) Clause 11 (1) (m) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 5, is further amended by striking out “or” at the end thereof.

(5) Clause 11 (1) (n) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 46, section 5, is repealed and the following substituted therefor:

- (n) an amount as a benefit under the *Labour Adjustment Benefits Act* (Canada); or 1980-81-82,
c. 89 (Can.)
- (o) one or more amounts to an individual who has elected for the year in prescribed form in respect of all such amounts.

(6) Subsection 11 (2) of the said Act is amended by inserting after “remuneration” in the second line “or other payments”.

5. Subsection 12 (1) of the said Act is amended by inserting after “fishing” in the second line “other than an individual to whom subsection 11 (2) applies”.

6. Section 16 of the said Act is amended by adding thereto the following subsection:

Idem

(6a) Notwithstanding any other provision of this section, where tax payable under this Act by a taxpayer for a taxation year is increased by virtue of an adjustment of an income or profits tax payable by him to a government of a country other than Canada or to the government of a state, province or other political subdivision of such country, no interest is payable, in respect of such increase in his tax payable, for the period ending ninety days after the day on which he is first notified of the amount of the adjustment.

7.—(1) Subsections 33 (1) and (1a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 46, section 8, are repealed and the following substituted therefor:

Garnishment

(1) Where the Provincial Minister has knowledge or suspects that a person is or will be, within ninety days, liable to make a payment to another person who is liable to make a payment under this Act (in this section referred to as the “tax debtor”), he may, by registered letter or by a letter served personally, require that person to pay forthwith, where the moneys are immediately payable, and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor’s liability under this Act.

Idem

(1a) Notwithstanding subsection (1), where the Provincial Minister has knowledge or suspects that within ninety days,

(a) a bank, credit union, trust company or other similar person (in this section referred to as the “institution”) will loan or advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a tax debtor who is indebted to the institution and who has granted security in respect of the indebtedness; or

(b) a person other than an institution will loan or advance moneys to, or make a payment on behalf of, a tax debtor who the Provincial Minister knows or suspects,

- (i) is employed by or is engaged in providing services or property to that person, or was or will be, within ninety days, employed by or engaged, or
- (ii) where that person is a corporation, the tax debtor is not dealing at arm's length with that person,

he may, by registered letter or by a letter served personally, require the institution or the person, as the case may be, to pay in whole or in part to the Treasurer, on account of the tax debtor's liability under this Act, the moneys that would otherwise be loaned, advanced or paid, and any moneys paid to the Treasurer shall be deemed to have been loaned, advanced or paid, as the case may be, to the tax debtor.

(2) Subsection 33 (4a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 46, section 8, is repealed and the following substituted therefor:

(4a) Every institution or person who fails to comply with a requirement under subsection (1a) with respect to moneys to be loaned, advanced or paid is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of, Idem

- (a) the aggregate of moneys so loaned, advanced or paid; and
- (b) the amount that the institution or person was required by subsection (1a) to pay to the Treasurer.

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

33a. For the purpose of collecting debts owed by a person to Her Majesty in right of Ontario under this Act, the Provincial Minister may purchase or otherwise acquire any interest in the person's property that the Provincial Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest so acquired in such manner as he considers reasonable.

Acquisition
of debtor's
property

33b.—(1) Where the Provincial Minister knows or suspects that a person is holding moneys that were seized by a police officer in the course of administering or enforcing the criminal law of Canada from another person who is liable to make a payment under this Act (in this section referred to as the "tax debtor") and that are restorable to the tax debtor, he

Moneys
seized
in criminal
proceedings

may, by registered letter or by a letter served personally, require that person to turn over the moneys otherwise restorable to the tax debtor in whole or in part to the Treasurer on account of the tax debtor's liability under this Act.

Receipt

(2) The receipt of the Treasurer for moneys turned over as required by this section is a good and sufficient discharge of the requirement to restore the moneys to the tax debtor to the extent of the amount so turned over.

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

Directors' liability

36a.—(1) Where a corporation has failed to deduct or withhold an amount as required by section 11, or has failed to remit such amount, the directors of the corporation at the time the corporation was required to deduct or withhold the amount, or remit the amount, are jointly and severally liable, together with the corporation, to pay any amount that the corporation is liable to pay under this Act in respect of that amount, including any interest or penalties related thereto.

Exception

(2) A director shall not be liable under subsection (1) unless,

- (a) a certificate for the amount of the corporation's liability referred to in subsection (1) has been registered in the Supreme Court under subsection 31 (2) and execution for such amount has been returned unsatisfied in whole or in part;
- (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the earlier of the date of commencement of the proceedings and the date of the dissolution; or
- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in that subsection has been proved within six months after the date of the assignment or receiving order.

R.S.C. 1970,
c. B-3

Standard
of care

(3) A director is not liable for a failure under subsection (1) where he exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

(4) No action or proceedings to recover any amount payable by a director under subsection (1) shall be commenced more than two years after he last ceased to be a director of that corporation. Limitation period

(5) Where the execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution. Amount of liability

(6) Where a director pays an amount in respect of a corporation's liability referred to in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, he is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had such amount not been so paid and, where a certificate that relates to such amount has been registered, he is entitled to an assignment of the certificate to the extent of his payment, which assignment the Treasurer is hereby authorized to make. Crown preference

(7) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim. Directors' recovery

10. Subsection 37 (3) of the said Act is repealed and the following substituted therefor:

(3) Every person required by this section to keep records and books of account shall retain the records and books of account and every account and voucher necessary to verify the information in the records and books of account until the disposal thereof is permitted for the purposes of the Federal Act pursuant to the provisions of Part XV thereof. Records retention

11.—(1) Section 1 and subsection 3 (2c) of the said Act, as enacted by subsection 2 (1), shall be deemed to have come into force on the 1st day of January, 1983 and apply to the 1983 and subsequent taxation years. Commencement and application

(2) Subsections 3 (2a) and (2b) of the said Act, as enacted by subsection 2 (1), subsections 2 (3), (4) and (5), and section 3 shall be deemed to have come into force on the 1st day of January, 1982 and apply to the 1982 and subsequent taxation years. Idem

(3) Subsection 2 (2) shall be deemed to have come into force on the 1st day of July, 1983 with respect to shares issued after the 30th day of June, 1983 and applies to the 1982 and subsequent taxation years. Idem

- Idem **(4) Subsections 4 (1), (2) and (6), and sections 5, 7 and 8 shall be deemed to have come into force on the 30th day of March, 1983.**
- Idem **(5) Subsection 4 (3) shall be deemed to have come into force on the 2nd day of August, 1982.**
- Idem **(6) Subsections 4 (4) and (5) shall be deemed to have come into force on the 30th day of March, 1983, provided that clause 11 (1) (n) of the said Act, as re-enacted by subsection 4 (5), is applicable with respect to amounts paid after 1981, except that in its application to payments made after the 12th day of November, 1981 in respect of a termination of an office or employment that occurred on or before that date, that clause shall be read as follows:**
- (n) a termination payment.**
- Idem **(7) Section 6 shall be deemed to have come into force on the 1st day of January, 1981 and applies to notifications made after 1980.**
- Idem **(8) Section 9 shall be deemed to have come into force on the 13th day of November, 1981, and applies with respect to amounts required to be deducted and remitted, or withheld and remitted, after the 12th day of November, 1981.**
- Idem **(9) Section 10 comes into force on the day this Act receives Royal Assent.**
- Short title **12. The short title of this Act is the *Income Tax Amendment Act, 1984.***



Bill 132

An Act to amend The City of Sudbury Hydro-Electric Service Act, 1980

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading November 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Subsections 3 (2) and (3) of the Act give the Sudbury Hydro-Electric Commission the right to distribute and supply electrical power in the City of Sudbury except for those areas already being supplied other than by Ontario Hydro or the predecessor commission. New subsection 3 (3a) extends the right of the Commission to include areas in respect of which the Commission purchases the assets used to supply power.

Bill 132

1984

**An Act to amend
The City of Sudbury Hydro-Electric
Service Act, 1980**

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

1. Section 3 of *The City of Sudbury Hydro-Electric Service Act, 1980*, being chapter 59, is amended by adding thereto the following subsection:

(3a) Where the Commission purchases the assets used by a person to supply power in an area of the City, the Commission has the sole right to distribute and supply power in the area on and after the date of the transfer of ownership of the assets to the Commission.

Transfer of
right on
purchase of
assets

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

Commence-
ment

3. The short title of this Act is the *City of Sudbury Hydro-Electric Service Amendment Act, 1984*.

Short title

Bill 132

*(Chapter 51
Statutes of Ontario, 1984)*

An Act to amend The City of Sudbury Hydro-Electric Service Act, 1980

The Hon. P. Andrewes
Minister of Energy

<i>1st Reading</i>	November 8th, 1984
<i>2nd Reading</i>	November 26th, 1984
<i>3rd Reading</i>	November 27th, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 132

1984

**An Act to amend
The City of Sudbury Hydro-Electric
Service Act, 1980**

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

1. Section 3 of *The City of Sudbury Hydro-Electric Service Act, 1980*, being chapter 59, is amended by adding thereto the following subsection:

(3a) Where the Commission purchases the assets used by a person to supply power in an area of the City, the Commission has the sole right to distribute and supply power in the area on and after the date of the transfer of ownership of the assets to the Commission.

Transfer of
right on
purchase of
assets

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

Commence-
ment

3. The short title of this Act is the *City of Sudbury Hydro-Electric Service Amendment Act, 1984*.

Short title

Bill 133

An Act to amend the District Municipality of Muskoka Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading November 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. At present, the chairman of the District Council is elected at the first meeting of the council held in December in an election year. Under the proposed section 6a, the mayors-elect of the area municipalities and the members-elect of the District Council will meet on the fourth Monday in November in an election year to elect the chairman.

SECTION 2. The repeal of subsections 7 (1) and (3) is complementary to the enactment of section 6a, as set out in section 1 of the Bill. It is proposed that the present subsections 7 (4) and (5) be re-enacted as section 14 of the Act, as set out in section 4 of the Bill.

SECTION 3. At present, the District Council cannot hold its first meeting after a regular election until after the councils of the area municipalities have held their first meetings. The re-enactment of subsection 8 (2) deletes this restriction. The other amendments to section 8 are complementary to the enactment of section 6a of the Act as set out in section 1 of the Bill.

SECTION 4. Subsections 7 (4) and (5) and section 14 provide for the appointment of an acting chairman. It is proposed that the present section 14 be repealed as it is considered to be redundant. The present subsections 7 (4) and (5) will be re-enacted as section 14.

SECTION 5. It is proposed that subsection 19 (4) of the Act be repealed. The said subsection relates to conflicts of interest. Conflicts of interest are now governed by the *Municipal Conflict of Interest Act, 1983*.

SECTION 6. At present, the District Corporation is deemed to be a county for purposes of the *Homes for the Aged and Rest Homes Act*. Under the amendment, the District Corporation will be deemed to be a city for purposes of that Act.

SECTION 7. The proposed amendment to subsection 82 (4) of the Act will permit the District Council to expend money in its pollution control fund for the installation of water systems.

SECTION 8. At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of the District Corporation at a public meeting of the District Council. The proposed amendment will permit the District Council to prescribe the manner of making the selection by lot.

SECTION 9.—Subsection 1. Sections 78a, 78b and 115 and paragraph 11 of section 208 are added as provisions of the *Municipal Act* that apply to the District Corporation. The addition of sections 78a and 78b will give the District Corporation and its local boards the same power to transfer documents to the Provincial Archivist as will be given to local municipalities and their local boards under proposed amendments to the *Municipal Act*. Section 115 authorizes municipalities to award fellowships, scholarships and similar prizes. Paragraph 11 of section 208 allows municipalities to pay membership fees in municipal associations for councillors and appointed officers.

Subsection 2. The re-enactment changes a reference to the *Mortmain and Charitable Uses Act* to read as a reference to the *Charities Accounting Act*. The former Act has been repealed. Section 6c of the latter Act authorizes a municipal corporation to hold land for charitable purposes.

Bill 133

1984

**An Act to amend the
District Municipality of Muskoka Act**

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

1. The *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

6a.—(1) The chairman shall be elected at a meeting of the mayors-elect of the area municipalities and the members-elect of the District Council which meeting shall be held on the fourth Monday in November or within seven days thereafter in each year in which there is a regular election. Election of
chairman

(2) The mayors-elect of the area municipalities and the members-elect of the District Council may nominate any person as chairman including a member or member-elect of the District Council or a member or member-elect of an area council. Nominations

(3) Nominations for the office of chairman shall be submitted to the clerk of the District Corporation not later than 5 o'clock in the afternoon of the third Monday in November in the year in which an election is to be held under subsection (1). Idem

(4) The clerk of each area municipality shall certify, forthwith after the day of the election, under the seal of the area municipality, to the clerk of the District Corporation, the name of the person who is the mayor-elect and of each person who is a member-elect of the District Council representing the area municipality and a person shall not participate in a meeting held under this section until the clerk of the District Corporation has received such a certificate in respect of that person. Certificate
of quali-
fication

Clerk to
preside

(5) The clerk shall preside at meetings held under this section and no business other than the election of the chairman shall be considered at such a meeting.

Declaration
of office
R.S.O. 1980,
c. 302

(6) No person shall vote in the election of the chairman until after the declarations of office in Form 3 of the *Municipal Act* have been made by all persons who present themselves for that purpose.

Oath and
declaration

(7) The chairman, when elected, shall take an oath of allegiance in Form 1 and a declaration of qualification in Form 2.

Term of
office

(8) The chairman shall hold office for the term of the council in respect of which the regular election was held and until a successor is elected or appointed under this Act.

Failure to
elect
chairman

(9) If at the meeting referred to in subsection (1), a chairman is not elected, the presiding officer may adjourn the meeting from time to time, and if a chairman is not elected at any adjourned meeting held within seven days after the first meeting, the Lieutenant Governor in Council shall appoint a chairman to hold office for the term of the council in respect of which the regular election was held and until a successor is elected or appointed under this Act.

Quorum

(10) At least twelve persons representing at least four area municipalities are necessary to form a quorum for a meeting held under this section and the concurring votes of a majority of those present are necessary to elect the chairman.

Qualification

(11) Where the person who is elected or appointed as chairman is a member-elect of the council of an area municipality,

- (a) the clerk of the District Corporation shall forthwith notify the clerk of the area municipality of the election or appointment;
- (b) the person shall not take his seat on the area council; and
- (c) the council of the area municipality shall declare the seat of the person on the area council to be vacant.

2. Subsections 7 (1), (3), (4) and (5) of the said Act are repealed.

3. Subsections 8 (2), (3), (4), (5) and (6) of the said Act are repealed and the following substituted therefor:

(2) The first meeting of the District Council after a regular election shall be held on such date and at such time and place as may be fixed by by-law of the District Council which date shall not be later than the fourteenth day following the day on which the term of office in respect of which the election was held commences.

First meeting of District Council

(3) Where a person is elected or appointed to represent an area municipality as a member of the District Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the District Corporation the name of each person who has been so elected or appointed.

Certificate of qualification

(4) A person entitled to be a member of the District Council in accordance with section 6 shall not take a seat as a member of the District Council until the clerk of the District Corporation has received the certificate referred to in subsection (3) and the person has made the declaration of office in Form 3 of the *Municipal Act*.

Declaration of members

R.S.O. 1980, c. 302

(5) Subsections (3) and (4) do not apply to a person with respect to whom a certificate has been received by the clerk of the District Corporation under subsection 6a (4) if the person has complied with subsection 6a (6).

Exception

(6) The chairman shall not preside at a meeting of the District Council unless the chairman has taken an oath of allegiance in Form 1 and made a declaration of qualification in Form 2.

When chairman may preside

4. Section 14 of the said Act is repealed and the following substituted therefor:

14.—(1) When the chairman is absent or refuses to act, or the office of chairman is vacant, the District Council may by resolution appoint one of its members to act in the place and stead of the chairman and, while so acting, such member has and may exercise all the rights, powers and authority of the chairman.

Acting chairman

(2) The District Council may by by-law appoint a member of the District Council to act from time to time in the place and stead of the chairman when the chairman is absent from the District Area or absent through illness or the chairman's office is vacant and, while so acting, such member has and may exercise all the rights, powers and authority of the chairman.

Idem

5. Subsection 19 (4) of the said Act is repealed.

6. Section 59 of the said Act is amended by striking out “county” in the first line and inserting in lieu thereof “city”.

7. Subsection 82 (4) of the said Act is amended by striking out “Part” in the third line and inserting in lieu thereof “Parts III and”.

8. Clause 89 (c) of the said Act is amended by striking out “at a public meeting of the District Council” in the fourth line and inserting in lieu thereof “in such manner as may be prescribed by by-law of the District Council”.

9.—(1) Subsection 108 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 65, section 6, is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 302

(1) Sections 5, 78a and 78b, Parts XIII, XIV and XIX, sections 104a, 105, 106, 113, 115, 116, 121 and 128, subsection 165 (3), section 190, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph (iii) of paragraph 62 and subparagraph (ii) of paragraph 125 of section 210 and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the District Corporation, and, for the purposes of section 253 of the *Municipal Act*, the District Corporation shall be deemed to be a local municipality.

(2) Subsection 108 (6) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(6) The District Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Commence-
ment

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

Short title

11. The short title of this Act is the *District Municipality of Muskoka Amendment Act, 1984*.

Bill 134

An Act to amend certain Acts respecting Regional Municipalities

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading November 8th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill amends the ten Acts that govern the regional municipalities and is divided into the following Parts:

PART	SECTIONS
I—Durham.....	1-4
II—Haldimand-Norfolk.....	5-9
III—Halton	10-14
IV—Hamilton-Wentworth	15-20
V—Niagara	21-24
VI—Ottawa-Carleton	25-33
VII—Peel.....	34-37
VIII—Sudbury.....	38-41
IX—Waterloo	42-46
X—York.....	47-51

Paragraph 1 describes amendments that are common to all ten of the regional municipalities.

Paragraphs 2 to 5 describe amendments related only to the regional municipalities named in the particular paragraphs.

1. All Regional Municipalities.

SECTIONS 1, 5, 10, 15, 21, 25, 34, 38, 43 and 47. Under each Act, certificates of qualification must be filed with the clerk of the Regional Corporation by some or all of the members of the Regional Council. The requirement varies from Act to Act. The proposed amendment standardizes the requirement in each of the Acts and clarifies that it is the clerks of the area municipalities who must give the certificates.

SECTIONS 2, 6, 11, 16, 22, 26, 35, 39, 44 and 48. The subsection that will be repealed relates to conflicts of interest. Conflicts of interest are now governed by the *Municipal Conflict of Interest Act, 1983*.

SECTIONS 3, 8, 13, 17, 23, 30, 36, 40, 45 and 50. At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of a Regional Corporation at a public meeting of the Regional Council. The proposed amendment deletes the requirement that the selection by lot be held at a meeting of the Regional Council and permits the Regional Council to prescribe the manner of making the selection.

SECTIONS 4, 9, 14, 18, 24, 31, 37, 41, 46 and 51.—Subsection 1. Sections 78a and 78b are added as sections of the *Municipal Act* that apply to the regional municipalities. Each Regional Corporation and its local boards will be given the same power to transfer documents to the Provincial Archivist as will be given to local municipalities and their local boards under proposed amendments to the *Municipal Act*.

Subsection 2. The re-enactment changes a reference to the *Mortmain and Charitable Uses Act* to read as a reference to *Charities Accounting Act*. The former Act has been repealed. Section 6c of the latter Act authorizes a municipal corporation to hold land for charitable purposes.

2. Regional Municipalities of Haldimand-Norfolk, Halton and York.

SECTIONS 7, 12 and 49. At present, all by-laws related to the regulation of traffic on the roads under the jurisdiction of the area municipalities, except parking by-laws, must be approved by the Regional Council. The proposed amendments allow the Regional Councils to exempt area municipalities from this requirement.

3. Regional Municipality of Hamilton-Wentworth.

SECTION 18. In addition to the matters described above in paragraph 1, section 110, which relates to licensing powers, is added as a section of the *Municipal Act* that applies to the Regional Corporation.

SECTION 19. It is proposed that the Regional Corporation be given the power to license the contractors and master tradespersons listed in the proposed subsection 134a (1).

SECTION 20. The proposed amendment authorizes the Regional Council to permit the City of Hamilton to develop and sell industrial sites and to expend money for publicity related thereto.

4. Regional Municipality of Ottawa-Carleton.

SECTIONS 27 and 28. The amendments relate to public transportation in the Regional Area. Under the amendments,

- (a) the real property of the Commission and the Regional Corporation used for rapid transit purposes will be exempted from business and property taxes;
- (b) private roads and ways are included in the list of things that may be established and maintained by the Regional Corporation for the purposes of providing a system of public transportation;
- (c) the Regional Corporation will be able to exercise, throughout the Regional Area, its powers to contract, repair, maintain, operate, manage and control private roads and ways and other structures and works related to any system of passenger transport; and
- (d) the Regional Corporation will be authorized to pass by-laws to prohibit or regulate vehicles, conveyances, persons and animals from or on private roads and ways used for passenger transit.

SECTION 29. The proposed amendments dissolve the existing health unit and board of health, as of a day to be named by proclamation, and give the powers, rights and duties of a board of health to the Regional Corporation. The employees of the board will become employees of the Regional Corporation.

SECTION 32. The proposed section 165 provides for the appointment of a regional fire co-ordinator and for the development and implementation of an emergency fire service plan for the Regional Area.

SECTION 33. The proposed section 181a authorizes the Regional Corporation to establish and maintain facilities for the recovery, manufacture and production of energy and other products from sewage and other waste. The section also authorizes the distribution and sale of the energy or other products so recovered, manufactured or produced.

5. Regional Municipality of Waterloo.

SECTION 42. The proposed amendment clarifies the boundary line between the City of Kitchener and the Township of Wilmot.

Bill 134

1984

**An Act to amend certain Acts respecting
Regional Municipalities**

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

PART I

REGIONAL MUNICIPALITY OF DURHAM

1. Subsection 9 (3) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

Certificates
of
qualification

2. Subsection 21 (4) of the said Act is repealed.

3. Clause 111 (c) of the said Act is amended by striking out "at a public meeting of the Regional Council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the Regional Council".

4.—(1) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5, is repealed and the following substituted therefor:

(1) Sections 5, 78a, 78b, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 104a, 105, 106, 109, 113, 114, 115, 116, 117, 121, 122 and 128, subsection

Application
of
R.S.O. 1980,
c. 302

165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

(2) Subsection 129 (6) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(6) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

PART II

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

5. Subsection 9 (3) 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:

Certificates
of
qualification

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

6. Subsection 21 (4) of the said Act is repealed.

7. Subsection 39 (1) of the said Act is repealed and the following substituted therefor:

By-laws of
area
municipalities
regulating
traffic

(1) Subject to subsection (1a), no by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality shall come into force until it has been approved by the Regional Council.

Exceptions

(1a) Subsection (1) does not apply to a by-law for the regulation of parking or to a by-law for which the Regional Council has provided under subsection (1b) that its approval is not required.

(1b) The Regional Council may pass by-laws to provide that such by-laws regulating traffic, or such class or classes thereof, as are specified in the by-law of the Regional Council and as may be passed by such one or more area municipalities as are specified in the by-law of the Regional Council do not require the approval of the Regional Council or alternatively do not require the approval of the Regional Council if such terms and conditions as the Regional Council may specify in its by-law are complied with.

Exemptions

(1c) Where a by-law of the Regional Council passed under subsection (1b) is repealed or amended, the clerk of the Regional Corporation shall forthwith send a notice of the amendment or repeal by registered mail to the clerk of each area municipality affected by the repeal or amendment.

Notice of amendment or repeal

(1d) The repeal or amendment of a by-law passed by the Regional Council under subsection (1b) does not affect the validity of a by-law for regulating traffic passed by the council of an area municipality while an exemption under that subsection was in effect and the by-law of the area municipality continues in force until it is amended or repealed.

By-laws not affected

8. Clause 93 (c) of the said Act is amended by striking out “at a public meeting of the Regional Council” in the fourth line and inserting in lieu thereof “in such manner as may be prescribed by by-law of the Regional Council”.

9.—(1) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12, is repealed and the following substituted therefor:

(1) Sections 5, 78a, 78b, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 104a, 105, 106, 109, 113, 114, 115, 116, 117, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50, 54 and 57 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of R.S.O. 1980, c. 302

(2) Subsection 111 (7) of the said Act is repealed and the following substituted therefor:

(7) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application of R.S.O. 1980, c. 65

PART III

REGIONAL MUNICIPALITY OF HALTON

10. Subsection 9 (3) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Certificates
of
qualification

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

11. Subsection 21 (4) of the said Act is repealed.

12. Subsection 39 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 66, Schedule, item 14, is repealed and the following substituted therefor:

By-laws of
area
municipalities
regulating
traffic

(1) Subject to subsection (1a), no by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality shall come into force until it has been approved by the Regional Council.

Exceptions

(1a) Subsection (1) does not apply to a by-law for the regulation of parking or to a by-law for which the Regional Council has provided under subsection (1b) that its approval is not required.

Exemptions

(1b) The Regional Council may pass by-laws to provide that such by-laws regulating traffic, or such class or classes thereof, as are specified in the by-law of the Regional Council and as may be passed by such one or more area municipalities as are specified in the by-law of the Regional Council do not require the approval of the Regional Council or alternatively do not require the approval of the Regional Council if such terms and conditions as the Regional Council may specify in its by-law are complied with.

Notice of
amendment
or repeal

(1c) Where a by-law of the Regional Council passed under subsection (1b) is repealed or amended, the clerk of the Regional Corporation shall forthwith send a notice of the

amendment or repeal by registered mail to the clerk of each area municipality affected by the repeal or amendment.

(1d) The repeal or amendment of a by-law passed by the Regional Council under subsection (1b) does not affect the validity of a by-law for regulating traffic passed by the council of an area municipality while an exemption under that subsection was in effect and the by-law of the area municipality continues in force until it is amended or repealed.

By-laws
not affected

13. Clause 104 (c) of the said Act is amended by striking out “at a public meeting of the Regional Council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the Regional Council”.

14.—(1) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17, is repealed and the following substituted therefor:

(1) Sections 5, 78a, 78b, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 104a, 105, 106, 109, 113, 114, 115, 116, 117, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Application
of
R.S.O. 1980,
c. 302

(2) Subsection 122 (6) of the said Act is repealed and the following substituted therefor:

(6) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

PART IV

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

15. Subsection 8 (3) 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:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipi-

Certificates
of
qualification

pality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

16. Subsection 20 (4) of the said Act is repealed.

17. Clause 115 (c) of the said Act is amended by striking out "at a public meeting of the Regional Council" in the fourth line and inserting in lieu thereof "in such manner as may be prescribed by by-law of the Regional Council".

18.—(1) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 24, is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 302

(1) Sections 5, 78a, 78b, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 110, 104a, 105, 106, 109, 113, 114, 115, 116, 117, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

(2) Subsection 133 (6) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(6) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

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

Licensing
contractors
and master
tradespersons

134a.—(1) The Regional Council may pass by-laws for examining, licensing, regulating and governing,

- (a) building repair contractors;
- (b) drain repair contractors;
- (c) electrical contractors;
- (d) explosives contractors;
- (e) heating, air conditioning and ventilation contractors;

- (f) plumbing contractors;
- (g) master building repairers;
- (h) master drain installers;
- (i) master electricians;
- (j) masters of explosives;
- (k) master plumbers; and
- (l) master warm air heating, air conditioning and ventilation installers.

(2) A by-law passed under subsection (1),

Idem

- (a) may require, as a condition of granting a licence to a master tradesperson mentioned in that subsection, that the master tradesperson have a permanent place of business in Ontario;
- (b) may exempt from any or all of the examination requirements set out in the by-law any applicant who holds such evidence of qualification as may be prescribed in the by-law;
- (d) may define the terms used in clauses (1) (a) to (l);
- (d) may provide for suspending or revoking a licence granted under the by-law; and
- (e) may provide for the payment to the area municipalities, in such manner as is set out in the by-law, any licence fees, or any portion thereof, collected by the Regional Corporation.

(3) The Regional Council, by by-law and on such terms and conditions as it considers desirable, may delegate to any area municipality the authority to enforce within that area municipality the provisions of a by-law passed under subsection (1).

Delegation
of
enforcement

(4) If an area municipality enforces a by-law passed under subsection (1) pursuant to a delegation made under subsection (4), any fine imposed as a result of the enforcement belongs to the area municipality.

Recovery on
fines

(5) A by-law passed by the council of an area municipality for licensing, regulating and governing any person mentioned in subsection (1) has no effect in respect of that person while

Area
municipality's
by-laws
inoperative

there is in force a by-law passed by the Regional Council under subsection (1) for licensing, regulating and governing the same person in the same capacity.

20. Section 136 of the said Act is amended by adding thereto the following subsection:

Idem

(2a) Notwithstanding subsection (2), the Regional Council may authorize, for such period and on such terms and conditions as the Regional Council considers desirable, the council of the City of Hamilton to exercise the powers conferred on the council of a municipality by paragraph 22 of section 208 and paragraph 50 of section 210 of the *Municipal Act* with respect to all or any part of those lands in the City of Hamilton described as follows:

R.S.O. 1980,
c. 302

1. Commencing at the south-eastern limit of Birch Avenue with its intersection of the northern limit of Brant Street;

Thence northeasterly along the south-eastern limit of the said Birch Avenue to its intersection with the southern limit of Burlington Street;

Thence easterly along the southern limits of Burlington Street to and across its intersections with Sherman Avenue, Alpha, Beta and Keele Streets to the northeast angle of Lot 54, according to Registered Plan No. 550;

Thence southerly along the eastern limit of lots 54 to 59, inclusive, according to Registered Plan No. 550 and its southerly production to its intersection with the southern limit of Canadian National Railways right-of-way;

Thence westerly along the southern limit of the said right-of-way to its intersection with the eastern limit of Lot 104, according to Registered Plan No. 159;

Thence southerly along the eastern limit of lots 104 and 103, according to Registered Plan No. 159 and its southerly production to the northeast corner of Lot 54, according to Registered Plan No. 159;

Thence southerly along the eastern limit of lots 54, 53, 52 and 51, according to Registered Plan No. 159, to the south-east corner of the said Lot 51, said corner being a point in the northern limit of Imperial Street.

Thence easterly along the northern limit of Imperial Street to its intersection with the northerly production of the eastern limit of Lot 11, according to Registered Plan No. 159;

Thence southerly along the said northerly production to and along the eastern limit of Lot 11 to the southeast corner thereof;

Thence westerly along the southern limit of lots 11, 10, 9, 8, 7, 6, 5, 4, 3 and 1, being the southern limit of Registered Plan No. 159 and its westerly production to its intersection with the western limit of Sherman Avenue;

Thence northerly along the western limit of said Sherman Avenue to its intersection of the northern limit of Brant Street;

Thence westerly along the northern limit of Brant Street to the point of commencement.

2. Commencing at the north-east corner of Lot 80 according to Registered Plan No. 606;

Thence southerly along the eastern limit of the said Lot 80 and its southerly production to the southern limit of Biggar Avenue;

Thence westerly along the southern limit of Biggar Avenue to a point directly opposite and at right angles to the south-west corner of Lot 92, according to Registered Plan No. 606;

Thence northerly to the said south-west corner of Lot 92;

Thence northerly to a point in the northern limit of said Lot 92, said point being the northern limit of Registered Plan No. 606;

Thence easterly along the said northern limit, also the northern limit of lots 92, 91, 90, 89, 88, 87, 86, 85, 84, 83, 82, 81 and 80 to the point of commencement.

3. Lots 24, 25, 26, 27 and 97 and all of Lancaster Street immediately abutting lots 27 and 97;

Lots 1 to 19, inclusive, and lots 361 to 380, inclusive, and all of Birmingham Street and Leeds Street south of Burlington Street;

All according to Bright Side Survey registered in the Land Registry Office at Hamilton as Plan No. 453.

4. Lots 412 to 461, inclusive, according to Industrial Park Survey, registered in the Land Registry Office at Hamilton as Plan No. 584.

PART V

REGIONAL MUNICIPALITY OF NIAGARA

21. Subsection 8 (3) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Certificates
of
qualification

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

22. Subsection 20 (4) of the said Act is repealed.

23. Clause 143 (c) of the said Act is amended by striking out "at a public meeting of the Regional Council" in the fourth line and inserting in lieu thereof "in such manner as may be prescribed by by-law of the Regional Council".

24.—(1) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31, is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 302

(1) Sections 5, 78a, 78b, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 104a, 105, 106, 109, 113, 114, 115, 116, 117, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, section 253 and paragraph 10 of section 315 and

Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

(2) Subsection 161 (5) of the said Act is repealed and the following substituted therefor:

(5) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

PART VI

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

25. Subsection 11 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

Certificates
of
qualification

26. Subsection 24 (4) of the said Act is repealed.

27. Section 77 of the said Act is amended by adding thereto the following subsections:

(13) So long as any lands and easements owned by the Regional Corporation or by the Commission are used by the Regional Corporation or the Commission exclusively for the purpose of a subway, transitway or other rapid transit facility, or as car yards used directly in connection therewith, such lands and easements and the buildings, structures and other improvements thereon so used and so owned are exempt from business and real property taxation, and the Regional Corporation and the Commission are not liable for payments in lieu thereof under section 26 of the *Assessment Act*.

Tax
exemption

R.S.O. 1980,
c. 31

(14) Subsection (13) does not apply to concessions operated, rented or leased in transit stations.

Limitation

Deemed exemption

R.S.O. 1980, c. 31

(15) The exemption provided by subsection (13) shall be deemed to be an exemption from taxation provided by section 3 of the *Assessment Act*.

28.—(1) Subsection 78 (1) of the said Act is amended by striking out “such structures and works of every description as may be necessary or convenient upon, along, across, under and over all highways and public places in the Regional Area” in the sixteenth, seventeenth and eighteenth lines and inserting in lieu thereof “such private roads and ways and such other structures and works of every description as may be necessary or convenient in relation to the system of passenger transport including, without restricting the generality of the foregoing, such private roads and ways and such structures and works as may be necessary or convenient upon, along, across, under and over all highways and public places in the Regional Area”.

(2) Subsection 78 (2) of the said Act is repealed and the following substituted therefor:

General powers

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

- (a) the power given to the Regional Corporation under subsection (1) to construct, repair, maintain, operate, manage and control private roads and ways and other structures and works may be exercised in relation to any system of passenger transport anywhere in the Regional Area; and
- (b) the Regional Corporation has and may exercise through the Regional Area all the powers heretofore or hereafter conferred by any general Act upon a municipal corporation and by any special Act upon any area municipality or local board thereof with respect to passenger transport.

(3) Subsection 78 (4) of the said Act is amended by adding thereto the following clause:

prohibiting and regulating traffic

- (ia) for prohibiting or regulating vehicles and conveyances of every description and persons and animals from or on any private road or way established by the Regional Corporation or the Commission primarily for the use of transit vehicles.

29. Sections 106, 107 and 108 of the said Act are repealed and the following substituted therefor:

Health unit and board dissolved

106.—(1) On the day this section comes into force, the Regional Area health unit, and the Ottawa-Carleton Regional

Board of Health are dissolved, and the assets and liabilities of the Board become the assets and liabilities of the Regional Corporation without compensation, and the Regional Corporation shall stand in the place and stead of the Ottawa-Carleton Regional Board of Health for the purposes of any agreements entered into, orders made, or matters commenced by that Board, and for the purposes of any proceedings which have been or may be instituted against that Board.

(2) The Regional Corporation has all the powers, rights and duties of a board of health.

Powers of board of health

(3) In subsections (4), (5) and (6), "offering date" means the day next preceding the day this section comes into force.

Interpretation

(4) The Regional Corporation shall offer to employ every person who on the offering date is employed by the Ottawa-Carleton Regional Board of Health, and any person who accepts employment offered under this subsection shall be entitled to receive, up to and including the 365th day following the offering date, a salary or wage of not less than what the person was receiving on the offering date.

Offer of employment

(5) Subsections 28 (2), (3) and (6) apply with necessary modifications to the Regional Corporation and to persons employed under subsection (4) as though such persons were employed on the offering date by a local board of a local municipality within the Regional Area.

Application of s. 28 (2, 3, 6)

(6) Where a person employed under subsection (4) was not employed under a collective agreement on the offering date, the Regional Corporation shall place to the credit of such person the sick leave credits standing to the person's credit on that date in the sick leave credit plan of the Ottawa-Carleton Regional Board of Health.

Sick leave credits

(7) Nothing in subsections (4), (5) and (6) prevents the Regional Corporation from terminating the employment of an employee for cause.

Termination of employment

30. Clause 134 (c) of the said Act is amended by striking out "at a public meeting of the Regional Council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the Regional Council".

31.—(1) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35, is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 302

(1) Sections 5, 78a, 78b, 104a, 105, 106, 113, 114, 115, 116, 121, 122 and 128, subsection 165 (3), section 190, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, sections 250 and 253, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

(2) Subsection 163 (5) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(5) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

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

Regional fire
co-ordinator

165. The Regional Corporation shall appoint a regional fire co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the Regional Area, and the Regional Corporation is authorized to expend such sums as it considers necessary to implement the plan and program.

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

Products
from
industrial
waste

181a.—(1) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from sewage or other waste any product, resource, commodity, electrical power or energy, hot water or steam or any other form of energy and for such purposes may,

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(2) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under this section.

R.S.O. 1980,
c. 309 not to
apply

PART VII

REGIONAL MUNICIPALITY OF PEEL

34. Subsection 9 (3) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

Certificates
of
qualification

35. Subsection 21 (4) of the said Act is repealed.

36. Clause 99 (c) of the said Act is amended by striking out "at a public meeting of the Regional Council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the Regional Council".

37.—(1) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41, is repealed and the following substituted therefor:

(1) Sections 5, 78a, 78b, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 104a, 105, 106, 109, 113, 114, 115, 116, 117, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Application
of
R.S.O. 1980,
c. 302

(2) Subsection 117 (6) of the said Act is repealed and the following substituted therefor:

(6) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

PART VIII

REGIONAL MUNICIPALITY OF SUDBURY

38. Subsection 8 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Certificates
of
qualification

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

39. Subsection 20 (4) of the said Act is repealed.

40. Clause 85 (c) of the said Act is amended by striking out "at a public meeting of the Regional Council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the Regional Council".

41.—(1) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48, is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 302

(1) Sections 5, 78a, 78b, 104a, 105, 106, 113, 114, 115, 116, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

(2) Subsection 103 (6) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(6) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

PART IX

REGIONAL MUNICIPALITY OF WATERLOO

42. Clause 2 (1) (b) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out the following paragraph:

THENCE westerly along the south boundary of the said Township of Waterloo to the southwest angle thereof;

(which paragraph appears as the last paragraph on page 870 of Volume 7 of the said Revised Statutes) and inserting in lieu thereof the following paragraphs:

THENCE westerly along the southerly boundary of the said Township of Waterloo to the centre line of Trussler Road;

THENCE northerly along the centre line of Trussler Road to the northerly limit of the Regional Road Number 6;

THENCE easterly along the northerly limit of the said Regional Road 10 metres to the westerly limit of Lot 38 in the German Company Tract of the said Township of Waterloo;

THENCE northerly along the westerly limit of lots 38 and 39 of the said German Company Tract to the intersection of the line between lots 39 and 40 of the said German Company Tract;

.

43. Subsection 8 (3) of the said Act is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

Certificates of qualification

44. Subsection 20 (4) of the said Act is repealed.

45. Clause 133 (c) of the said Act is amended by striking out “at a public meeting of the Regional Council” in the fourth line and inserting in lieu thereof “in such manner as may be prescribed by by-law of the Regional Council”.

46.—(1) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54, is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 302

(1) Sections 5, 78a, 78b, 104a, 105, 106, 110, 113, 114, 115, 116, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

(2) Subsection 151 (5) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(5) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

PART X

REGIONAL MUNICIPALITY OF YORK

47. Subsection 8 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Certificates
of
qualification

(3) Where a person is elected or appointed to represent an area municipality as a member of the Regional Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Regional Corporation has received such a certificate in respect of that person.

48. Subsection 20 (4) of the said Act is repealed.

49. Subsection 76 (1) of the said Act is repealed and the following substituted therefor:

(1) Subject to subsection (1a), no by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality shall come into force until it has been approved by the Regional Council.

By-laws of area municipalities regulating traffic

(1a) Subsection (1) does not apply to a by-law for the regulation of parking or to a by-law for which the Regional Council has provided under subsection (1b) that its approval is not required.

Exceptions

(1b) The Regional Council may pass by-laws to provide that such by-laws regulating traffic, or such class or classes thereof, as are specified in the by-law of the Regional Council and as may be passed by such one or more area municipalities as are specified in the by-law of the Regional Council do not require the approval of the Regional Council or alternatively do not require the approval of the Regional Council if such terms and conditions as the Regional Council may specify in its by-law are complied with.

Exemptions

(1c) Where a by-law of the Regional Council passed under subsection (1b) is repealed or amended, the clerk of the Regional Corporation shall forthwith send a notice of the amendment or repeal by registered mail to the clerk of each area municipality affected by the repeal or amendment.

Notice of amendment or repeal

(1d) The repeal or amendment of a by-law passed by the Regional Council under subsection (1b) does not affect the validity of a by-law for regulating traffic passed by the council of an area municipality while an exemption under that subsection was in effect and the by-law of the area municipality continues in force until it is amended or repealed.

By-laws not affected

50. Clause 135 (c) of the said Act is amended by striking out “at a public meeting of the Regional Council” in the fourth line and inserting in lieu thereof “in such manner as may be prescribed by by-law of the Regional Council”.

51.—(1) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59, is repealed and the following substituted therefor:

(1) Sections 5, 78a, 78b, 104a, 105, 106, 110, 113, 114, 115, 116, 121, 122 and 128, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of R.S.O. 1980, c. 302

(2) Subsection 153 (6) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(6) The Regional Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Commence-
ment

52.—(1) This Act, except sections 29 and 32, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 29 and 32 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

53. The short title of this Act is the *Regional Municipalities Amendment Act, 1984*.

Bill 135

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading November 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Subsection 9 (1) of the Act is set out below, showing underlined the proposed amendment:

(1) For the purposes of apportioning the amounts required for a district home established under the Homes for the Aged and Rest Homes Act or a district welfare administration board, established under the District Welfare Administration Boards Act, the equalized assessment of a lower tier municipality shall be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year, or such other year as may be prescribed, by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000.

The amendment will permit the Lieutenant Governor in Council to prescribe the resource equalization grant entitlement for a year, other than the one for the preceding year, as the grant entitlement that shall be used in making the calculations required under section 9.

Bill 135

1984

**An Act to amend the
Ontario Unconditional Grants Act**

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

1. Subsection 9 (1) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 8, is repealed and the following substituted therefor:

(1) For the purposes of apportioning the amounts required for a district home established under the *Homes for the Aged and Rest Homes Act* or a district welfare administration board, established under the *District Welfare Administration Boards Act*, the equalized assessment of a lower tier municipality shall be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year, or such other year as may be prescribed, by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000.

Where equalized assessment of lower tier municipality to be increased
R.S.O. 1980, cc. 203, 122

2. This Act comes into force on the 1st day of January, 1985.

Commencement

3. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Short title

Bill 135

*(Chapter 52
Statutes of Ontario, 1984)*

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	November 8th, 1984
<i>2nd Reading</i>	November 26th, 1984
<i>3rd Reading</i>	November 27th, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 135

1984

**An Act to amend the
Ontario Unconditional Grants Act**

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

1. Subsection 9 (1) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 8, is repealed and the following substituted therefor:

(1) For the purposes of apportioning the amounts required for a district home established under the *Homes for the Aged and Rest Homes Act* or a district welfare administration board, established under the *District Welfare Administration Boards Act*, the equalized assessment of a lower tier municipality shall be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year, or such other year as may be prescribed, by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000.

Where equalized assessment of lower tier municipality to be increased
R.S.O. 1980, cc. 203, 122

2. This Act comes into force on the 1st day of January, 1985.

Commencement

3. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Short title

Bill 136

An Act to amend the Highway Traffic Act

The Hon. J. W. Snow

Minister of Transportation and Communications

1st Reading November 9th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed change is to clarify the intent of the provision.

SECTION 2. Section 44 of the Act deals with the use of motor vehicle lights. The current requirement is to use lights, when on the highway, from one-half hour after sunset to one-half hour before sunrise. It is proposed to change this to require the use from one-half hour before sunset to one-half hour after sunrise.

SECTION 3. Section 60 of the Act deals with the carriage of television sets within vehicles. Authority is being given to make regulations excluding classes of persons or vehicles or prescribed types of equipment from the prohibitions set out.

SECTION 4. The proposed amendment updates an external statutory reference.

SECTION 5. A reference to red and yellow lights on the rear of vehicles is being changed to red and amber.

SECTION 6.—Subsection 1. An internal reference is being clarified by being made more specific.

Subsection 2. The subsection is recast for clarity and greater precision.

SECTION 7. The proposed amendment would cause convictions for offences involving motorized snow vehicles to be reported to the Registrar in the same manner as they are when motor vehicles are involved.

Bill 136

1984

An Act to amend the Highway Traffic Act

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

1. Subsection 26 (2) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 4, is repealed and the following substituted therefor:

(2) In determining whether a conviction is a subsequent conviction or an additional subsequent conviction, as the case may be, for the purpose of clauses (1) (b) and (c), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

Determining
subsequent
conviction

(2a) Clauses (1) (b) and (c) do not apply when the subsequent conviction is more than five years after the previous conviction.

Five year
limitation

2.—(1) Subsection 44 (1) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(2) Subsection 44 (5) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fifth and sixth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(3) Subsection 44 (10) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(4) Subsection 44 (11) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(5) Subsection 44 (13) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(6) Subsection 44 (17) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(7) Subsection 44 (19) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the third and fourth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(8) Subsection 44 (23) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(9) Subsection 44 (24) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(10) Subsection 44 (25) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(11) Subsection 44 (26) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fourth and fifth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(12) Subsection 44 (27) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fourth and fifth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

3. Section 60 of the said Act is amended by adding thereto the following subsection:

(3) The Lieutenant Governor in Council may make regulations exempting any class of persons or vehicles or any use

of equipment or type of equipment from the provisions of this section.

4. Subsection 104 (1) of the said Act is amended by striking out “subsection 23 (1)” in the first line and inserting in lieu thereof “subsection 15 (1)”.

5. Clause 122 (7) (b) of the said Act is amended by striking out “yellow” in the second line and inserting in lieu thereof “amber”.

6.—(1) Subsection 151 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 19, is amended by striking out “subsection 147 (1)” in the twelfth line and inserting in lieu thereof “clause 147 (1) (a)”.

(2) Subsection 151 (9) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 19, is repealed and the following substituted therefor:

(9) Notwithstanding subsections (7) and (8), no driver of a school bus shall actuate the red signal-lights or the stop arm on the bus within twenty-five metres from an operating traffic control signal system. Exception

7. Subsection 184 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 44, is repealed and the following substituted therefor:

(1) A judge, provincial judge or justice of the peace who makes a conviction for an offence under this Act or under any other Act of the Legislature or the Parliament of Canada or any regulation or order made under any of them committed by means of a motor vehicle, motorized snow vehicle or street car or for an offence under a municipal by-law regulating traffic on the highways, except convictions for offences for standing or parking or the clerk of the court in which the conviction is made, shall forthwith certify the conviction to the Registrar, setting out the name, address and description of the person convicted, the number of his driver’s licence, the number of the permit of the motor vehicle or the registration number of the motorized snow vehicle, as the case may be, with which the offence was committed, the time the offence was committed and the provision of the Act, regulation, order or by-law contravened.

Report on
conviction
to Registrar

Commence-
ment

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

Short title

9. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.



Bill 136

An Act to amend the Highway Traffic Act

The Hon. J.W. Snow

Minister of Transportation and Communications

1st Reading November 9th, 1984
2nd Reading December 14th, 1984
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

SECTION 1. The proposed change is to clarify the intent of the provision.

SECTION 2. Section 44 of the Act deals with the use of motor vehicle lights. The current requirement is to use lights, when on the highway, from one-half hour after sunset to one-half hour before sunrise. It is proposed to change this to require the use from one-half hour before sunset to one-half hour after sunrise.

SECTION 3. Section 60 of the Act deals with the carriage of television sets within vehicles. Authority is being given to make regulations excluding classes of persons or vehicles or prescribed types of equipment from the prohibitions set out.

SECTION 4. The proposed amendment updates an external statutory reference.

SECTION 5. A reference to red and yellow lights on the rear of vehicles is being changed to red and amber.

SECTION 6.—Subsection 1. An internal reference is being clarified by being made more specific.

SECTION 7. The proposed amendment would cause convictions for offences involving motorized snow vehicles to be reported to the Registrar in the same manner as they are when motor vehicles are involved.

Bill 136

1984

**An Act to amend the
Highway Traffic Act**

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

1. Subsection 26 (2) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 4, is repealed and the following substituted therefor:

(2) In determining whether a conviction is a subsequent conviction or an additional subsequent conviction, as the case may be, for the purpose of clauses (1) (b) and (c), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

Determining
subsequent
conviction

(2a) Clauses (1) (b) and (c) do not apply when the subsequent conviction is more than five years after the previous conviction.

Five year
limitation

2.—(1) Subsection 44 (1) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(2) Subsection 44 (5) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fifth and sixth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(3) Subsection 44 (10) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(4) Subsection 44 (11) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(5) Subsection 44 (13) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(6) Subsection 44 (17) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(7) Subsection 44 (19) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the third and fourth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(8) Subsection 44 (23) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(9) Subsection 44 (24) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(10) Subsection 44 (25) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(11) Subsection 44 (26) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fourth and fifth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(12) Subsection 44 (27) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fourth and fifth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

3. Section 60 of the said Act is amended by adding thereto the following subsection:

(3) The Lieutenant Governor in Council may make regulations exempting any class of persons or vehicles or any use

of equipment or type of equipment from the provisions of this section.

4. Subsection 104 (1) of the said Act is amended by striking out “subsection 23 (1)” in the first line and inserting in lieu thereof “subsection 15 (1)”.

5. Clause 122 (7) (b) of the said Act is amended by striking out “yellow” in the second line and inserting in lieu thereof “amber”.

6.—(1) Subsection 151 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 19, is amended by striking out “subsection 147 (1)” in the twelfth line and inserting in lieu thereof “clause 147 (1) (a)”.

7. Subsection 184 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 44, is repealed and the following substituted therefor:

(1) A judge, provincial judge or justice of the peace who makes a conviction for an offence under this Act or under any other Act of the Legislature or the Parliament of Canada or any regulation or order made under any of them committed by means of a motor vehicle, motorized snow vehicle or street car or for an offence under a municipal by-law regulating traffic on the highways, except convictions for offences for standing or parking or the clerk of the court in which the conviction is made, shall forthwith certify the conviction to the Registrar, setting out the name, address and description of the person convicted, the number of his driver's licence, the number of the permit of the motor vehicle or the registration number of the motorized snow vehicle, as the case may be, with which the offence was committed, the time the offence was committed and the provision of the Act, regulation, order or by-law contravened.

Report on
conviction
to Registrar

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

Commence-
ment

9. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.

Short title

Bill 136

*(Chapter 61
Statutes of Ontario, 1984)*

An Act to amend the Highway Traffic Act

The Hon. J. W. Snow

Minister of Transportation and Communications

<i>1st Reading</i>	November 9th, 1984
<i>2nd Reading</i>	December 14th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 136

1984

An Act to amend the Highway Traffic Act

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

1. Subsection 26 (2) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 4, is repealed and the following substituted therefor:

(2) In determining whether a conviction is a subsequent conviction or an additional subsequent conviction, as the case may be, for the purpose of clauses (1) (b) and (c), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

Determining
subsequent
conviction

(2a) Clauses (1) (b) and (c) do not apply when the subsequent conviction is more than five years after the previous conviction.

Five year
limitation

2.—(1) Subsection 44 (1) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(2) Subsection 44 (5) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fifth and sixth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(3) Subsection 44 (10) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(4) Subsection 44 (11) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the sec-

ond line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(5) Subsection 44 (13) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(6) Subsection 44 (17) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(7) Subsection 44 (19) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the third and fourth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(8) Subsection 44 (23) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(9) Subsection 44 (24) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(10) Subsection 44 (25) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the second line and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(11) Subsection 44 (26) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fourth and fifth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

(12) Subsection 44 (27) of the said Act is amended by striking out “after sunset to one-half hour before sunrise” in the fourth and fifth lines and inserting in lieu thereof “before sunset to one-half hour after sunrise”.

3. Section 60 of the said Act is amended by adding thereto the following subsection:

(3) The Lieutenant Governor in Council may make regulations exempting any class of persons or vehicles or any use of equipment or type of equipment from the provisions of this section.

4. Subsection 104 (1) of the said Act is amended by striking out “subsection 23 (1)” in the first line and inserting in lieu thereof “subsection 15 (1)”.

5. Clause 122 (7) (b) of the said Act is amended by striking out “yellow” in the second line and inserting in lieu thereof “amber”.

6. Subsection 151 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 19, is amended by striking out “subsection 147 (1)” in the twelfth line and inserting in lieu thereof “clause 147 (1) (a)”.

7. Subsection 184 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 44, is repealed and the following substituted therefor:

(1) A judge, provincial judge or justice of the peace who makes a conviction for an offence under this Act or under any other Act of the Legislature or the Parliament of Canada or any regulation or order made under any of them committed by means of a motor vehicle, motorized snow vehicle or street car or for an offence under a municipal by-law regulating traffic on the highways, except convictions for offences for standing or parking or the clerk of the court in which the conviction is made, shall forthwith certify the conviction to the Registrar, setting out the name, address and description of the person convicted, the number of his driver's licence, the number of the permit of the motor vehicle or the registration number of the motorized snow vehicle, as the case may be, with which the offence was committed, the time the offence was committed and the provision of the Act, regulation, order or by-law contravened.

Report on
conviction
to Registrar

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

Commence-
ment

9. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.

Short title

Bill 137

An Act to amend the Health Protection and Promotion Act, 1983

The Hon. K. C. Norton
Minister of Health

1st Reading November 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The amendment requires the provision of mandatory health programs and services in the French language in prescribed areas.

Bill 137

1984

**An Act to amend the
Health Protection and Promotion Act, 1983**

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

1. The *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following section:

5a. Every board of health prescribed by the regulations shall provide or ensure the provision of mandatory health programs and services in the French language to persons who speak the French language and who reside in the part of the health unit prescribed by the regulations that is served by the board of health.

Mandatory
programs and
services in
the French
language

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

Commence-
ment

3. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1984*.

Short title

Bill 138

An Act to amend the Immunization of School Pupils Act, 1982

The Hon. K. C. Norton
Minister of Health

1st Reading November 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The amendments extend the grounds for exemption from the requirement of immunization to include exemption on the ground of conscience.

A claim for exemption on the grounds of conscience or religious beliefs must be in the prescribed form of affidavit.

These amendments are contained in sections 1, 3 and 4 of the Bill.

SECTION 1. A definition of "statement of conscience or religious belief" is substituted for the definition of "statement of religious belief".

SECTION 3. The amendment changes the reference from "statement of religious belief" to "statement of conscience or religious belief".

SECTION 4. The authority to make regulations is amended to authorize the requirement that statements of conscience or religious belief be in the form of affidavits.

The amendments also impose on the parent of a pupil the duty to cause the pupil to complete the prescribed program of immunization in relation to the designated diseases. Exceptions are made where statements of medical exemption and statements of conscience or religious belief are filed with the proper medical officers of health. These amendments are contained in section 2 of the Bill.

Bill 138

1984

**An Act to amend the
Immunization of School Pupils Act, 1982**

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

1.—(1) Section 1 of the *Immunization of School Pupils Act, 1982*, being chapter 41, as amended by the Statutes of Ontario, 1983, chapter 76, section 1, is further amended by adding thereto the following clause:

(ma) “statement of conscience or religious belief” means a statement by affidavit in the prescribed form by a parent of the person named in the statement that immunization conflicts with the sincerely held convictions of the parent based on the parent’s religion or conscience.

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

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

2a.—(1) The parent of a pupil shall cause the pupil to complete the prescribed program of immunization in relation to each of the designated diseases. Duty of parent

(2) Subsection (1) does not apply to the parent of a pupil in respect of the prescribed program of immunization in relation to a designated disease specified by a physician in a statement of medical exemption filed with the proper medical officer of health and, where the physician has specified an effective time period, only during the effective time period. Exception

(3) Subsection (1) does not apply to a parent who has filed a statement of conscience or religious belief with the proper medical officer of health. Idem

Idem

(4) Subsection (1) does not apply to a parent who, before the coming into force of this section, has filed with the proper medical officer of health a statement of religious belief in the form prescribed before the coming into force of this section.

Offence

2b. Every person who contravenes section 2a is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Certificate
by M.O.H.
as evidence

2c. In proceedings under section 2b, a certificate by a medical officer of health as to whether or not he has received a statement of medical exemption, a statement of conscience or religious belief or a statement of religious belief is admissible in evidence as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the medical officer of health.

3. Subclause 3 (2) (a) (iii) of the said Act is repealed and the following substituted therefor:

(iii) a statement of conscience or religious belief in respect of the pupil; and

4. Clause 14 (b) of the said Act is repealed and the following substituted therefor:

(b) prescribing forms and providing for their use and requiring that statements of conscience or religious belief be in the form of affidavits.

Commence-
ment

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

Short title

6. The short title of this Act is the *Immunization of School Pupils Amendment Act, 1984*.

Bill 138

*(Chapter 62
Statutes of Ontario, 1984)*

An Act to amend the Immunization of School Pupils Act, 1982

The Hon. K. C. Norton
Minister of Health

<i>1st Reading</i>	November 13th, 1984
<i>2nd Reading</i>	December 11th, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 138

1984

**An Act to amend the
Immunization of School Pupils Act, 1982**

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

1.—(1) Section 1 of the *Immunization of School Pupils Act, 1982*, being chapter 41, as amended by the Statutes of Ontario, 1983, chapter 76, section 1, is further amended by adding thereto the following clause:

(ma) “statement of conscience or religious belief” means a statement by affidavit in the prescribed form by a parent of the person named in the statement that immunization conflicts with the sincerely held convictions of the parent based on the parent’s religion or conscience.

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

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

2a.—(1) The parent of a pupil shall cause the pupil to complete the prescribed program of immunization in relation to each of the designated diseases. Duty of parent

(2) Subsection (1) does not apply to the parent of a pupil in respect of the prescribed program of immunization in relation to a designated disease specified by a physician in a statement of medical exemption filed with the proper medical officer of health and, where the physician has specified an effective time period, only during the effective time period. Exception

(3) Subsection (1) does not apply to a parent who has filed a statement of conscience or religious belief with the proper medical officer of health. Idem

Idem

(4) Subsection (1) does not apply to a parent who, before the coming into force of this section, has filed with the proper medical officer of health a statement of religious belief in the form prescribed before the coming into force of this section.

Offence

2b. Every person who contravenes section 2a is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Certificate
by M.O.H.
as evidence

2c. In proceedings under section 2b, a certificate by a medical officer of health as to whether or not he has received a statement of medical exemption, a statement of conscience or religious belief or a statement of religious belief is admissible in evidence as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the medical officer of health.

3. Subclause 3 (2) (a) (iii) of the said Act is repealed and the following substituted therefor:

(iii) a statement of conscience or religious belief in respect of the pupil; and

4. Clause 14 (b) of the said Act is repealed and the following substituted therefor:

(b) prescribing forms and providing for their use and requiring that statements of conscience or religious belief be in the form of affidavits.

Commence-
ment

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

Short title

6. The short title of this Act is the *Immunization of School Pupils Amendment Act, 1984*.

Bill 139

An Act to amend certain Acts respecting the Health Professions

The Hon. K. C. Norton
Minister of Health

1st Reading November 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends various Acts that govern health professions and is divided into the following Parts:

- Part I Dental Technicians
- Part II Drugless Practitioners
- Part III Health Disciplines—Nursing
- Part IV Ophthalmic Dispensers
- Part V Psychologists
- Part VI Radiological Technicians

The following sections or subsections of the Bill contain the same amendment. Subsection 1 (2) (Dental Technicians), section 2 (Drugless Practitioners), subsection 9 (2) (Ophthalmic Dispensers), section 10 (Psychologists) and section 11 (Radiological Technicians). This amendment adds a subsection similar to subsection 3 (2) of the *Health Disciplines Act*. The subsection authorizes the Lieutenant Governor in Council to make, amend or revoke a regulation in the place of a governing Board if the Board fails to comply with a request by the Minister of Health that the Board make, amend or revoke the regulation.

Subsection 1 (1) (Dental Technicians) adds the authority to make regulations exempting or providing for the exemption of any person from any provision of the Act or the regulations and prescribing conditions that shall attach to any such exemption.

Sections 3 to 7 relate to Part IV (Nursing) of the *Health Disciplines Act*.

SECTION 3. Section 73 of the Act authorizes the making of regulations. The new clause will authorize the making of regulations requiring and governing records of nursing services provided by members of the College of Nurses of Ontario.

SECTION 4. Section 82 of the Act relates to the Discipline Committee. The section is re-enacted to increase the composition of the Committee from ten members of the Council, including two persons appointed to the Council by the Lieutenant Governor in Council. The Committee is increased to twenty-four members who are intended to operate in panels of five. The Committee will be composed of twelve members of the College and twelve members of the Council of whom four are persons appointed to the Council by the Lieutenant Governor in Council.

SECTION 5. New section 84a of the Act provides for investigations of members for professional misconduct or incompetence. Investigators will be appointed by the Director with the approval of the Executive Committee. The section is similar to section 64 in Part III (Medicine).

SECTION 6. New section 86a of the Act requires members of the College to preserve secrecy with respect to matters that come to their knowledge in the course of their work. The section also prevents members being required to give testimony or provide records in any proceeding other than a proceeding under the Act. The section is similar to section 65 in Part III (Medicine).

SECTION 7. Section 88 of the Act is the penalty section of Part IV. New subsection 88 (3) provides a penalty for obstructing an investigator who is acting under new section 84a set out in this Bill. The subsection is similar to subsection 67 (3) in Part III (Medicine).

SECTION 8. Section 7 of the *Ophthalmic Dispensers Act* relates to registration requirements. Clause 7 (a) relates to age and character; subclause 7 (b) (ii) requires at least three years training and experience and completion of a home study course. Subclause 7 (b) (iii) is re-enacted to remove a reference to subclause 7 (b) (ii) and to remove the reference to experience in a wholesale optical company.

SECTION 9.—Subsection 1. Clauses 22 (a) and (b) of the *Ophthalmic Dispensers Act* authorize the making of regulations prescribing the requirements for admission to schools of ophthalmic dispensing and the courses of study therein, and prescribing courses of home study.

Bill 139

1984

**An Act to amend certain Acts
respecting the Health Professions**

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

PART I

DENTAL TECHNICIANS

1.—(1) Subsection 3 (1) of the *Dental Technicians Act*, being chapter 114 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (ja) exempting or providing for the exemption of any person from any provision of this Act or the regulations and prescribing conditions that shall apply to any such exemption.

(2) Section 3 of the said Act is amended by adding thereto the following subsection:

(3) Where the Minister of Health requests in writing that the Board make, amend or revoke a regulation under subsection (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

Regulations
by
Lieutenant
Governor in
Council

PART II

DRUGLESS PRACTITIONERS

2. Section 6 of the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) Where the Minister of Health requests in writing that the Board make, amend or revoke a regulation under subsec-

Regulations
by
Lieutenant
Governor in
Council

tion (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

PART III

HEALTH DISCIPLINES—NURSING

3. Section 73 of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (ma) requiring members to establish and maintain records of nursing services provided by them, prescribing the information that must be entered by members in nursing records maintained by them, prescribing classes of records of nursing services, prescribing periods of time for or circumstances in which members must retain specified classes of nursing records, specifying when and to whom members must deliver records of nursing services and governing custody of and access to specified classes of nursing records maintained by members.

4.—(1) Section 82 of the said Act is repealed and the following substituted therefor:

Discipline
Committee

82.—(1) The Discipline Committee shall be composed of,

- (a) twelve persons who are members of the College; and
- (b) twelve persons who are members of the Council, of whom four shall be persons appointed to the Council by the Lieutenant Governor in Council.

Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Panels

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Chairman
of panel

(4) Every panel of the Discipline Committee shall be chaired either by the chairman of the Discipline Committee or by a member of the Discipline Committee designated by the chairman.

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Disability
of appointed
member

(6) Three members of a panel assigned under subsection (3), of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote, the chairman shall have a second or casting vote.

Quorum

(7) Notwithstanding section 81, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Reference
by Council
or Executive
Committee

(2) Where a proceeding was commenced before the Discipline Committee before the coming into force of subsection (1), section 82 of the said Act as it existed immediately before the coming into force of subsection (1), continues to apply in respect of the proceeding and, for the purpose, subsection (1) shall be deemed not to have come into force.

Transitional

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

84a.—(1) Where the Director believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Director may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Director.

Investigation
of members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the premises where the member is providing or has provided nursing services and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of
investigator

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissibility
of copies

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report
of the
Director

(7) The Director shall report the results of the investigation to the Council or the Executive Committee or to such other committee as the Director considers appropriate.

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

Matters
confidential

86a.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investiga-

tion under section 84a, and any member of the Council or a committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 84a and shall not communicate any such matters to any other person except,

(a) in connection with,

(i) the administration of this Act and the regulations under this Act,

(ii) the administration of any Part of this Act and the regulations and by-laws under any Part of this Act, or

(iii) any proceedings under this Act or any Part of this Act or the regulations under this Act or any Part of this Act;

(b) as may be required for the enforcement of the *Health Insurance Act*; R.S.O. 1980,
c. 197

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or any Part of this Act or any regulation or by-law under this Act or any Part of this Act. Evidence
in civil
suit

7. Section 88 of the said Act is amended by adding thereto the following subsection:

(3) Every person who obstructs a person appointed to make an investigation under section 84a in the course of his duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000. Idem

PART IV

OPHTHALMIC DISPENSERS

8.—(1) Clause 7 (a) of the *Ophthalmic Dispensers Act*, being chapter 364 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subclause 7 (b) (ii) of the said Act is repealed.

(3) Subclause 7 (b) (iii) of the said Act is repealed and the following substituted therefor:

(iii) in the opinion of the Board, the qualifications and experience equivalent to that set forth in subclause (i), and has had one year's experience in Canada, under the supervision of a legally qualified medical practitioner, ophthalmic dispenser or optometrist.

9.—(1) Clauses 22 (a) and (b) of the said Act are repealed.

(2) Section 22 of the said Act is amended by adding thereto the following subsection:

Regulations
by
Lieutenant
Governor in
Council

(2) Where the Minister of Health requests in writing that the Board make, amend or revoke a regulation under subsection (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

PART V

PSYCHOLOGISTS

10. Section 5 of the *Psychologists Registration Act*, being chapter 404 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Regulations
by
Lieutenant
Governor in
Council

(2) Where the Minister of Health requests in writing that the Board make, amend or revoke a regulation under subsection (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

PART VI

RADIOLOGICAL TECHNICIANS

11. Section 14 of the *Radiological Technicians Act*, being chapter 430 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) Where the Minister of Health requests in writing that the Board make, amend or revoke a regulation under subsection (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

Regulations
by
Lieutenant
Governor in
Council

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

Commence-
ment

13. The short title of this Act is the *Health Professions Statute Law Amendment Act, 1984*.

Short title

Bill 140

An Act to revise the Metropolitan Police Force Complaints Project Act, 1981

The Hon. R. McMurtry
Attorney General

1st Reading November 13th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill revises the *Metropolitan Police Force Complaints Project Act, 1981*, self-repealing on the 21st day of December, 1984, and places on a permanent footing the system for handling complaints brought by members of the public respecting the conduct of police officers on the Metropolitan Police Force.

The major points of difference between the Bill and the existing Act include the following:

1. The existing Police Complaints Board is replaced by a panel from which will be drawn members to constitute a board of inquiry to conduct individual hearings when required under the Act.

The membership of the panel and of any board of inquiry that is constituted from among its members will continue to reflect the existing tripartite structure of the Police Complaints Board, however, the Public Complaints Commissioner will not be a member of the panel and accordingly will not sit as a member of any board of inquiry. (s. 4).

2. "Misconduct" is defined as conduct that would constitute an offence under the Code of Offences set out in the regulations made under the *Police Act*. Allegations against a police officer not amounting to misconduct are treated in a more informal and expeditious manner. (ss. 1, 8).
3. Where a complaint is made at a police station, the officer in charge is to ensure that any immediate investigation that is required be conducted and to gather all available evidence that may be lost if not secured immediately, and to prepare a report thereon. (s. 6 (3)).
4. A complaint lodged by a person not directly affected by the misconduct alleged will not be dealt with under the Act. Any person directly affected will however be given the opportunity to lodge a complaint and nothing prevents the chief of police from taking disciplinary action under the *Police Act*, if warranted, and the chief shall notify the Commissioner whether he has done so or not. (s. 7).
5. Where a complaint is withdrawn, the Public Complaints Commissioner may, where he is of the opinion improper pressures were exerted, cause the complaint to be continued to be dealt with under the Act. (s. 12).
6. The chief of police, where he is of the opinion that a complaint is frivolous, vexatious or made in bad faith, may decide that it not be dealt with under the Act, subject to review by the Public Complaints Commissioner. (s. 13).
7. Where a police officer is counseled or cautioned by the chief of police, the officer may request the Public Complaints Commissioner to review the action taken. The recording of any such counsel or caution on the police officer's personal record will be expunged upon the expiration of two years during which no other disciplinary action has been recorded. (s. 14 (3, 4)).
8. The Commissioner may direct that a complaint that has been resolved informally be resurrected where he is of the opinion improper pressures were exerted to obtain the resolution. (s. 10).
9. The Public Complaints Commissioner, in addition to recommending changes to police practice and procedure, is empowered to recommend the implementation of or change in any other practice or procedure or law that may affect the resolution or prevention of public complaints against police officers. (s. 21).

10. The range of penalties that may be imposed by a board of inquiry after finding a police officer guilty of misconduct is the same as that that may be imposed following a disciplinary hearing under the *Police Act*. (s. 23 (16, 17)).
11. A hearing before a board of inquiry will be held *de novo*, except in the case where it is by way of appeal from a disciplinary hearing held under the *Police Act*, when it will be on the record. In the latter case, the chief of police will be a party to the hearing. In all other cases, the Attorney General will be a party and will have carriage of the matter. (s. 23).
12. Video or audio recordings of proceedings before a board of inquiry will only be allowed under the same circumstances as they are allowed at court hearings under the *Courts of Justice Act, 1984*. (s. 27).
13. At the end of the three-year period following the coming into force of the Act the Attorney General is to recommend to the Lieutenant Governor in Council whether the panel for boards of inquiry, the existing Police Complaints Board and the advisory committee referred to in sections 4 and 32 of the Bill should continue or be terminated. (s. 33).
14. An advisory committee is established to maintain under review the procedures under the Act and to make recommendations for improvement to the system for handling complaints to the Attorney General and to the Solicitor General. (s. 32).

Bill 140

1984

**An Act to revise the Metropolitan Police Force
Complaints Project Act, 1981**

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,

Interpretation

- (a) “Bureau” means the Public Complaints Investigation Bureau;
- (b) “chief of police” means the chief of police of the Metropolitan Police Force;
- (c) “Commissioner” means the Public Complaints Commissioner appointed under this Act;
- (d) “complainant” means a member of the public who makes a complaint in accordance with the provisions of this Act;
- (e) “complaint” means an allegation or allegations, made orally or in writing, by a member of the public, concerning the misconduct of a police officer;
- (f) “inquiry” means an allegation or allegations concerning conduct of a police officer that does not amount to “misconduct”;
- (g) “misconduct” means an act or omission on the part of a police officer that constitutes an offence under the Code of Offences set out in the Schedule to Regulation 791 of the Revised Regulations of Ontario, 1980, made under the *Police Act*;
- (h) “officer in charge” means the police officer who at any particular time, while on duty, is in charge of and responsible for, the proper functioning of a police facility;

R.S.O. 1980,
c. 381

- (i) "police officer" means a police officer on the Metropolitan Police Force;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Act;
- (l) "subject officer" means a police officer who is the subject of a complaint.

Application
of Act

2. This Act applies to complaints and inquiries made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

R.S.O. 1980,
c. 381

Appointment
of Public
Complaints
Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner, to hold office for a term not exceeding five years, to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Re-
appointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding, in each instance, five years.

Officers,
etc.

(3) Such officers and employees as are considered necessary from time to time for the purposes of this Act may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

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 by him under this Act.

Monitoring
handling of
complaints
and inquiries

(6) The Commissioner shall monitor the handling of complaints and inquiries by the Bureau and the chief of police.

Annual
report

(7) The Commissioner shall report annually on the affairs of his office to the Solicitor General and to the Attorney General and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Summary of
decisions

(8) The Commissioner shall cause to be prepared and published periodically a summary of the decisions, and the reasons therefor, made by the boards of inquiry under this Act.

(9) The accounts of the Commissioner shall be audited annually by the Provincial Auditor. Audit

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry. Panel for boards of inquiry

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General. Recommendations for appointment

(3) One-third of the members of the panel shall be persons, other than police officers, the appointment of whom the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association have jointly recommended in writing to the Attorney General. Idem

(4) One-third of the members of the panel shall be persons recommended by the council of The Municipality of Metropolitan Toronto to the Attorney General for appointment. Idem

(5) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years. Term

(6) Recommendations made under subsections (3) and (4) shall be submitted to the Attorney General within such time as he may specify. Idem

(7) Notwithstanding subsection 33 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (4) of this section, respectively. Members of Police Complaints Board under 1981.c. 43

1981.c. 43

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau. Establishment of Bureau

- Staff (2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints and inquiries.
- Where complaints may be made **6.—**(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Commissioner.
- Information (2) The person who receives the complaint shall record the complaint in the prescribed form and shall furnish the complainant with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the complainant, together with a copy of the complaint.
- Preliminary investigation (3) Where a complaint is recorded at a police station, the officer in charge of the station shall take all reasonable steps to ensure that all available evidence is gathered that may be lost if not secured immediately and, if appropriate, ensure that such other preliminary investigation as may be warranted is conducted and that a report concerning such preliminary investigation is prepared and forwarded to the person in charge of the Bureau.
- Copy of complaint (4) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Commissioner a copy of the complaint.
- Idem (5) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Commissioner a copy of the complaint.
- Idem (6) Where a complaint is recorded at the office of the Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint.
- Notification by Commissioner **7.—**(1) Where a complaint is made by a person not directly affected by the incident, the Commissioner, as soon as practicable after receiving the complaint, shall in writing notify the person directly affected by the incident that a complaint has been made under this Act and advise him that he is entitled to be the complainant.
- Where no action to be taken (2) Where the person directly affected by the incident is not known or can not be found or does not, within thirty days of the date of the notification, file with the Commissioner a written request to be the complainant in the matter, no further action shall be taken under this Act in respect of such complaint.

(3) Nothing in subsection (2) shall prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder, and the chief of police shall notify the Commissioner if any such action is taken and the result thereof and either the chief of police or the Commissioner shall then notify the complainant.

Action under R.S.O. 1980, c. 381

8.—(1) Upon receipt of a complaint, the person in charge of the Bureau may, with the consent of the Commissioner, reclassify any of the separate allegations within the complaint as an inquiry, and the complainant and the subject officer shall be notified forthwith.

Reclassification by Bureau chief

(2) The person in charge of the Bureau shall determine whether any investigation is required in respect of an inquiry, and if it is, cause such investigation to be conducted, respond to the complainant in writing within sixty days of receipt of the complaint and forward a copy of the response to the Commissioner forthwith.

Response

(3) The person in charge of the Bureau may, during the course of an investigation under subsection (2), reclassify any of the separate allegations within the inquiry as a complaint, and the complainant, the subject officer and the Commissioner shall be notified forthwith.

Reclassification during investigation

(4) No reference shall be made in the personal record of any police officer to an inquiry resolved in accordance with subsection (2).

Personal record

9. The person in charge of the Bureau shall inform forthwith the subject officer of the substance of the complaint in the prescribed form, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint.

Police officer to be informed

10.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the complainant and the subject officer, may attempt to so resolve the complaint.

Informal resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the complainant and the subject officer shall each signify in writing his agreement to such resolution.

Record of informal resolution

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Commissioner, the complainant and the subject officer.

Copy of record to be furnished

Informal
resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation.

Where
complaint
to continue

(5) Notwithstanding subsection (1), where the Commissioner is of the opinion that the informal resolution was obtained as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue and give reasons therefor in writing to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of
decision

R.S.O. 1980,
c. 224

(6) The decision of the Commissioner under subsection (5) shall be deemed to be made in the exercise of a statutory power of decision within the meaning of the *Judicial Review Procedure Act*.

Informal
resolution by
Commissioner

(7) A complaint may be resolved informally by the Commissioner in accordance with the procedures in this section at any time during the course of or after an investigation or review by the Commissioner.

No reference
in personal
record of
subject
officer

(8) No reference shall be made in the personal record of a subject officer to a complaint resolved under this section, except where misconduct has been admitted by the subject officer.

Investigation

11.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim
reports

(2) The person in charge of the Bureau shall forward to the Commissioner, the complainant and the subject officer an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the complainant or the subject officer where, in his opinion, to do so might adversely affect the investigation of the complaint or where there are no new matters to report, in which case the person in charge of the Bureau shall forthwith notify the Commissioner of the reasons for his decision.

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report in the prescribed form to be prepared and shall forward a copy thereof to the Commissioner, the chief of police, the complainant and the subject officer.

Final report

(5) A final investigation report prepared under subsection (4) shall,

Idem

- (a) contain a summary of the complaint and a description of the alleged misconduct by the subject officer;
- (b) contain a summary of the investigation and of information obtained from the complainant, the subject officer and witnesses, if any; and
- (c) contain a description and analysis of any physical evidence obtained.

(6) The Commissioner may, upon receipt of a final investigation report, request that the chief of police cause further investigation to be made into the complaint and the results of any such investigation shall be forwarded to the Commissioner.

Further investigation at request of Commissioner

12.—(1) All complaints and inquiries shall be dealt with in accordance with this Act, and shall not be withdrawn except in accordance with this Act.

Withdrawal of complaint

(2) A complainant may withdraw a complaint at any time by giving notice, in the prescribed form, to the person in charge of the Bureau, who shall forward a copy thereof to the Commissioner and the subject officer.

Notice

(3) Notwithstanding subsection (2), where the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue, and give reasons therefor, in writing, to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Where to continue as complaint

(4) The decision of the Commissioner to cause the complaint to continue shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Review of decision

R.S.O. 1980, c. 224

Disciplinary
action under
R.S.O. 1980,
c. 381

(5) Notwithstanding subsection (2), where a complaint has been withdrawn by a complainant, such withdrawal shall not prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder and the chief of police shall notify the Commissioner if any such action is taken and the result thereof.

Where
complaint
not to be
dealt with

13.—(1) Where it appears to the chief of police that,

- (a) a complaint is frivolous, vexatious or made in bad faith;
- (b) a complaint is not within the jurisdiction of this Act; or
- (c) a complaint is one that could or should be more appropriately dealt with under an Act other than this Act,

the chief of police may decide that the complaint or any part thereof not be dealt with under this Act.

Notice

(2) The chief of police shall notify the Commissioner, the complainant and the subject officer of any decision made under subsection (1).

Disciplinary
action under
R.S.O. 1980,
c. 381

(3) Notwithstanding subsection (1), the decision of the chief of police shall not prevent the chief from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder.

Review by
Commissioner

(4) The complainant may, within thirty days of receiving notification under subsection (2), request the Commissioner to review the decision made under subsection (1), in which case all the provisions of this Act relating to a review by the Commissioner apply with necessary modifications.

Powers and
duties of
chief of
police

14.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he considers advisable and may, unless he decides that no action is warranted,

- (a) cause an information alleging the commission of an offence by the subject officer to be laid and refer the matter to the Crown attorney for prosecution;
- (b) order that one or more of the allegations contained in the complaint be heard by a board of inquiry;

- (c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and
- (d) after giving the subject officer ten working days to reply, either orally or in writing, to the complaint, counsel or caution the subject officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any disciplinary proceedings under the *Police Act* or any hearing by a board of inquiry unless the presiding officer or the board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Hearing not stayed

R.S.O. 1980, c. 381

(3) A subject officer may within thirty days of the taking of any action under clause (1) (d), request the Commissioner to review the action, in which case all the provisions of this Act relating to a review by the Commissioner shall apply with necessary modifications.

Review by Commissioner

(4) Notwithstanding subsection (3), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Extension of time

(5) Any action taken under clause (1) (d) shall be expunged from the personal record of the subject officer upon the expiration of a period of two years during which no other disciplinary action has been noted on the record.

Expunging from personal record

(6) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Commissioner, the complainant and the subject officer and, where his decision is that no action is warranted or he has taken action under clause (1) (d), the chief of police shall give his reasons therefor.

Notice of action taken

(7) The chief of police may designate any police officer of the rank of inspector or higher to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the police officer so designated.

Designation by chief of police

Application
of s. 23
R.S.O. 1980,
c. 381

15.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 23 (6), (8), (13), (14) and (15) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of
decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Commissioner, the complainant and the subject officer.

Police officer
may appeal

16. Where a hearing referred to in subsection 15 (1) has been held and a penalty has been imposed upon a subject officer, the officer may appeal in accordance with the provisions of this Act and not as provided in the *Police Act* and the regulations thereunder.

R.S.O. 1980,
c. 381

Notice of
appeal

17.—(1) A notice of appeal under section 16 shall be served on the Commissioner and the chief of police within fifteen days after the subject officer receives notice of the penalty imposed, and the Commissioner shall notify the complaint forthwith.

Extension
of time

(2) Where a notice of appeal is filed after the time set out in subsection (1), the Commissioner shall assign, in accordance with the regulations, the matter to a member of the panel appointed on a recommendation made under subsection 4 (2) who may, if satisfied that there are reasonable grounds for doing so, extend the time for appealing and give such directions as he considers proper consequent upon the extension.

Commis-
sioner
may
investigate

18.—(1) Notwithstanding any other provision of this Act, the Commissioner may investigate the allegations in the complaint,

- (a) at any time after he receives the first interim report under subsection 11 (2) or the thirty-day period mentioned therein has expired;
- (b) upon the request of the chief of police; or
- (c) where he has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 11.

(2) A decision to take action under clause (1) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Review of
decision

R.S.O. 1980,
c. 224

(3) The Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an investigation under clause (1) (a) or (c) and shall give his reasons therefor in writing.

Notice
to chief
of police

(4) Where the Commissioner conducts an investigation under subsection (1), he shall forward to the complainant, the subject officer, the person in charge of the Bureau and the chief of police an interim report in the prescribed form providing a summary of the investigation to date, not later than thirty days after he has given notification of his intention to conduct an investigation, and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation, and upon the completion of his investigation he shall prepare a final investigation report and forward a copy thereof to the same persons.

Idem

(5) The chief of police, upon receipt of a final investigation report under subsection (4), shall review the report, together with any final investigation report prepared under subsection 11 (4), and shall make a decision in accordance with section 14 and shall notify all persons in accordance with subsection 14 (6).

Notice of
action taken

(6) The Commissioner may designate any person appointed under subsection 3 (3) to exercise any of his powers and perform any of his duties under this Act, and the person so designated has the powers and the duties set out in the designation, and where any power is conditional upon the opinion of the Commissioner, the requisite opinion shall be that of the designated person.

Delegation

19.—(1) Where a complainant is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of a board of inquiry or with action taken by the chief of police under clause 14 (1) (d) or with a decision of the chief of police that no action is warranted, he may within thirty days of receipt of notification under subsection 14 (6) or 15 (2) request the Commissioner to review the matter.

Request
for review

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that there are reasonable grounds for granting an extension the Commissioner may extend the time for requesting a review.

Extension
of time

Hearing may
be ordered

(3) Where the Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by a board of inquiry if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(4) The Commissioner shall give forthwith written notice to the chief of police, the complainant and the subject officer of his decision under subsection (3) and, where his decision is to take no further action, shall give his reasons therefor.

Where
appeal under
s. 16

(5) Where a subject officer has appealed under section 16 a hearing ordered under subsection (3) shall be heard together with that appeal.

Powers on
investigation
or review

20.—(1) For the purposes of an investigation under section 18 or a review under section 19, the Commissioner may, where he has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on
inquiry

R.S.O. 1980,
c. 411

(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 such investigation or review as if it were an inquiry under that Act.

Appointment
of person
to make
investigation
or review

(3) The Commissioner may, in writing, appoint a person to make any investigation or review he is authorized to make and the person so appointed has all the powers and duties of the Commissioner relating to the investigation and the review.

Identification

(4) The Commissioner shall issue a certificate of appointment to any person appointed to make an investigation or review under subsection (3), which certificate shall contain a photograph of the person appointed, and the person appointed, while exercising any powers or performing any duties in respect of the investigation or review, shall produce the certificate of appointment upon request.

Report

(5) The person appointed to make an investigation or review shall report the results of his investigation or review to the Commissioner.

Obstruction

(6) No person shall obstruct the Commissioner or a person appointed by him to make an investigation or review or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation or review.

(7) Where a justice of the peace is satisfied upon an *ex parte* application by the Commissioner or by a person appointed by him under subsection (3) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation or review, the justice of the peace may issue an order authorizing the person making the application, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes.

Search
warrant

(8) The Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (7) relating to the investigation or review and shall with reasonable dispatch cause to be made copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed.

Removal of
books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Admissibility
of copies

(10) The Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (7).

Appointment
of experts

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Report

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the Metropolitan Board of Commissioners of Police shall forward such report along with their comments

Idem

and any comments submitted to them by the chief of police or the Metropolitan Toronto Police Association, to the Attorney General, the Solicitor General and the Commissioner.

Where board of inquiry to be constituted

22.—(1) Where,

- (a) the chief of police has ordered that a matter be heard by a board of inquiry;
- (b) a police officer has appealed under section 16; or
- (c) the Commissioner has, under subsection 19 (3), ordered a hearing,

a board of inquiry shall be constituted in accordance with this section.

Assignment to board of inquiry

(2) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a minor nature, he shall assign, in accordance with the regulations, a member of the panel who was appointed on a recommendation made under subsection 4 (2) to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a serious nature, he shall assign, in accordance with the regulations, three members of the panel to conduct the hearing.

Constitution of board R.S.O. 1980, c. 381

(4) Where, following a disciplinary hearing under the *Police Act* a board of inquiry is to be constituted, the board shall be constituted in accordance with subsection (3).

Who shall be on board

(5) The chairman of a board of inquiry constituted under subsection (3) or (4) shall be a person appointed to the panel on a recommendation made under subsection 4 (2), one member shall be a person appointed to the panel on a recommendation made under subsection 4 (3) and one member shall be a person appointed to the panel on a recommendation made under subsection 4 (4).

Statement of alleged misconduct

(6) The chief of police, where he has ordered a hearing, and the Commissioner, where he has ordered a hearing, shall provide the parties with a concise statement of the allegations of misconduct to be heard by the board.

Record

(7) Where, following a hearing referred to in subsection 15 (1), a board of inquiry has been constituted, the chief of police shall forward the record of that hearing, including the

transcript, all documents, evidence and exhibits considered at that hearing, to the board.

(8) Where the Commissioner has ordered the hearing he shall pay the costs of preparing the record. Costs of record

23.—(1) The hearing before the board of inquiry shall be *de novo*, except where the chief of police has prepared a record under subsection 22 (7), in which case the hearing shall be on the record but the board may, in special circumstances, hear such evidence as the board considers advisable. When hearing *de novo* and when on record

(2) The parties to a hearing shall include, Parties

(a) the chief of police, in respect of appeals instituted by the subject officer under section 16; and

(b) the Attorney General, except where an appeal has been instituted by the subject officer under section 16.

(3) A party may be added by the board at any stage of the hearing upon such terms as the board considers proper. Adding parties

(4) The Attorney General, where he is a party to the hearing, has carriage of the matter. Attorney General to have carriage

(5) The board shall appoint a time for a hearing and give written notice thereof to the parties. Notice of hearing

(6) The subject officer and the complainant shall be afforded an opportunity to examine before the hearing any physical or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Opportunity to examine evidence

(7) The board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. Board not to communicate with party

(8) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Oral evidence

Adjournment
for view

(9) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Only
members at
hearing to
participate
in decision

(10) No member of the board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Decision

(11) A decision of a member of a board of inquiry sitting alone and a decision of a majority of the members of a board comprising three members is a decision of the board.

Release of
documents

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

Police
officer not
required to
give
evidence
R.S.O. 1980,
c. 484

(13) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the subject officer shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or
admission not
admissible
in evidence

(14) Where the person in charge of the Bureau or the Commissioner attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the subject officer or by the complainant shall not be admitted in evidence at the hearing, except with the consent of the subject officer or the complainant, as the case may be.

Proof of
misconduct

(15) No finding of misconduct by the subject officer shall be made unless the misconduct is proved beyond a reasonable doubt.

Imposition
of penalty

(16) Where a board constituted under subsection 22 (2) finds the subject officer guilty of misconduct, it may,

- (a) direct that days off not exceeding five days be forfeited;
- (b) direct that pay not exceeding three days pay be forfeited; or
- (c) reprimand the police officer.

(17) Where a board constituted under subsection 22 (3) Idem finds the subject officer guilty of misconduct, it may,

- (a) dismiss the police officer from the Metropolitan Police Force, whereupon the officer is thereby dismissed;
- (b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;
- (c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;
- (d) direct that days off not exceeding twenty days be forfeited;
- (e) direct that pay not exceeding five days pay be forfeited; or
- (f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

(18) The board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the complainant, the subject officer, the Commissioner, the Solicitor General and the Attorney General. Notice of decision

(19) No reference to a hearing conducted by the board shall be made in the personal record of the subject officer unless the board has made a finding of misconduct. No reference to hearing

(20) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a subject officer in respect of a hearing conducted by a board and an appeal under section 24. Costs may be paid

24.—(1) A party to a hearing by a board may appeal within thirty days of the decision of the board to the Divisional Court. Appeal

(2) The Solicitor General, and the Attorney General where he is not entitled to appeal under subsection (1), are entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Solicitor General and Attorney General entitled to be heard

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty What may be appealed

imposed under subsection 23 (17), or on both the question and the penalty.

How notice,
etc., may
be served

25. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode.

Matters
confidential

26.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except,

R.S.O. 1980,
c. 381

- (a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder;
- (b) as may be required for the due enforcement of the law;
- (c) to his counsel; or
- (d) with the consent of the person to whom the matter relates.

Testimony

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

What is
inadmissible
in evidence

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

Idem

(4) No oral statement, answer or admission referred to in subsections 23 (13) and (14) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

R.S.O. 1980,
c. 381

27. Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to a board hearing. Application of 1984, c. 11, s. 146

28. The *Ombudsman Act* does not apply to anything done under this Act. R.S.O. 1980, c. 325 does not apply

29. The Attorney General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of this Act. Agreement for contributions

30. Any person who contravenes subsection 20 (6), subsection 26 (1) or section 27 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Offence

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

- (a) respecting the reporting and publication of decisions of boards of inquiry;
- (b) assigning duties to the Commissioner;
- (c) establishing a system that provides for the assignment of panel members on a rotational basis;
- (d) prescribing forms and providing for their use; and
- (e) prescribing any matter that by this Act is required to be or is referred to as prescribed.

32.—(1) There shall be a committee composed of, Advisory committee

- (a) the Deputy Attorney General;
- (b) the Deputy Solicitor General;
- (c) the chairman of the Ontario Police Commission;
- (d) the Commissioner;
- (e) the Assistant Deputy Attorney General-Criminal Law; and
- (f) such other persons as may be jointly appointed by the Attorney General and the Solicitor General.

Duties

- (2) It is the duty of the committee,
- (a) to maintain under review the practice and procedures under this Act;
 - (b) to receive and consider matters brought to the attention of the committee by any person having an interest in the operation of the system for handling complaints under this Act;
 - (c) to make such recommendations as the committee considers appropriate for the improvement of the system for handling complaints; and
 - (d) to perform such other duties or functions as the committee may be requested to perform by the Attorney General or the Solicitor General.

Recommendations

(3) Any recommendations made under clause (2) (c) shall be forwarded by the committee to both the Attorney General and the Solicitor General.

Recommendation of Attorney General

33. On or before the day that is three years after the day this Act comes into force, the Attorney General shall, after having reviewed the operation of the panel, the Board and the advisory committee referred to in sections 4 and 32 respectively, recommend to the Lieutenant Governor in Council whether those bodies should continue in existence or be terminated.

Repeal

34.—(1) The *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43, is repealed.

Proceedings continued under 1981, c. 43

(2) Notwithstanding subsection (1), the *Metropolitan Police Force Complaints Project Act, 1981* shall continue in force and apply to a complaint that is made before the day this Act comes into force, for the purpose of continuing the proceedings in respect of that complaint, but the proceedings at any Board hearing commenced after the day this Act comes into force shall be in accordance with the provisions of this Act.

Commencement

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

Short title

36. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Act, 1984*.

Bill 140

An Act to revise the Metropolitan Police Force Complaints Project Act, 1981

The Hon. R. McMurtry
Attorney General

1st Reading November 13th, 1984
2nd Reading December 7th, 1984
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The Bill revises the *Metropolitan Police Force Complaints Project Act, 1981*, self-repealing on the 21st day of December, 1984, and places on a permanent footing the system for handling complaints brought by members of the public respecting the conduct of police officers on the Metropolitan Police Force.

The major points of difference between the Bill and the existing Act include the following:

1. The existing Police Complaints Board is replaced by a panel from which will be drawn members to constitute a board of inquiry to conduct individual hearings when required under the Act.

The membership of the panel and of any board of inquiry that is constituted from among its members will continue to reflect the existing tripartite structure of the Police Complaints Board, however, the Public Complaints Commissioner will not be a member of the panel and accordingly will not sit as a member of any board of inquiry. (s. 4).

2. "Misconduct" is defined as conduct that would constitute an offence under the Code of Offences set out in the regulations made under the *Police Act*. Allegations against a police officer not amounting to misconduct are treated in a more informal and expeditious manner. (ss. 1, 8).
3. Where a complaint is made at a police station, the officer in charge is to ensure that any immediate investigation that is required be conducted and to gather all available evidence that may be lost if not secured immediately, and to prepare a report thereon. (s. 6 (3)).
4. A complaint lodged by a person not directly affected by the misconduct alleged will not be dealt with under the Act. Any person directly affected will however be given the opportunity to lodge a complaint and nothing prevents the chief of police from taking disciplinary action under the *Police Act*, if warranted, and the chief shall notify the Commissioner whether he has done so or not. (s. 7).
5. Where a complaint is withdrawn, the Public Complaints Commissioner may, where he is of the opinion improper pressures were exerted, cause the complaint to be continued to be dealt with under the Act. (s. 12).
6. The chief of police, where he is of the opinion that a complaint is frivolous, vexatious or made in bad faith, may decide that it not be dealt with under the Act, subject to review by the Public Complaints Commissioner. (s. 13).
7. Where a police officer is counseled or cautioned by the chief of police, the officer may request the Public Complaints Commissioner to review the action taken. The recording of any such counsel or caution on the police officer's personal record will be expunged upon the expiration of two years during which no other disciplinary action has been recorded. (s. 14 (3, 4)).
8. The Commissioner may direct that a complaint that has been resolved informally be resurrected where he is of the opinion improper pressures were exerted to obtain the resolution. (s. 10).
9. The Public Complaints Commissioner, in addition to recommending changes to police practice and procedure, is empowered to recommend the implementation of or change in any other practice or procedure or law that may affect the resolution or prevention of public complaints against police officers. (s. 21).

10. The range of penalties that may be imposed by a board of inquiry after finding a police officer guilty of misconduct is the same as that that may be imposed following a disciplinary hearing under the *Police Act*. (s. 23 (16, 17)).
11. A hearing before a board of inquiry will be held *de novo*, except in the case where it is by way of appeal from a disciplinary hearing held under the *Police Act*, when it will be on the record. In the latter case, the chief of police will be a party to the hearing. In all other cases, the Attorney General will be a party and will have carriage of the matter. (s. 23).
12. Video or audio recordings of proceedings before a board of inquiry will only be allowed under the same circumstances as they are allowed at court hearings under the *Courts of Justice Act, 1984*. (s. 27).
13. At the end of the three-year period following the coming into force of the Act the Attorney General is to recommend to the Lieutenant Governor in Council whether the panel for boards of inquiry, the existing Police Complaints Board and the advisory committee referred to in sections 4 and 32 of the Bill should continue or be terminated. (s. 33).
14. An advisory committee is established to maintain under review the procedures under the Act and to make recommendations for improvement to the system for handling complaints to the Attorney General and to the Solicitor General. (s. 32).

Bill 140**1984**

**An Act to revise the Metropolitan Police Force
Complaints Project Act, 1981**

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,

Interpretation

- (a) "Bureau" means the Public Complaints Investigation Bureau;
- (b) "chief of police" means the chief of police of the Metropolitan Police Force;
- (c) "Commissioner" means the Public Complaints Commissioner appointed under this Act;
- (d) "complainant" means a member of the public who makes a complaint in accordance with the provisions of this Act;
- (e) "complaint" means an allegation or allegations, made orally or in writing, by a member of the public, concerning the misconduct of a police officer;
- (f) "inquiry" means an allegation or allegations concerning conduct of a police officer that does not amount to "misconduct";
- (g) "misconduct" means an act or omission on the part of a police officer that constitutes an offence under the Code of Offences set out in the Schedule to Regulation 791 of the Revised Regulations of Ontario, 1980, made under the *Police Act*;
- (h) "officer in charge" means the police officer who at any particular time, while on duty, is in charge of and responsible for, the proper functioning of a police facility;

R.S.O. 1980,
c. 381

- (i) "police officer" means a police officer on the Metropolitan Police Force;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Act;
- (l) "subject officer" means a police officer who is the subject of a complaint.

Application
of Act

2. This Act applies to complaints and inquiries made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

R.S.O. 1980,
c. 381

Appointment
of Public
Complaints
Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner, to hold office for a term not exceeding five years, to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Re-
appointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding, in each instance, five years.

Officers,
etc.

(3) Such officers and employees as are considered necessary from time to time for the purposes of this Act may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

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 by him under this Act.

Monitoring
handling of
complaints
and inquiries

(6) The Commissioner shall monitor the handling of complaints and inquiries by the Bureau and the chief of police.

Annual
report

(7) The Commissioner shall report annually on the affairs of his office to the Solicitor General and to the Attorney General and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Summary of
decisions

(8) The Commissioner shall cause to be prepared and published periodically a summary of the decisions, and the reasons therefor, made by the boards of inquiry under this Act.

(9) The accounts of the Commissioner shall be audited annually by the Provincial Auditor. Audit

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry. Panel for boards of inquiry

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General. Recommendations for appointment

(3) One-third of the members of the panel shall be persons, other than police officers, the appointment of whom the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association have jointly recommended in writing to the Attorney General. Idem

(4) One-third of the members of the panel shall be persons recommended by the council of The Municipality of Metropolitan Toronto to the Attorney General for appointment. Idem

(5) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years. Term

(6) Recommendations made under subsections (3) and (4) shall be submitted to the Attorney General within such time as he may specify. Idem

(7) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (4) of this section, respectively. Members of Police Complaints Board under 1981, c. 43
1981, c. 43

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau. Establishment of Bureau

Staff

(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints and inquiries.

Where complaints may be made

6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Commissioner.

Information

(2) The person who receives the complaint shall record the complaint in the prescribed form and shall furnish the complainant with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the complainant, together with a copy of the complaint.

Preliminary investigation

(3) Where a complaint is recorded at a police station, the officer in charge of the station shall take all reasonable steps to ensure that all available evidence is gathered that may be lost if not secured immediately and, if appropriate, ensure that such other preliminary investigation as may be warranted is conducted and that a report concerning such preliminary investigation is prepared and forwarded to the person in charge of the Bureau.

Copy of complaint

(4) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Commissioner a copy of the complaint.

Idem

(5) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Commissioner a copy of the complaint.

Idem

(6) Where a complaint is recorded at the office of the Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint.

Notification by Commissioner

7.—(1) Where a complaint is made by a person not directly affected by the incident, the Commissioner, as soon as practicable after receiving the complaint, shall in writing notify the person directly affected by the incident that a complaint has been made under this Act and advise him that he is entitled to be the complainant.

Where no action to be taken

(2) Where the person directly affected by the incident is not known or can not be found or does not, within thirty days of the date of the notification, file with the Commissioner a written request to be the complainant in the matter, no further action shall be taken under this Act in respect of such complaint.

(3) Nothing in subsection (2) shall prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder, and the chief of police shall notify the Commissioner if any such action is taken and the result thereof and either the chief of police or the Commissioner shall then notify the complainant.

Action under
R.S.O. 1980,
c. 381

(4) For the purposes of this section a person who observes an incident shall be deemed to be a person directly affected by the incident.

Person
deemed
directly
affected

8.—(1) Upon receipt of a complaint, the person in charge of the Bureau may, with the consent of the Commissioner, reclassify any of the separate allegations within the complaint as an inquiry, and the complainant and the subject officer shall be notified forthwith.

Reclassifi-
cation
by Bureau
chief

(2) The person in charge of the Bureau shall determine whether any investigation is required in respect of an inquiry, and if it is, cause such investigation to be conducted, respond to the complainant in writing within sixty days of receipt of the complaint and forward a copy of the response to the Commissioner forthwith.

Response

(3) The person in charge of the Bureau may, during the course of an investigation under subsection (2), reclassify any of the separate allegations within the inquiry as a complaint, and the complainant, the subject officer and the Commissioner shall be notified forthwith.

Reclassifi-
cation
during
investigation

(4) No reference shall be made in the personal record of any police officer to an inquiry resolved in accordance with subsection (2).

Personal
record

9. The person in charge of the Bureau shall inform forthwith the subject officer of the substance of the complaint in the prescribed form, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint.

Police officer
to be
informed

10.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the complainant and the subject officer, may attempt to so resolve the complaint.

Informal
resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the complainant and the subject officer shall each signify in writing his agreement to such resolution.

Record of
informal
resolution

Copy of record to be furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Commissioner, the complainant and the subject officer.

Informal resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation.

Where complaint to continue

(5) Notwithstanding subsection (1), where the Commissioner is of the opinion that the informal resolution was obtained as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue and give reasons therefor in writing to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of decision

R.S.O. 1980, c. 224

(6) The decision of the Commissioner under subsection (5) shall be deemed to be made in the exercise of a statutory power of decision within the meaning of the *Judicial Review Procedure Act*.

Informal resolution by Commissioner

(7) A complaint may be resolved informally by the Commissioner in accordance with the procedures in this section at any time during the course of an investigation or review by the Commissioner.

No reference in personal record of subject officer

(8) No reference shall be made in the personal record of a subject officer to a complaint resolved under this section, except where misconduct has been admitted by the subject officer.

Investigation

11.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim reports

(2) The person in charge of the Bureau shall forward to the Commissioner, the complainant and the subject officer an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the complainant or the subject officer where, in his opinion, to do so might

adversely affect the investigation of the complaint or where there are no new matters to report, in which case the person in charge of the Bureau shall forthwith notify the Commissioner of the reasons for his decision.

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report in the prescribed form to be prepared and shall forward a copy thereof to the Commissioner, the chief of police, the complainant and the subject officer. Final report

(5) A final investigation report prepared under subsection (4) shall, Idem

- (a) contain a summary of the complaint and a description of the alleged misconduct by the subject officer;
- (b) contain a summary of the investigation and of information obtained from the complainant, the subject officer and witnesses, if any; and
- (c) contain a description and analysis of any physical evidence obtained.

(6) The Commissioner may, upon receipt of a final investigation report, request that the chief of police cause further investigation to be made into the complaint and the results of any such investigation shall be forwarded to the Commissioner. Further investigation at request of Commissioner

12.—(1) All complaints and inquiries shall be dealt with in accordance with this Act, and shall not be withdrawn except in accordance with this Act. Withdrawal of complaint

(2) A complainant may withdraw a complaint at any time by giving notice, in the prescribed form, to the person in charge of the Bureau, who shall forward a copy thereof to the Commissioner and the subject officer. Notice

(3) Notwithstanding subsection (2), where the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue, and give reasons therefor, in writing, to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act. Where to continue as complaint

Review of decision

R.S.O. 1980, c. 224

(4) The decision of the Commissioner to cause the complaint to continue shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Disciplinary action under R.S.O. 1980, c. 381

(5) Notwithstanding subsection (2), where a complaint has been withdrawn by a complainant, such withdrawal shall not prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder and the chief of police shall notify the Commissioner if any such action is taken and the result thereof.

Where complaint not to be dealt with

13.—(1) Where it appears to the chief of police that,

- (a) a complaint is frivolous, vexatious or made in bad faith;
- (b) a complaint is not within the jurisdiction of this Act; or
- (c) a complaint is one that could or should be more appropriately dealt with under an Act other than this Act,

the chief of police may decide that the complaint or any part thereof not be dealt with under this Act.

Notice

(2) The chief of police shall notify the Commissioner, the complainant and the subject officer of any decision made under subsection (1).

Disciplinary action under R.S.O. 1980, c. 381

(3) Notwithstanding subsection (1), the decision of the chief of police shall not prevent the chief from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder.

Review by Commissioner

(4) The complainant may, within thirty days of receiving notification under subsection (2), request the Commissioner to review the decision made under subsection (1), in which case all the provisions of this Act relating to a review by the Commissioner apply with necessary modifications.

Extension of time

(5) Notwithstanding subsection (4), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Powers and duties of chief of police

14.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he

considers advisable and may, unless he decides that no action is warranted,

- (a) cause an information alleging the commission of an offence by the subject officer to be laid and refer the matter to the Crown attorney for prosecution;
- (b) order that one or more of the allegations contained in the complaint be heard by a board of inquiry;
- (c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and
- (d) after giving the subject officer ten working days to reply, either orally or in writing, to the complaint, counsel or caution the subject officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any disciplinary proceedings under the *Police Act* or any hearing by a board of inquiry unless the presiding officer or the board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Hearing
not stayed

R.S.O. 1980,
c. 381

(3) A subject officer may within thirty days of the taking of any action under clause (1) (d), request the Commissioner to review the action, in which case all the provisions of this Act relating to a review by the Commissioner shall apply with necessary modifications.

Review by
Commis-
sioner

(4) Notwithstanding subsection (3), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Extension
of time

(5) Any action taken under clause (1) (d) shall be expunged from the personal record of the subject officer upon the expiration of a period of two years during which no other disciplinary action has been noted on the record.

Expunging
from
personal
record

(6) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Commissioner, the complainant and the subject officer and, where his decision is that no action is warranted or he has taken action under

Notice of
action taken

clause (1) (d), the chief of police shall give his reasons therefor.

Designation
by chief
of police

(7) The chief of police may designate any police officer of the rank of inspector or higher to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the police officer so designated.

Application
of s. 23
R.S.O. 1980,
c. 381

15.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 23 (6), (8), (13), (14) and (15) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of
decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Commissioner, the complainant and the subject officer.

Police officer
may appeal

16. Where a hearing referred to in subsection 15 (1) has been held and a penalty has been imposed upon a subject officer, the officer may appeal in accordance with the provisions of this Act and not as provided in the *Police Act* and the regulations thereunder.

R.S.O. 1980,
c. 381

Notice of
appeal

17.—(1) A notice of appeal under section 16 shall be served on the Commissioner and the chief of police within fifteen days after the subject officer receives notice of the penalty imposed, and the Commissioner shall notify the complainant forthwith.

Extension
of time

(2) Where a notice of appeal is filed after the time set out in subsection (1), the Commissioner shall assign, in accordance with the regulations, the matter to a member of the panel appointed on a recommendation made under subsection 4 (2) who may, if satisfied that there are reasonable grounds for doing so, extend the time for appealing and give such directions as he considers proper consequent upon the extension.

Commis-
sioner
may
investigate

18.—(1) Notwithstanding any other provision of this Act, the Commissioner may investigate the allegations in the complaint,

- (a) at any time after he receives the first interim report under subsection 11 (2) or the thirty-day period mentioned therein has expired;
- (b) upon the request of the chief of police; or
- (c) where he has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 11.

(2) A decision to take action under clause (1) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Review of decision

R.S.O. 1980, c. 224

(3) The Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an investigation under clause (1) (a) or (c) and shall give his reasons therefor in writing.

Notice to chief of police

(4) Where the Commissioner conducts an investigation under subsection (1), he shall forward to the complainant, the subject officer, the person in charge of the Bureau and the chief of police an interim report in the prescribed form providing a summary of the investigation to date, not later than thirty days after he has given notification of his intention to conduct an investigation, and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation, and upon the completion of his investigation he shall prepare a final investigation report and forward a copy thereof to the same persons.

Idem

(5) The chief of police, upon receipt of a final investigation report under subsection (4), shall review the report, together with any final investigation report prepared under subsection 11 (4), and shall make a decision in accordance with section 14 and shall notify all persons in accordance with subsection 14 (6).

Notice of action taken

(6) The Commissioner may designate any person appointed under subsection 3 (3) to exercise any of his powers and perform any of his duties under this Act, and the person so designated has the powers and the duties set out in the designation, and where any power is conditional upon the opinion of the Commissioner, the requisite opinion shall be that of the designated person.

Delegation

19.—(1) Where a complainant is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of a board of inquiry or with

Request for review

action taken by the chief of police under clause 14 (1) (d) or with a decision of the chief of police that no action is warranted, he may within thirty days of receipt of notification under subsection 14 (6) or 15 (2) request the Commissioner to review the matter.

Extension of time

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that there are reasonable grounds for granting an extension the Commissioner may extend the time for requesting a review.

Hearing may be ordered

(3) Where the Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by a board of inquiry if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(4) The Commissioner shall give forthwith written notice to the chief of police, the complainant and the subject officer of his decision under subsection (3) and, where his decision is to take no further action, shall give his reasons therefor.

Where appeal under s. 16

(5) Where a subject officer has appealed under section 16 a hearing ordered under subsection (3) shall be heard together with that appeal.

Powers on investigation or review

20.—(1) For the purposes of an investigation under section 18 or a review under section 19, the Commissioner may, where he has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on inquiry

R.S.O. 1980, c. 411

(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 such investigation or review as if it were an inquiry under that Act.

Appointment of person to make investigation or review

(3) The Commissioner may, in writing, appoint a person to make any investigation or review he is authorized to make and the person so appointed has all the powers and duties of the Commissioner relating to the investigation and the review.

Identification

(4) The Commissioner shall issue a certificate of appointment to any person appointed to make an investigation or review under subsection (3), which certificate shall contain a photograph of the person appointed, and the person appointed, while exercising any powers or performing any duties in

respect of the investigation or review, shall produce the certificate of appointment upon request.

(5) The person appointed to make an investigation or review shall report the results of his investigation or review to the Commissioner. Report

(6) No person shall obstruct the Commissioner or a person appointed by him to make an investigation or review or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation or review. Obstruction

(7) Where a justice of the peace is satisfied upon an *ex parte* application by the Commissioner or by a person appointed by him under subsection (3) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation or review, the justice of the peace may issue an order authorizing the person making the application, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes. Search warrant

(8) The Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (7) relating to the investigation or review and shall with reasonable dispatch cause to be made copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed. Removal of books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(10) The Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (7). Appointment of experts

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association. Report

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the Metropolitan Board of Commissioners of Police shall forward such report along with their comments and any comments submitted to them by the chief of police or the Metropolitan Toronto Police Association, to the Attorney General, the Solicitor General and the Commissioner.

Where board
of inquiry to
be
constituted

22.—(1) Where,

- (a) the chief of police has ordered that a matter be heard by a board of inquiry;
- (b) a police officer has appealed under section 16; or
- (c) the Commissioner has, under subsection 19 (3), ordered a hearing,

a board of inquiry shall be constituted in accordance with this section.

Assignment
to board
of inquiry

(2) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a minor nature, he shall assign, in accordance with the regulations, a member of the panel who was appointed on a recommendation made under subsection 4 (2) to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a serious nature, he shall assign, in accordance with the regulations, three members of the panel to conduct the hearing.

Constitution
of board
R.S.O. 1980,
c. 381

(4) Where, following a disciplinary hearing under the *Police Act* a board of inquiry is to be constituted, the board shall be constituted in accordance with subsection (3).

Who shall be
on board

(5) The chairman of a board of inquiry constituted under subsection (3) or (4) shall be a person appointed to the panel on a recommendation made under subsection 4 (2), one member shall be a person appointed to the panel on a recommendation made under subsection 4 (3) and one member shall be

a person appointed to the panel on a recommendation made under subsection 4 (4).

(6) The chief of police, where he has ordered a hearing, and the Commissioner, where he has ordered a hearing, shall provide the parties with a concise statement of the allegations of misconduct to be heard by the board. Statement of alleged misconduct

(7) Where, following a hearing referred to in subsection 15 (1), a board of inquiry has been constituted, the chief of police shall forward the record of that hearing, including the transcript, all documents, evidence and exhibits considered at that hearing, to the board. Record

(8) Where the Commissioner has ordered the hearing he shall pay the costs of preparing the record. Costs of record

23.—(1) The hearing before the board of inquiry shall be *de novo*, except where the chief of police has prepared a record under subsection 22 (7), in which case the hearing shall be on the record but the board may, in special circumstances, hear such evidence as the board considers advisable. When hearing *de novo* and when on record

(2) The parties to a hearing shall include, Parties

(a) the chief of police, in respect of appeals instituted by the subject officer under section 16; and

(b) the Attorney General, except where an appeal has been instituted by the subject officer under section 16.

(3) A party may be added by the board at any stage of the hearing upon such terms as the board considers proper. Adding parties

(4) The Attorney General, where he is a party to the hearing, has carriage of the matter. Attorney General to have carriage

(5) The board shall appoint a time for a hearing and give written notice thereof to the parties. Notice of hearing

(6) The subject officer and the complainant shall be afforded an opportunity to examine before the hearing any physical or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Opportunity to examine evidence

(7) The board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representa- Board not to communicate with party

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

Oral
evidence

(8) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Adjournment
for view

(9) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Only
members at
hearing to
participate
in decision

(10) No member of the board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Decision

(11) A decision of a member of a board of inquiry sitting alone and a decision of a majority of the members of a board comprising three members is a decision of the board.

Release of
documents

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

Police
officer not
required to
give
evidence
R.S.O. 1980,
c. 484

(13) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the subject officer shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or
admission not
admissible
in evidence

(14) Where the person in charge of the Bureau or the Commissioner attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the subject officer or by the complainant shall not be admitted in evidence at the hearing, except with the consent of the subject officer or the complainant, as the case may be.

Proof of
misconduct

(15) No finding of misconduct by the subject officer shall be made unless the misconduct is proved beyond a reasonable doubt.

(16) Where a board constituted under subsection 22 (2) finds the subject officer guilty of misconduct, it may, Imposition of penalty

- (a) direct that days off not exceeding five days be forfeited;
- (b) direct that pay not exceeding three days pay be forfeited; or
- (c) reprimand the police officer.

(17) Where a board constituted under subsection 22 (3) finds the subject officer guilty of misconduct, it may, Idem

- (a) dismiss the police officer from the Metropolitan Police Force, whereupon the officer is thereby dismissed;
- (b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;
- (c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;
- (d) direct that days off not exceeding twenty days be forfeited;
- (e) direct that pay not exceeding five days pay be forfeited; or
- (f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

(18) The board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the complainant, the subject officer, the Commissioner, the Solicitor General and the Attorney General. Notice of decision

(19) No reference to a hearing conducted by the board shall be made in the personal record of the subject officer unless the board has made a finding of misconduct. No reference to hearing

(20) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a subject officer in respect of a hearing conducted by a board and an appeal under section 24. Costs may be paid

Appeal

24.—(1) A party to a hearing by a board may appeal within thirty days of the decision of the board to the Divisional Court.

Solicitor General and Attorney General entitled to be heard

(2) The Solicitor General, and the Attorney General where he is not entitled to appeal under subsection (1), are entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

What may be appealed

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 23 (17), or on both the question and the penalty.

How notice, etc., may be served

25. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode.

Matters confidential

26.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except,

R.S.O. 1980, c. 381

- (a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder;
- (b) as may be required for the due enforcement of the law;
- (c) to his counsel; or
- (d) with the consent of the person to whom the matter relates.

Testimony

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

What is inadmissible in evidence

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a

disciplinary proceeding under the *Police Act* and the regulations thereunder.

(4) No oral statement, answer or admission referred to in subsections 23 (13) and (14) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder. Idem
R.S.O. 1980,
c. 381

27. Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to a board hearing. Application
of 1984,
c. 11, s. 146

28. The *Ombudsman Act* does not apply to anything done under this Act. R.S.O. 1980,
c. 325 does
not apply

29. The Attorney General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of this Act. Agreement
for
contributions

30. Any person who contravenes subsection 20 (6), subsection 26 (1) or section 27 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Offence

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

- (a) respecting the reporting and publication of decisions of boards of inquiry;
- (b) assigning duties to the Commissioner;
- (c) establishing a system that provides for the assignment of panel members on a rotational basis;
- (d) prescribing forms and providing for their use; and
- (e) prescribing any matter that by this Act is required to be or is referred to as prescribed.

32.—(1) There shall be a committee composed of, Advisory
committee

- (a) the Deputy Attorney General;
- (b) the Deputy Solicitor General;

- (c) the chairman of the Ontario Police Commission;
- (d) the Commissioner;
- (e) the Assistant Deputy Attorney General-Criminal Law; and
- (f) such other persons as may be jointly appointed by the Attorney General and the Solicitor General.

Duties

- (2) It is the duty of the committee,
- (a) to maintain under review the practice and procedures under this Act;
 - (b) to receive and consider matters brought to the attention of the committee by any person having an interest in the operation of the system for handling complaints under this Act;
 - (c) to make such recommendations as the committee considers appropriate for the improvement of the system for handling complaints; and
 - (d) to perform such other duties or functions as the committee may be requested to perform by the Attorney General or the Solicitor General.

Recommendations

- (3) Any recommendations made under clause (2) (c) shall be forwarded by the committee to both the Attorney General and the Solicitor General.

Recommendation of Attorney General

33. On or before the day that is three years after the day this Act comes into force, the Attorney General shall, after having reviewed the operation of the panel, the Board and the advisory committee referred to in sections 4 and 32 respectively, recommend to the Lieutenant Governor in Council whether those bodies should continue in existence or be terminated.

Repeal

34.—(1) The *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43, is repealed.

Proceedings continued under 1981, c. 43

(2) Notwithstanding subsection (1), the *Metropolitan Police Force Complaints Project Act, 1981* shall continue in force and apply to a complaint that is made before the day this Act comes into force, for the purpose of continuing the proceedings in respect of that complaint, but the proceedings at any Board hearing commenced after the day this Act comes into force shall be in accordance with the provisions of this Act.



35. This Act comes into force on the 21st day of December, 1984.

Commence-
ment



36. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Act, 1984*.

Short title

Bill 140

*(Chapter 63
Statutes of Ontario, 1984)*

An Act to revise the Metropolitan Police Force Complaints Project Act, 1981

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	November 13th, 1984
<i>2nd Reading</i>	December 7th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 140**1984**

**An Act to revise the Metropolitan Police Force
Complaints Project Act, 1981**

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,

Interpretation

- (a) "Bureau" means the Public Complaints Investigation Bureau;
- (b) "chief of police" means the chief of police of the Metropolitan Police Force;
- (c) "Commissioner" means the Public Complaints Commissioner appointed under this Act;
- (d) "complainant" means a member of the public who makes a complaint in accordance with the provisions of this Act;
- (e) "complaint" means an allegation or allegations, made orally or in writing, by a member of the public, concerning the misconduct of a police officer;
- (f) "inquiry" means an allegation or allegations concerning conduct of a police officer that does not amount to "misconduct";
- (g) "misconduct" means an act or omission on the part of a police officer that constitutes an offence under the Code of Offences set out in the Schedule to Regulation 791 of the Revised Regulations of Ontario, 1980, made under the *Police Act*;
- (h) "officer in charge" means the police officer who at any particular time, while on duty, is in charge of and responsible for, the proper functioning of a police facility;

R.S.O. 1980,
c. 381

- (i) "police officer" means a police officer on the Metropolitan Police Force;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Act;
- (l) "subject officer" means a police officer who is the subject of a complaint.

Application
of Act

2. This Act applies to complaints and inquiries made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

R.S.O. 1980,
c. 381

Appointment
of Public
Complaints
Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner, to hold office for a term not exceeding five years, to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Re-
appointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding, in each instance, five years.

Officers,
etc.

(3) Such officers and employees as are considered necessary from time to time for the purposes of this Act may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

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 by him under this Act.

Monitoring
handling of
complaints
and inquiries

(6) The Commissioner shall monitor the handling of complaints and inquiries by the Bureau and the chief of police.

Annual
report

(7) The Commissioner shall report annually on the affairs of his office to the Solicitor General and to the Attorney General and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Summary of
decisions

(8) The Commissioner shall cause to be prepared and published periodically a summary of the decisions, and the reasons therefor, made by the boards of inquiry under this Act.

(9) The accounts of the Commissioner shall be audited annually by the Provincial Auditor. Audit

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry. Panel for boards of inquiry

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General. Recommendations for appointment

(3) One-third of the members of the panel shall be persons, other than police officers, the appointment of whom the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association have jointly recommended in writing to the Attorney General. Idem

(4) One-third of the members of the panel shall be persons recommended by the council of The Municipality of Metropolitan Toronto to the Attorney General for appointment. Idem

(5) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years. Term

(6) Recommendations made under subsections (3) and (4) shall be submitted to the Attorney General within such time as he may specify. Idem

(7) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (4) of this section, respectively. Members of Police Complaints Board under 1981, c. 43
1981, c. 43

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau. Establishment of Bureau

Staff

(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints and inquiries.

Where complaints may be made

6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Commissioner.

Information

(2) The person who receives the complaint shall record the complaint in the prescribed form and shall furnish the complainant with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the complainant, together with a copy of the complaint.

Preliminary investigation

(3) Where a complaint is recorded at a police station, the officer in charge of the station shall take all reasonable steps to ensure that all available evidence is gathered that may be lost if not secured immediately and, if appropriate, ensure that such other preliminary investigation as may be warranted is conducted and that a report concerning such preliminary investigation is prepared and forwarded to the person in charge of the Bureau.

Copy of complaint

(4) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Commissioner a copy of the complaint.

Idem

(5) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Commissioner a copy of the complaint.

Idem

(6) Where a complaint is recorded at the office of the Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint.

Notification by Commissioner

7.—(1) Where a complaint is made by a person not directly affected by the incident, the Commissioner, as soon as practicable after receiving the complaint, shall in writing notify the person directly affected by the incident that a complaint has been made under this Act and advise him that he is entitled to be the complainant.

Where no action to be taken

(2) Where the person directly affected by the incident is not known or can not be found or does not, within thirty days of the date of the notification, file with the Commissioner a written request to be the complainant in the matter, no further action shall be taken under this Act in respect of such complaint.

(3) Nothing in subsection (2) shall prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder, and the chief of police shall notify the Commissioner if any such action is taken and the result thereof and either the chief of police or the Commissioner shall then notify the complainant.

Action under R.S.O. 1980, c. 381

(4) For the purposes of this section a person who observes an incident shall be deemed to be a person directly affected by the incident.

Person deemed directly affected

8.—(1) Upon receipt of a complaint, the person in charge of the Bureau may, with the consent of the Commissioner, reclassify any of the separate allegations within the complaint as an inquiry, and the complainant and the subject officer shall be notified forthwith.

Reclassification by Bureau chief

(2) The person in charge of the Bureau shall determine whether any investigation is required in respect of an inquiry, and if it is, cause such investigation to be conducted, respond to the complainant in writing within sixty days of receipt of the complaint and forward a copy of the response to the Commissioner forthwith.

Response

(3) The person in charge of the Bureau may, during the course of an investigation under subsection (2), reclassify any of the separate allegations within the inquiry as a complaint, and the complainant, the subject officer and the Commissioner shall be notified forthwith.

Reclassification during investigation

(4) No reference shall be made in the personal record of any police officer to an inquiry resolved in accordance with subsection (2).

Personal record

9. The person in charge of the Bureau shall inform forthwith the subject officer of the substance of the complaint in the prescribed form, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint.

Police officer to be informed

10.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the complainant and the subject officer, may attempt to so resolve the complaint.

Informal resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the complainant and the subject officer shall each signify in writing his agreement to such resolution.

Record of informal resolution

Copy of record to be furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Commissioner, the complainant and the subject officer.

Informal resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation.

Where complaint to continue

(5) Notwithstanding subsection (1), where the Commissioner is of the opinion that the informal resolution was obtained as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue and give reasons therefor in writing to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of decision

(6) The decision of the Commissioner under subsection (5) shall be deemed to be made in the exercise of a statutory power of decision within the meaning of the *Judicial Review Procedure Act*.

R.S.O. 1980, c. 224

Informal resolution by Commissioner

(7) A complaint may be resolved informally by the Commissioner in accordance with the procedures in this section at any time during the course of an investigation or review by the Commissioner.

No reference in personal record of subject officer

(8) No reference shall be made in the personal record of a subject officer to a complaint resolved under this section, except where misconduct has been admitted by the subject officer.

Investigation

11.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim reports

(2) The person in charge of the Bureau shall forward to the Commissioner, the complainant and the subject officer an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the complainant or the subject officer where, in his opinion, to do so might

adversely affect the investigation of the complaint or where there are no new matters to report, in which case the person in charge of the Bureau shall forthwith notify the Commissioner of the reasons for his decision.

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report in the prescribed form to be prepared and shall forward a copy thereof to the Commissioner, the chief of police, the complainant and the subject officer. Final report

(5) A final investigation report prepared under subsection (4) shall, Idem

- (a) contain a summary of the complaint and a description of the alleged misconduct by the subject officer;
- (b) contain a summary of the investigation and of information obtained from the complainant, the subject officer and witnesses, if any; and
- (c) contain a description and analysis of any physical evidence obtained.

(6) The Commissioner may, upon receipt of a final investigation report, request that the chief of police cause further investigation to be made into the complaint and the results of any such investigation shall be forwarded to the Commissioner. Further investigation at request of Commissioner

12.—(1) All complaints and inquiries shall be dealt with in accordance with this Act, and shall not be withdrawn except in accordance with this Act. Withdrawal of complaint

(2) A complainant may withdraw a complaint at any time by giving notice, in the prescribed form, to the person in charge of the Bureau, who shall forward a copy thereof to the Commissioner and the subject officer. Notice

(3) Notwithstanding subsection (2), where the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue, and give reasons therefor, in writing, to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act. Where to continue as complaint

Review of
decision

R.S.O. 1980,
c. 224

(4) The decision of the Commissioner to cause the complaint to continue shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Disciplinary
action under
R.S.O. 1980,
c. 381

(5) Notwithstanding subsection (2), where a complaint has been withdrawn by a complainant, such withdrawal shall not prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder and the chief of police shall notify the Commissioner if any such action is taken and the result thereof.

Where
complaint
not to be
dealt with

13.—(1) Where it appears to the chief of police that,

- (a) a complaint is frivolous, vexatious or made in bad faith;
- (b) a complaint is not within the jurisdiction of this Act; or
- (c) a complaint is one that could or should be more appropriately dealt with under an Act other than this Act,

the chief of police may decide that the complaint or any part thereof not be dealt with under this Act.

Notice

(2) The chief of police shall notify the Commissioner, the complainant and the subject officer of any decision made under subsection (1).

Disciplinary
action under
R.S.O. 1980,
c. 381

(3) Notwithstanding subsection (1), the decision of the chief of police shall not prevent the chief from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder.

Review by
Commis-
sioner

(4) The complainant may, within thirty days of receiving notification under subsection (2), request the Commissioner to review the decision made under subsection (1), in which case all the provisions of this Act relating to a review by the Commissioner apply with necessary modifications.

Extension
of time

(5) Notwithstanding subsection (4), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Powers and
duties of
chief of
police

14.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he

considers advisable and may, unless he decides that no action is warranted,

- (a) cause an information alleging the commission of an offence by the subject officer to be laid and refer the matter to the Crown attorney for prosecution;
- (b) order that one or more of the allegations contained in the complaint be heard by a board of inquiry;
- (c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and
- (d) after giving the subject officer ten working days to reply, either orally or in writing, to the complaint, counsel or caution the subject officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any disciplinary proceedings under the *Police Act* or any hearing by a board of inquiry unless the presiding officer or the board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Hearing
not stayed

R.S.O. 1980,
c. 381

(3) A subject officer may within thirty days of the taking of any action under clause (1) (d), request the Commissioner to review the action, in which case all the provisions of this Act relating to a review by the Commissioner shall apply with necessary modifications.

Review by
Commis-
sioner

(4) Notwithstanding subsection (3), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Extension
of time

(5) Any action taken under clause (1) (d) shall be expunged from the personal record of the subject officer upon the expiration of a period of two years during which no other disciplinary action has been noted on the record.

Expunging
from
personal
record

(6) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Commissioner, the complainant and the subject officer and, where his decision is that no action is warranted or he has taken action under

Notice of
action taken

clause (1) (d), the chief of police shall give his reasons therefor.

Designation
by chief
of police

(7) The chief of police may designate any police officer of the rank of inspector or higher to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the police officer so designated.

Application
of s. 23
R.S.O. 1980,
c. 381

15.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 23 (6), (8), (13), (14) and (15) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of
decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Commissioner, the complainant and the subject officer.

Police officer
may appeal

R.S.O. 1980,
c. 381

16. Where a hearing referred to in subsection 15 (1) has been held and a penalty has been imposed upon a subject officer, the officer may appeal in accordance with the provisions of this Act and not as provided in the *Police Act* and the regulations thereunder.

Notice of
appeal

17.—(1) A notice of appeal under section 16 shall be served on the Commissioner and the chief of police within fifteen days after the subject officer receives notice of the penalty imposed, and the Commissioner shall notify the complainant forthwith.

Extension
of time

(2) Where a notice of appeal is filed after the time set out in subsection (1), the Commissioner shall assign, in accordance with the regulations, the matter to a member of the panel appointed on a recommendation made under subsection 4 (2) who may, if satisfied that there are reasonable grounds for doing so, extend the time for appealing and give such directions as he considers proper consequent upon the extension.

Commis-
sioner
may
investigate

18.—(1) Notwithstanding any other provision of this Act, the Commissioner may investigate the allegations in the complaint,

- (a) at any time after he receives the first interim report under subsection 11 (2) or the thirty-day period mentioned therein has expired;
- (b) upon the request of the chief of police; or
- (c) where he has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 11.

(2) A decision to take action under clause (1) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Review of
decision

R.S.O. 1980,
c. 224

(3) The Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an investigation under clause (1) (a) or (c) and shall give his reasons therefor in writing.

Notice
to chief
of police

(4) Where the Commissioner conducts an investigation under subsection (1), he shall forward to the complainant, the subject officer, the person in charge of the Bureau and the chief of police an interim report in the prescribed form providing a summary of the investigation to date, not later than thirty days after he has given notification of his intention to conduct an investigation, and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation, and upon the completion of his investigation he shall prepare a final investigation report and forward a copy thereof to the same persons.

Idem

(5) The chief of police, upon receipt of a final investigation report under subsection (4), shall review the report, together with any final investigation report prepared under subsection 11 (4), and shall make a decision in accordance with section 14 and shall notify all persons in accordance with subsection 14 (6).

Notice of
action taken

(6) The Commissioner may designate any person appointed under subsection 3 (3) to exercise any of his powers and perform any of his duties under this Act, and the person so designated has the powers and the duties set out in the designation, and where any power is conditional upon the opinion of the Commissioner, the requisite opinion shall be that of the designated person.

Delegation

19.—(1) Where a complainant is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of a board of inquiry or with

Request
for review

action taken by the chief of police under clause 14 (1) (d) or with a decision of the chief of police that no action is warranted, he may within thirty days of receipt of notification under subsection 14 (6) or 15 (2) request the Commissioner to review the matter.

Extension of time

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that there are reasonable grounds for granting an extension the Commissioner may extend the time for requesting a review.

Hearing may be ordered

(3) Where the Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by a board of inquiry if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(4) The Commissioner shall give forthwith written notice to the chief of police, the complainant and the subject officer of his decision under subsection (3) and, where his decision is to take no further action, shall give his reasons therefor.

Where appeal under s. 16

(5) Where a subject officer has appealed under section 16 a hearing ordered under subsection (3) shall be heard together with that appeal.

Powers on investigation or review

20.—(1) For the purposes of an investigation under section 18 or a review under section 19, the Commissioner may, where he has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on inquiry

R.S.O. 1980, c. 411

(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 such investigation or review as if it were an inquiry under that Act.

Appointment of person to make investigation or review

(3) The Commissioner may, in writing, appoint a person to make any investigation or review he is authorized to make and the person so appointed has all the powers and duties of the Commissioner relating to the investigation and the review.

Identification

(4) The Commissioner shall issue a certificate of appointment to any person appointed to make an investigation or review under subsection (3), which certificate shall contain a photograph of the person appointed, and the person appointed, while exercising any powers or performing any duties in

respect of the investigation or review, shall produce the certificate of appointment upon request.

(5) The person appointed to make an investigation or review shall report the results of his investigation or review to the Commissioner. Report

(6) No person shall obstruct the Commissioner or a person appointed by him to make an investigation or review or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation or review. Obstruction

(7) Where a justice of the peace is satisfied upon an *ex parte* application by the Commissioner or by a person appointed by him under subsection (3) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation or review, the justice of the peace may issue an order authorizing the person making the application, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes. Search warrant

(8) The Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (7) relating to the investigation or review and shall with reasonable dispatch cause to be made copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed. Removal of books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(10) The Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (7). Appointment of experts

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association. Report

Idem (2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem (3) Within ninety days of receiving a report under subsection (1) or (2), the Metropolitan Board of Commissioners of Police shall forward such report along with their comments and any comments submitted to them by the chief of police or the Metropolitan Toronto Police Association, to the Attorney General, the Solicitor General and the Commissioner.

Where board
of inquiry to
be
constituted

22.—(1) Where,

- (a) the chief of police has ordered that a matter be heard by a board of inquiry;
- (b) a police officer has appealed under section 16; or
- (c) the Commissioner has, under subsection 19 (3), ordered a hearing,

a board of inquiry shall be constituted in accordance with this section.

Assignment
to board
of inquiry

(2) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a minor nature, he shall assign, in accordance with the regulations, a member of the panel who was appointed on a recommendation made under subsection 4 (2) to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a serious nature, he shall assign, in accordance with the regulations, three members of the panel to conduct the hearing.

Constitution
of board
R.S.O. 1980,
c. 381

(4) Where, following a disciplinary hearing under the *Police Act* a board of inquiry is to be constituted, the board shall be constituted in accordance with subsection (3).

Who shall be
on board

(5) The chairman of a board of inquiry constituted under subsection (3) or (4) shall be a person appointed to the panel on a recommendation made under subsection 4 (2), one member shall be a person appointed to the panel on a recommendation made under subsection 4 (3) and one member shall be

a person appointed to the panel on a recommendation made under subsection 4 (4).

(6) The chief of police, where he has ordered a hearing, and the Commissioner, where he has ordered a hearing, shall provide the parties with a concise statement of the allegations of misconduct to be heard by the board. Statement of alleged misconduct

(7) Where, following a hearing referred to in subsection 15 (1), a board of inquiry has been constituted, the chief of police shall forward the record of that hearing, including the transcript, all documents, evidence and exhibits considered at that hearing, to the board. Record

(8) Where the Commissioner has ordered the hearing he shall pay the costs of preparing the record. Costs of record

23.—(1) The hearing before the board of inquiry shall be *de novo*, except where the chief of police has prepared a record under subsection 22 (7), in which case the hearing shall be on the record but the board may, in special circumstances, hear such evidence as the board considers advisable. When hearing *de novo* and when on record

(2) The parties to a hearing shall include, Parties

(a) the chief of police, in respect of appeals instituted by the subject officer under section 16; and

(b) the Attorney General, except where an appeal has been instituted by the subject officer under section 16.

(3) A party may be added by the board at any stage of the hearing upon such terms as the board considers proper. Adding parties

(4) The Attorney General, where he is a party to the hearing, has carriage of the matter. Attorney General to have carriage

(5) The board shall appoint a time for a hearing and give written notice thereof to the parties. Notice of hearing

(6) The subject officer and the complainant shall be afforded an opportunity to examine before the hearing any physical or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Opportunity to examine evidence

(7) The board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representa- Board not to communicate with party

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

Oral
evidence

(8) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Adjournment
for view

(9) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Only
members at
hearing to
participate
in decision

(10) No member of the board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Decision

(11) A decision of a member of a board of inquiry sitting alone and a decision of a majority of the members of a board comprising three members is a decision of the board.

Release of
documents

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

Police
officer not
required to
give
evidence
R.S.O. 1980,
c. 484

(13) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the subject officer shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or
admission not
admissible
in evidence

(14) Where the person in charge of the Bureau or the Commissioner attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the subject officer or by the complainant shall not be admitted in evidence at the hearing, except with the consent of the subject officer or the complainant, as the case may be.

Proof of
misconduct

(15) No finding of misconduct by the subject officer shall be made unless the misconduct is proved beyond a reasonable doubt.

(16) Where a board constituted under subsection 22 (2) finds the subject officer guilty of misconduct, it may, Imposition of penalty

- (a) direct that days off not exceeding five days be forfeited;
- (b) direct that pay not exceeding three days pay be forfeited; or
- (c) reprimand the police officer.

(17) Where a board constituted under subsection 22 (3) finds the subject officer guilty of misconduct, it may, Idem

- (a) dismiss the police officer from the Metropolitan Police Force, whereupon the officer is thereby dismissed;
- (b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;
- (c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;
- (d) direct that days off not exceeding twenty days be forfeited;
- (e) direct that pay not exceeding five days pay be forfeited; or
- (f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

(18) The board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the complainant, the subject officer, the Commissioner, the Solicitor General and the Attorney General. Notice of decision

(19) No reference to a hearing conducted by the board shall be made in the personal record of the subject officer unless the board has made a finding of misconduct. No reference to hearing

(20) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a subject officer in respect of a hearing conducted by a board and an appeal under section 24. Costs may be paid

Appeal

24.—(1) A party to a hearing by a board may appeal within thirty days of the decision of the board to the Divisional Court.

Solicitor General and Attorney General entitled to be heard

(2) The Solicitor General, and the Attorney General where he is not entitled to appeal under subsection (1), are entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

What may be appealed

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 23 (17), or on both the question and the penalty.

How notice, etc., may be served

25. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode.

Matters confidential

26.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except,

R.S.O. 1980, c. 381

- (a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder;
- (b) as may be required for the due enforcement of the law;
- (c) to his counsel; or
- (d) with the consent of the person to whom the matter relates.

Testimony

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

What is inadmissible in evidence

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a

disciplinary proceeding under the *Police Act* and the regulations thereunder.

(4) No oral statement, answer or admission referred to in subsections 23 (13) and (14) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder. Idem
R.S.O. 1980,
c. 381

27. Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to a board hearing. Application
of 1984,
c. 11, s. 146

28. The *Ombudsman Act* does not apply to anything done under this Act. R.S.O. 1980,
c. 325 does
not apply

29. The Attorney General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of this Act. Agreement
for
contributions

30. Any person who contravenes subsection 20 (6), subsection 26 (1) or section 27 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Offence

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

- (a) respecting the reporting and publication of decisions of boards of inquiry;
- (b) assigning duties to the Commissioner;
- (c) establishing a system that provides for the assignment of panel members on a rotational basis;
- (d) prescribing forms and providing for their use; and
- (e) prescribing any matter that by this Act is required to be or is referred to as prescribed.

32.—(1) There shall be a committee composed of, Advisory
committee

- (a) the Deputy Attorney General;
- (b) the Deputy Solicitor General;

- (c) the chairman of the Ontario Police Commission;
- (d) the Commissioner;
- (e) the Assistant Deputy Attorney General-Criminal Law; and
- (f) such other persons as may be jointly appointed by the Attorney General and the Solicitor General.

Duties

- (2) It is the duty of the committee,
- (a) to maintain under review the practice and procedures under this Act;
 - (b) to receive and consider matters brought to the attention of the committee by any person having an interest in the operation of the system for handling complaints under this Act;
 - (c) to make such recommendations as the committee considers appropriate for the improvement of the system for handling complaints; and
 - (d) to perform such other duties or functions as the committee may be requested to perform by the Attorney General or the Solicitor General.

Recommendations

- (3) Any recommendations made under clause (2) (c) shall be forwarded by the committee to both the Attorney General and the Solicitor General.

Recommendation of Attorney General

33. On or before the day that is three years after the day this Act comes into force, the Attorney General shall, after having reviewed the operation of the panel, the Board and the advisory committee referred to in sections 4 and 32 respectively, recommend to the Lieutenant Governor in Council whether those bodies should continue in existence or be terminated.

Repeal

34.—(1) The *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43, is repealed.

Proceedings continued under 1981, c. 43

(2) Notwithstanding subsection (1), the *Metropolitan Police Force Complaints Project Act, 1981* shall continue in force and apply to a complaint that is made before the day this Act comes into force, for the purpose of continuing the proceedings in respect of that complaint, but the proceedings at any Board hearing commenced after the day this Act comes into force shall be in accordance with the provisions of this Act.

35. This Act comes into force on the 21st day of December, 1984. Commence-
ment

36. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Act, 1984*. Short title

Bill 142

An Act respecting the City of Barrie and the Township of Vespra

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading March 20th, 1984
2nd Reading March 20th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

The Bill provides for the annexation by the City of Barrie of certain lands situate in the Township of Vespra.

Among the principal features of the Bill are the following:

1. Certain described lands in the Township are annexed to the City on July 1st, 1984. (s. 2).
2. The assets and liabilities of the Township attributable to the annexed area become assets and liabilities of the City without compensation; provision is made for a committee of arbitrators to determine which of the assets and liabilities of the Township are attributable to the annexed area. (s. 3).
3. The City is not to apply for the annexation of any further lands in the Township before January 1st, 2012. (s. 4).
4. Unpaid taxes on the annexed lands may be collected by the City as though they had been imposed by it. (s. 5).
5. Provision is made for the application of City by-laws to the annexed lands and to deem the provisions of the Township's official plan pertaining to the annexed lands to be provisions of the City's official plan. (s. 7).
6. The Minister of Municipal Affairs and Housing is empowered to order, over a transitional period, that different rates of taxation be imposed on the lands annexed to the City and on the remainder of the City, than would otherwise be imposed. (s. 8).
7. Provision is made for the payment by the City to the Township and to the County of Simcoe of compensating grants for the loss of assessment caused by the annexation. (s. 9).
8. In 1984 the Township will levy and collect taxes on the annexed lands; the City will not levy any taxes on those lands until 1985. (s. 10).
9. In 1984 the Township shall pay the county and educational levies in the same amounts as would be payable if the lands in the annexed area had remained in the Township. (s. 11).
10. The Minister is empowered to grant financial assistance in the manner specified to the Township, the City and the County of Simcoe. (s. 12).
11. The head of the Township council or another member of council or a resident in the annexed area, as the Township council by by-law determines, becomes a member of the City council until the next regular election in 1985. (s. 13).
12. For the purposes of the next regular election to be held in 1985, the Minister is empowered to redivide the City into wards, taking into account the annexed lands, and may provide for the composition of the council of the City. (s. 14).

Bill 142

1984

**An Act respecting the City of Barrie and
the Township of Vespra**

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,

Interpretation

- (a) “annexed area” means the land annexed to the City of Barrie under section 2;
- (b) “City” means The Corporation of the City of Barrie;
- (c) “Minister” means the Minister of Municipal Affairs and Housing;
- (d) “Township” means The Corporation of the Township of Vespra.

2. On the 1st day of July, 1984, the portion of the Township of Vespra described in the Schedule is annexed to the City of Barrie.

Annexation
of part of
Vespra
to Barrie

3.—(1) All the assets and liabilities of the Township attributable on the 1st day of July, 1984, to the annexed area become assets and liabilities of the City without compensation.

Assets and
liabilities

(2) The Minister may appoint a committee of arbitrators for the purpose of determining the assets and liabilities, including reserve funds, of the Township attributable to the annexed area.

Committee of
arbitrators

(3) The committee shall consist of the treasurer of the City, the treasurer of the Township and such other person or persons as the Minister may appoint.

Composition

Determination of assets and liabilities

(4) The committee shall make a determination of the assets and liabilities, including reserve funds attributable to the annexed area, together with the determination of any financial adjustments that may be necessary.

Notification of determination

(5) The committee shall notify the clerk of the City, the clerk of the Township and the Ontario Municipal Board of the determination made under subsection (4), and, unless the council of either municipality informs the Board in writing within thirty days of the notification that it objects to such determination, the determination shall be given effect to by order of the Board.

Determination of O.M.B.

(6) Where objection is made to the Ontario Municipal Board under subsection (5), the Board may by order make all such adjustments of assets and liabilities as between the Township and the City as the Board may consider equitable, and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made under this subsection.

R.S.O. 1980, c. 347

Annexation of further lands

4. The City shall not apply for the annexation of any further lands in the Township of Vespra before the 1st day of January, 1984, unless the Township agrees to such annexation.

Unpaid taxes

5.—(1) All taxes levied under any general or special Act and uncollected in the annexed area which are due and unpaid on the 31st day of December, 1984, shall after that date be taxes due and payable to the City and may be collected and recovered by the City as if the taxes had been imposed by the City.

Special roll

(2) The clerk of the Township shall forthwith after the 31st day of December, 1984 prepare and furnish to the clerk of the City a special collector's roll showing all arrears of taxes or special rates assessed against the lands in the annexed area up to the 31st day of December, 1984, and the persons assessed therefor.

Trans-Canada Pipe Line

6. Notwithstanding that any portion of the Trans-Canada Pipe Line is situate within the annexed area, for assessment and taxation purposes, that portion of the Pipe Line situate in the Township of Vespra immediately before the annexation provided for in section 2, shall be deemed to continue to be situate in the Township of Vespra.

By-laws

7.—(1) On and after the 1st day of July, 1984, the by-laws of the City extend to the annexed area and the by-laws of the Township cease to apply to such area, except by-laws relating to highways and by-laws passed by the Township under sec-

tion 34 of the *Planning Act, 1983* or a predecessor of that section which shall remain in force until amended or repealed by the council of the City, and except by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council of the Township. 1983, c. 1

(2) On and after the 1st day of July, 1984, By-law No. 83-15 of the Township, in so far as it applies to the annexed area, shall be deemed to be a by-law of the City and to have been submitted to the Ontario Municipal Board for approval. Zoning by-law of Township deemed by-law of City

(3) The provisions of the official plan of the Township as they pertain to the annexed area shall be deemed to be provisions of the official plan of the City. Official plan

(4) The Minister shall remain seized of the portions of the official plan submitted to the Minister by the Township for approval that pertain to the annexed area and that as of the 1st day of July, 1984 have not been approved by the Minister and when and if such additional portions are approved they shall be deemed to be provisions of the official plan of the City. Deferred portions of official plan

8.—(1) Notwithstanding any general or special Act, the Minister may provide at any time by order, that in the years 1985, 1986, 1987 and 1988 and in the manner specified in the order, the council of the City shall levy and impose on the whole of the annexed area and on the whole of the remainder of the City rates of taxation for general purposes and rates and charges for special purposes that are different than the rates and charges that would have been levied or imposed for such purposes but for the provisions of this section. Rates of taxation

(2) An order made under subsection (1) may provide for rates of taxation for general purposes and rates and charges for special purposes in defined areas of the annexed area lower than the rates generally applicable in the City to reflect the extent to which the annexed area does not receive City services, and the rates may vary among the defined areas. Idem

9. The City shall pay to the Township and to the County of Simcoe, as compensation for any loss of assessment caused by the annexation provided for in section 2, such amount and in such manner as the Minister determines and in making his determination, the Minister shall have regard to the loss of assessment, the impact on grants under the *Ontario Unconditional Grants Act*, and such other matters as the Minister may consider appropriate. Compensation for loss of assessment

Taxes

10. In the year 1984 the Township shall levy, collect and retain taxes on the lands in the annexed area and the City shall not levy or collect any taxes on the lands in the annexed area until the year 1985.

County
levy, etc.

11. The Township shall, in 1984, pay the levy for county purposes and the amounts required by law to be provided for school purposes and such amounts as may be levied by boards or commissions directly on the Township, in the amounts that would have been paid if the lands in the annexed area had remained in the Township of Vespra for the whole of that year, and the Minister may take into account the moneys so paid when determining the amount of any grants under section 12.

Grants

12.—(1) The Minister may, by order, provide for the payment of grants to the Township or to the City or to the County of Simcoe under such terms and conditions as the Minister considers appropriate.

Moneys

(2) The moneys required for the purposes of subsection (1) shall, until the 31st day of March, 1985, be paid out of the Consolidated Revenue Fund, and thereafter out of the moneys appropriated therefor by the Legislature.

Member of
City council

13.—(1) The council of the Township may, by by-law passed within sixty days of the coming into force of this Act, designate the head of the council or such other member of council or a person who is a resident in the annexed area who is qualified to be a member of the Township council as the by-law appoints as a member of the council of the City and the person appointed shall hold office for the remainder of the term of the present City council and is entitled to receive all such remuneration as is payable to a regular member of the City council.

Application
of
1983, c. 8.

(2) A member of the council of the Township who is also a member of the council of the City under subsection (1), does not, by reason only of being a member of both councils, have an indirect pecuniary interest for the purposes of the *Municipal Conflict of Interest Act, 1983* in respect of any matter that is the subject of consideration by either council. ▲

Redivision
of wards

14.—(1) For the purposes of the general election to be held in 1985, the Minister may, by order, redivide the City into wards taking into consideration the land annexed to the City by section 2 and such wards shall remain in effect until altered by the Ontario Municipal Board.

(2) An order made under subsection (1) may provide for the composition of the council of the City which composition shall remain in effect until altered in accordance with the provisions of the *Municipal Act*, and may provide that the composition of council shall be deemed to have been provided for by by-law of the City.

Composition
of council

R.S.O. 1980,
c. 302

15. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that in the opinion of the Minister are necessary or advisable to carry out effectively the purposes or intent of this Act.

Powers of
L.G. in C.

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

Commence-
ment

17. The short title of this Act is the *Barrie-Vespra Annexation Act, 1984*.

Short title

SCHEDULE

Commencing at the intersection of the southerly boundary of the Township of Vespra and the westerly boundary of the City of Barrie;

Thence westerly along the southerly boundary of the said Township to a point distant 105 metres measured westerly therealong from the centre line of the road allowance between concessions VII and VIII;

Thence northerly 61 metres to the southeasterly angle of Part 1 as shown on a Plan deposited in the Land Registry Office for the Registry Division of Simcoe (No. 51) as Number 51R-8915;

Thence north 31° 58' west along the easterly limit of the said Part 167.64 metres to the northeasterly angle of the said Part;

Thence north 31° 58' west 90.5 metres more or less to a point distant 156.17 metres measured south 31° 58' east from the line between the northerly and southerly halves of Lot 24 in Concession VIII;

Thence south 58° 59' west 50 metres more or less to an angle in Part 1 as shown on a Plan deposited in the said Registry Office as Number 51R-3074;

Thence north 31° 58' west along an easterly limit of the said Part 107.41 metres to an angle in the said Part 1;

Thence north 58° 59' east along a limit of the said Part 80.54 metres to the westerly limit of Part 3 as shown on the said Plan Number 51R-3074;

Thence north 31° 58' west along the westerly limit of parts 3 and 2 as shown on the said Plan 48.77 metres to the line between the northerly and southerly halves of Lot 24 in Concession VIII;

Thence south 58° 59' west along the said line 15.25 metres to the easterly angle of Part 3 as shown on a Plan deposited in the said Registry Office as Number 51R-4226;

Thence north $31^{\circ} 58' 50''$ west along the easterly limit of the said Part 59.66 metres to the northeasterly angle of the said Part;

Thence north $70^{\circ} 12'$ east along the southerly limit of Part 8 as shown on the said Plan 36.88 metres to a point;

Thence north $31^{\circ} 58'$ west crossing the lands of Ontario Hydro 51.45 metres to an easterly angle of Part 1 as shown on the said Plan;

Thence north $19^{\circ} 45' 10''$ west 63.3 metres to a point on a limit of the said Part 1;

Thence south $70^{\circ} 14' 50''$ west 24.38 metres more or less to an angle in the said Part;

Thence north $20^{\circ} 10' 40''$ west along a limit of the said Part 42 metres to an angle in the said Part;

Thence south $69^{\circ} 41' 50''$ west along a limit of the said Part 15.19 metres to an angle in the said Part;

Thence north $20^{\circ} 18' 10''$ west 70.25 metres to a point on a limit of the said Part;

Thence south $70^{\circ} 14' 50''$ west along a limit of the said Part 21.3 metres more or less to an angle in the said Part;

Thence north $20^{\circ} 15' 10''$ west 135.94 metres to a point on a limit of the said Part;

Thence south $69^{\circ} 56' 40''$ west 26.2 metres more or less to an angle in the said Part;

Thence north $20^{\circ} 12' 10''$ west along a limit of the said Part 65.51 metres to a point;

Thence south $69^{\circ} 47' 30''$ west along a limit of the said Part 11.84 metres to a point;

Thence north $20^{\circ} 11' 30''$ west 77.91 metres to a limit of the said Part;

Thence south $70^{\circ} 14' 50''$ west 18.9 metres more or less to an angle in the said Part;

Thence northwesterly following the easterly limits of the said Part to the intersection of easterly limit of the Trans Canada Pipeline and the northerly angle of the said Part 1;

Thence north $31^{\circ} 52' 30''$ west 26.04 metres to an angle in the said Plan Number 51R-4226;

Thence north $57^{\circ} 30'$ east to and along the southerly limit of Part 10 as shown on the said Plan 121.92 metres to the easterly limit of Lot 23 in Concession VIII;

Thence north $31^{\circ} 52' 30''$ west along the said easterly limit 20.44 metres to the northeasterly angle of the said Lot;

Thence northerly along the easterly limit of Lot 22 in Concession VIII to the northeasterly angle of the said Lot;

Thence easterly to and along the northerly limit of Lot 22 in Concession VII to the easterly limit of the Trans Canada Pipeline as shown on a Plan

registered in the said Registry Office as Routine Pipeline Plan Number 131530;

Thence northerly along the easterly limit of the said Pipeline to the westerly limit of the easterly half of Lot 20 in Concession VII;

Thence northerly along the said westerly limit to the northerly limit of the said Lot;

Thence easterly along the southerly limit of Lot 19 in concessions VII and VI to the easterly limit of the westerly half of Lot 19 in Concession VI;

Thence northerly along the said easterly limit to the southerly limit of the Trans Canada Pipeline as shown on a Plan registered in the said Registry Office as Number 131529;

Thence easterly along the southerly limit of the said Pipeline to the easterly limit of the said Lot 19 in Concession VI;

Thence northerly along the easterly limit of the said Lot to the northeasterly angle of the said Lot;

Thence easterly to and along the northerly limit of the westerly half of Lot 19 in Concession V to the westerly limit of the easterly half of Lot 18 in Concession V;

Thence northerly along the said westerly limit to a point distant 208.59 metres measured southerly therealong from the northerly limit of the easterly half of the said Lot 18;

Thence easterly to the southwesterly angle of Part 1 as shown on a Plan deposited in the said Registry Office as Number 51R-12176;

Thence easterly along the southerly limit of the said Part 182.9 metres to the westerly limit of the King's Highway Number 27;

Thence easterly to a point on the westerly limit of Lot 18 in Concession III distant 200 metres measured southerly therealong from the northwesterly angle of the said Lot;

Thence southerly along the said westerly limit to the southwesterly angle of the said Lot 18;

Thence easterly along the southerly limit of the westerly half of Lot 18 in Concession III to the line between the east and west halves of Concession III;

Thence southerly along the said line to a point distant 179.96 metres measured northerly therealong from the southwesterly angle of the easterly half of Lot 20 in Concession III;

Thence easterly and parallel with the southerly limit of the said easterly half of Lot 20, 44.99 metres to a point;

Thence southerly and parallel with the westerly limit of the said half of Lot 20, 179.96 metres to the northerly limit of the road allowance between lots 20 and 21;

Thence easterly along the northerly limit of the said road allowance to the westerly high water mark of Little Lake;

Thence easterly along the southerly high water mark of the said Lake, including docks or extremities, to the northerly limit of Lot 6 in Concession I W.P.R.;


Thence easterly along the northerly limit of the said Lot 6 to the easterly limit of the King's Highway Number 400;

Thence southerly along the easterly limit of the said Highway 59.3 metres to the easterly limit of the said Plan Number 302;

Thence southerly along the said easterly limit to intersect a line parallel with and distant 57.91 metres measured northerly at right angles from the southerly limit of the said Lot 6.

Thence easterly along the said parallel line to the easterly boundary of the Township of Vespra;

Thence southerly along the said easterly boundary to the northerly boundary of the City of Barrie;

Thence westerly following the boundaries between the City of Barrie and the Township of Vespra to the place of commencement. 



Bill 142

*(Chapter 41
Statutes of Ontario, 1984)*

An Act respecting the City of Barrie and the Township of Vespra

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	March 20th, 1984
<i>2nd Reading</i>	March 20th, 1984
<i>3rd Reading</i>	June 27th, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 142

1984

**An Act respecting the City of Barrie and
the Township of Vespra**

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,

Interpretation

- (a) “annexed area” means the land annexed to the City of Barrie under section 2;
- (b) “City” means The Corporation of the City of Barrie;
- (c) “Minister” means the Minister of Municipal Affairs and Housing;
- (d) “Township” means The Corporation of the Township of Vespra.

2. On the 1st day of July, 1984, the portion of the Township of Vespra described in the Schedule is annexed to the City of Barrie.

Annexation
of part of
Vespra
to Barrie

3.—(1) All the assets and liabilities of the Township attributable on the 1st day of July, 1984, to the annexed area become assets and liabilities of the City without compensation.

Assets and
liabilities

(2) The Minister may appoint a committee of arbitrators for the purpose of determining the assets and liabilities, including reserve funds, of the Township attributable to the annexed area.

Committee of
arbitrators

(3) The committee shall consist of the treasurer of the City, the treasurer of the Township and such other person or persons as the Minister may appoint.

Composition

Determi-
nation
of assets and
liabilities

(4) The committee shall make a determination of the assets and liabilities, including reserve funds attributable to the annexed area, together with the determination of any financial adjustments that may be necessary.

Notification
of determi-
nation

(5) The committee shall notify the clerk of the City, the clerk of the Township and the Ontario Municipal Board of the determination made under subsection (4), and, unless the council of either municipality informs the Board in writing within thirty days of the notification that it objects to such determination, the determination shall be given effect to by order of the Board.

Determi-
nation
of O.M.B.

(6) Where objection is made to the Ontario Municipal Board under subsection (5), the Board may by order make all such adjustments of assets and liabilities as between the Township and the City as the Board may consider equitable, and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made under this subsection.

R.S.O. 1980,
c. 347

Annexation
of further
lands

4. The City shall not apply for the annexation of any further lands in the Township of Vespra before the 1st day of January, 2012, unless the Township agrees to such annexation.

Unpaid taxes

5.—(1) All taxes levied under any general or special Act and uncollected in the annexed area which are due and unpaid on the 31st day of December, 1984, shall after that date be taxes due and payable to the City and may be collected and recovered by the City as if the taxes had been imposed by the City.

Special roll

(2) The clerk of the Township shall forthwith after the 31st day of December, 1984 prepare and furnish to the clerk of the City a special collector's roll showing all arrears of taxes or special rates assessed against the lands in the annexed area up to the 31st day of December, 1984, and the persons assessed therefor.

Trans-
Canada
Pipe Line

6. Notwithstanding that any portion of the Trans-Canada Pipe Line is situate within the annexed area, for assessment and taxation purposes, that portion of the Pipe Line situate in the Township of Vespra immediately before the annexation provided for in section 2, shall be deemed to continue to be situate in the Township of Vespra.

By-laws

7.—(1) On and after the 1st day of July, 1984, the by-laws of the City extend to the annexed area and the by-laws of the Township cease to apply to such area, except by-laws relating to highways and by-laws passed by the Township under sec-

tion 34 of the *Planning Act, 1983* or a predecessor of that section which shall remain in force until amended or repealed by the council of the City, and except by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council of the Township. 1983. c. 1

(2) On and after the 1st day of July, 1984, By-law No. 83-15 of the Township, in so far as it applies to the annexed area, shall be deemed to be a by-law of the City and to have been submitted to the Ontario Municipal Board for approval. Zoning by-law of Township deemed by-law of City

(3) The provisions of the official plan of the Township as they pertain to the annexed area shall be deemed to be provisions of the official plan of the City. Official plan

(4) The Minister shall remain seized of the portions of the official plan submitted to the Minister by the Township for approval that pertain to the annexed area and that as of the 1st day of July, 1984 have not been approved by the Minister and when and if such additional portions are approved they shall be deemed to be provisions of the official plan of the City. Deferred portions of official plan

8.—(1) Notwithstanding any general or special Act, the Minister may provide at any time by order, that in the years 1985, 1986, 1987 and 1988 and in the manner specified in the order, the council of the City shall levy and impose on the whole of the annexed area and on the whole of the remainder of the City rates of taxation for general purposes and rates and charges for special purposes that are different than the rates and charges that would have been levied or imposed for such purposes but for the provisions of this section. Rates of taxation

(2) An order made under subsection (1) may provide for rates of taxation for general purposes and rates and charges for special purposes in defined areas of the annexed area lower than the rates generally applicable in the City to reflect the extent to which the annexed area does not receive City services, and the rates may vary among the defined areas. Idem

9. The City shall pay to the Township and to the County of Simcoe, as compensation for any loss of assessment caused by the annexation provided for in section 2, such amount and in such manner as the Minister determines and in making his determination, the Minister shall have regard to the loss of assessment, the impact on grants under the *Ontario Unconditional Grants Act*, and such other matters as the Minister may consider appropriate. Compensation for loss of assessment

R.S.O. 1980, c. 359

Taxes

10. In the year 1984 the Township shall levy, collect and retain taxes on the lands in the annexed area and the City shall not levy or collect any taxes on the lands in the annexed area until the year 1985.

County
levy, etc.

11. The Township shall, in 1984, pay the levy for county purposes and the amounts required by law to be provided for school purposes and such amounts as may be levied by boards or commissions directly on the Township, in the amounts that would have been paid if the lands in the annexed area had remained in the Township of Vespra for the whole of that year, and the Minister may take into account the moneys so paid when determining the amount of any grants under section 12.

Grants

12.—(1) The Minister may, by order, provide for the payment of grants to the Township or to the City or to the County of Simcoe under such terms and conditions as the Minister considers appropriate.

Moneys

(2) The moneys required for the purposes of subsection (1) shall, until the 31st day of March, 1985, be paid out of the Consolidated Revenue Fund, and thereafter out of the moneys appropriated therefor by the Legislature.

Member of
City council

13.—(1) The council of the Township may, by by-law passed within sixty days of the coming into force of this Act, designate the head of the council or such other member of council or a person who is a resident in the annexed area who is qualified to be a member of the Township council as the by-law appoints as a member of the council of the City and the person appointed shall hold office for the remainder of the term of the present City council and is entitled to receive all such remuneration as is payable to a regular member of the City council.

Application
of
1983, c. 8.

(2) A member of the council of the Township who is also a member of the council of the City under subsection (1), does not, by reason only of being a member of both councils, have an indirect pecuniary interest for the purposes of the *Municipal Conflict of Interest Act, 1983* in respect of any matter that is the subject of consideration by either council.

Redivision
of wards

14.—(1) For the purposes of the general election to be held in 1985, the Minister may, by order, redivide the City into wards taking into consideration the land annexed to the City by section 2 and such wards shall remain in effect until altered by the Ontario Municipal Board.

(2) An order made under subsection (1) may provide for the composition of the council of the City which composition shall remain in effect until altered in accordance with the provisions of the *Municipal Act*, and may provide that the composition of council shall be deemed to have been provided for by by-law of the City.

Composition
of council

R.S.O. 1980,
c. 302

15. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that in the opinion of the Minister are necessary or advisable to carry out effectively the purposes or intent of this Act.

Powers of
L.G. in C.

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

Commence-
ment

17. The short title of this Act is the *Barrie-Vespra Annexation Act, 1984*.

Short title

SCHEDULE

Commencing at the intersection of the southerly boundary of the Township of Vespra and the westerly boundary of the City of Barrie;

Thence westerly along the southerly boundary of the said Township to a point distant 105 metres measured westerly therealong from the centre line of the road allowance between concessions VII and VIII;

Thence northerly 61 metres to the southeasterly angle of Part 1 as shown on a Plan deposited in the Land Registry Office for the Registry Division of Simcoe (No. 51) as Number 51R-8915;

Thence north 31° 58' west along the easterly limit of the said Part 167.64 metres to the northeasterly angle of the said Part;

Thence north 31° 58' west 90.5 metres more or less to a point distant 156.17 metres measured south 31° 58' east from the line between the northerly and southerly halves of Lot 24 in Concession VIII;

Thence south 58° 59' west 50 metres more or less to an angle in Part 1 as shown on a Plan deposited in the said Registry Office as Number 51R-3074;

Thence north 31° 58' west along an easterly limit of the said Part 107.41 metres to an angle in the said Part 1;

Thence north 58° 59' east along a limit of the said Part 80.54 metres to the westerly limit of Part 3 as shown on the said Plan Number 51R-3074;

Thence north 31° 58' west along the westerly limit of parts 3 and 2 as shown on the said Plan 48.77 metres to the line between the northerly and southerly halves of Lot 24 in Concession VIII;

Thence south 58° 59' west along the said line 15.25 metres to the easterly angle of Part 3 as shown on a Plan deposited in the said Registry Office as Number 51R-4226;

Thence north $31^{\circ} 58' 50''$ west along the easterly limit of the said Part 59.66 metres to the northeasterly angle of the said Part;

Thence north $70^{\circ} 12'$ east along the southerly limit of Part 8 as shown on the said Plan 36.88 metres to a point;

Thence north $31^{\circ} 58'$ west crossing the lands of Ontario Hydro 51.45 metres to an easterly angle of Part 1 as shown on the said Plan;

Thence north $19^{\circ} 45' 10''$ west 63.3 metres to a point on a limit of the said Part 1;

Thence south $70^{\circ} 14' 50''$ west 24.38 metres more or less to an angle in the said Part;

Thence north $20^{\circ} 10' 40''$ west along a limit of the said Part 42 metres to an angle in the said Part;

Thence south $69^{\circ} 41' 50''$ west along a limit of the said Part 15.19 metres to an angle in the said Part;

Thence north $20^{\circ} 18' 10''$ west 70.25 metres to a point on a limit of the said Part;

Thence south $70^{\circ} 14' 50''$ west along a limit of the said Part 21.3 metres more or less to an angle in the said Part;

Thence north $20^{\circ} 15' 10''$ west 135.94 metres to a point on a limit of the said Part;

Thence south $69^{\circ} 56' 40''$ west 26.2 metres more or less to an angle in the said Part;

Thence north $20^{\circ} 12' 10''$ west along a limit of the said Part 65.51 metres to a point;

Thence south $69^{\circ} 47' 30''$ west along a limit of the said Part 11.84 metres to a point;

Thence north $20^{\circ} 11' 30''$ west 77.91 metres to a limit of the said Part;

Thence south $70^{\circ} 14' 50''$ west 18.9 metres more or less to an angle in the said Part;

Thence northwesterly following the easterly limits of the said Part to the intersection of easterly limit of the Trans Canada Pipeline and the northerly angle of the said Part 1;

Thence north $31^{\circ} 52' 30''$ west 26.04 metres to an angle in the said Plan Number 51R-4226;

Thence north $57^{\circ} 30'$ east to and along the southerly limit of Part 10 as shown on the said Plan 121.92 metres to the easterly limit of Lot 23 in Concession VIII;

Thence north $31^{\circ} 52' 30''$ west along the said easterly limit 20.44 metres to the northeasterly angle of the said Lot;

Thence northerly along the easterly limit of Lot 22 in Concession VIII to the northeasterly angle of the said Lot;

Thence easterly to and along the northerly limit of Lot 22 in Concession VII to the easterly limit of the Trans Canada Pipeline as shown on a Plan

registered in the said Registry Office as Routine Pipeline Plan Number 131530;

Thence northerly along the easterly limit of the said Pipeline to the westerly limit of the easterly half of Lot 20 in Concession VII;

Thence northerly along the said westerly limit to the northerly limit of the said Lot;

Thence easterly along the southerly limit of Lot 19 in concessions VII and VI to the easterly limit of the westerly half of Lot 19 in Concession VI;

Thence northerly along the said easterly limit to the southerly limit of the Trans Canada Pipeline as shown on a Plan registered in the said Registry Office as Number 131529;

Thence easterly along the southerly limit of the said Pipeline to the easterly limit of the said Lot 19 in Concession VI;

Thence northerly along the easterly limit of the said Lot to the northeasterly angle of the said Lot;

Thence easterly to and along the northerly limit of the westerly half of Lot 19 in Concession V to the westerly limit of the easterly half of Lot 18 in Concession V;

Thence northerly along the said westerly limit to a point distant 208.59 metres measured southerly therealong from the northerly limit of the easterly half of the said Lot 18;

Thence easterly to the southwesterly angle of Part 1 as shown on a Plan deposited in the said Registry Office as Number 51R-12176;

Thence easterly along the southerly limit of the said Part 182.9 metres to the westerly limit of the King's Highway Number 27;

Thence easterly to a point on the westerly limit of Lot 18 in Concession III distant 200 metres measured southerly therealong from the northwesterly angle of the said Lot;

Thence southerly along the said westerly limit to the southwesterly angle of the said Lot 18;

Thence easterly along the southerly limit of the westerly half of Lot 18 in Concession III to the line between the east and west halves of Concession III;

Thence southerly along the said line to a point distant 179.96 metres measured northerly therealong from the southwesterly angle of the easterly half of Lot 20 in Concession III;

Thence easterly and parallel with the southerly limit of the said easterly half of Lot 20, 44.99 metres to a point;

Thence southerly and parallel with the westerly limit of the said half of Lot 20, 179.96 metres to the northerly limit of the road allowance between lots 20 and 21;

Thence easterly along the northerly limit of the said road allowance to the westerly high water mark of Little Lake;

Thence easterly along the southerly high water mark of the said Lake, including docks or extremities, to the northerly limit of Lot 6 in Concession I W.P.R.;

Thence easterly along the northerly limit of the said Lot 6 to the easterly limit of the King's Highway Number 400;

Thence southerly along the easterly limit of the said Highway 59.3 metres to the easterly limit of the said Plan Number 302;

Thence southerly along the said easterly limit to intersect a line parallel with and distant 57.91 metres measured northerly at right angles from the southerly limit of the said Lot 6.

Thence easterly along the said parallel line to the easterly boundary of the Township of Vespra;

Thence southerly along the said easterly boundary to the northerly boundary of the City of Barrie;

Thence westerly following the boundaries between the City of Barrie and the Township of Vespra to the place of commencement.

Bill 143

An Act to amend the Law Society Act

The Hon. R. McMurtry
Attorney General

1st Reading November 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Subsection 12 (1) of the Act sets out nine classes of *ex officio* benchers. Subsections 12 (2) and (3) provide that only the persons in the class described in paragraph 3 of subsection 12 (1) have the right to vote in Convocation or in a committee. The subsections as re-enacted will extend the right to vote to those in five of the nine classes of *ex officio* benchers.

SECTION 2. Subsection 14 (1) of the Act states that every member who is or has been Treasurer of the Society is an *ex officio* bencher. The effect of subsection 14 (2) of the Act is that such an *ex officio* bencher ceases to have the right to vote in Convocation or a committee upon attaining the age of seventy-five years.

SECTION 3. Section 24 of the Act relates to a quorum of benchers in Convocation. The section is re-enacted to fix the quorum at twelve benchers for all business.

SECTION 4. The section preserves the current provisions in the event that a discipline proceeding is before Convocation on the day the amendments take effect.

Bill 143

1984

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. Subsections 12 (2) and (3) of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(2) An *ex officio* benchler under paragraph 1, 2, 4 or 5 of subsection (1) has all the rights and privileges prescribed by the rules, other than the right to vote in Convocation or in a committee. Rights and privileges

(3) An *ex officio* benchler under paragraph 3, 6, 7, 8 or 9 of subsection (1) has all the rights and privileges prescribed by the rules, including the right to vote in Convocation and in a committee. Idem

2. Subsection 14 (2) of the said Act is repealed.

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

24. Twelve benchers present and entitled to vote in Convocation constitute a quorum for the transaction of business. Quorum

4. Where a proceeding is before Convocation under section 34, 35, 38 or 39 of the said Act before this Act comes into force and continues on or after the day this Act comes into force, subsections 12 (2) and (3), subsection 14 (2) and section 24 of the said Act continue in force in respect of the proceeding as if this Act had not come into force. Transitional

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

6. The short title of this Act is the *Law Society Amendment Act, 1984*. Short title

Bill 144

An Act to amend the Powers of Attorney Act

The Hon. R. McMurtry
Attorney General

1st Reading November 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the amendment is to preserve the original intent that the protection provided by section 3 of the Act is to be available when any authority under a power of attorney comes to an end. The amendment is to remove possible doubt and is made retroactive to the date of the coming into force of the provision being amended.

Bill 144**1984****An Act to amend the Powers of Attorney Act**

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

1. Subsection 3 (1) of the *Powers of Attorney Act*, being chapter 386 of the Revised Statutes of Ontario, 1980, is amended by inserting after “terminated” in the first line “or revoked or becomes invalid” and by inserting after “termination” in the fifth line “revocation or invalidity”.

2. This Act shall be deemed to have come into force on the 20th day of December, 1979. Commence-
ment

3. The short title of this Act is the *Powers of Attorney Amendment Act, 1984*. Short title

Bill 145

An Act to amend the Courts of Justice Act, 1984

The Hon. R. McMurtry
Attorney General

1st Reading November 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1, SUBSECTION 3 (2) AND SECTION 4. The amendments provide for the continued designation of the Provincial Court (Family Division) and Unified Family Court as youth courts for the purposes of the *Young Offenders Act* (Canada). The Provincial Court (Criminal Division) is designated as a youth court, effective the 1st day of April, 1985.

SECTION 2 AND SUBSECTION 3 (1). The amendments correct errors in references.

SECTION 5. The amendment authorizes the clerks and bailiffs of the Provincial Court (Civil Division) to designate their own deputies in the same manner as the local registrars of the District and Supreme Courts.

SECTION 6. The amendment corrects a typographical error and makes the form consistent with the following clause.

SECTION 7. The amendment ensures that there is authority to provide in the rules for a case to go directly to the Court of Appeal where the only issue is a difficult question of law.

SECTION 8. The provision permitting rules to override agreements as to the bringing of third party claims is extended to include crossclaims.

SECTION 9. The words added were contained in the forerunner of this provision (s. 80 (1) of the *Judicature Act*) and are restored in order to preserve certain jurisprudence.

SECTION 10. Subsection 179 (4) of the *Courts of Justice Act* repeals section 30 of the *Family Law Reform Act*, which provides for attachment orders for support payments. The repeal does not remove attachment orders already made and the amendment would permit these to be discharged, varied or suspended.

Bill 145**1984****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 47 (2) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

2. Clause 56 (1) (b) of the said Act is amended by striking out "61" in the second line and inserting in lieu thereof "60".

3.—(1) Section 67 of the said Act is amended by striking out "62" in the fourth line and inserting in lieu thereof "61".

(2) Section 67 of the said Act is further amended by adding thereto the following subsection:

(2) The Provincial Court (Criminal Division) is a youth court for the purposes of the *Young Offenders Act* (Canada).

Idem
S.C. 1980-
81-82-83, c.
110

4. Subsection 75 (2) of the said Act is repealed.

5. Subsection 86 (4) of the said Act is amended by adding at the end thereof "and, with the approval of the Attorney General, every clerk and bailiff of the Provincial Court (Civil Division) in an area that is not designated under clause 87 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff".

6. Clause 89 (1) (i) of the said Act is amended by striking out "or" in the first line and inserting in lieu thereof "and".

7. Clause 90 (1) (d) of the said Act is amended by adding at the end thereof "and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the High Court or the District Court".

8. Section 126 of the said Act is amended by inserting after "claim" in the second line "or crossclaim".

9. Subsection 141 (1) of the said Act is amended by inserting after “of” in the second line “and incidental to”.

10. Section 179 of the said Act is amended by adding thereto the following subsection:

Application

(5) Notwithstanding subsection (4), subsection 30 (2) of the *Family Law Reform Act* continues to apply in respect of attachment orders made before subsection (4) comes into force.

Commence-
ment

11.—(1) This Act, except sections 2, 3, 5, 8, 9 and 10, comes into force on the day it receives Royal Assent.

Idem

(2) Section 2, subsection 3 (1) and sections 5, 8, 9 and 10 come into force on the day the sections they amend, respectively, are proclaimed in force under section 221 of the *Courts of Justice Act, 1984*.

Idem

(3) Subsection 3 (2) comes into force on the 1st day of April, 1985, notwithstanding section 221 of the *Courts of Justice Act, 1984*.

Short title

12. The short title of this Act is the *Courts of Justice Amendment Act, 1984*.

Bill 145

*(Chapter 64
Statutes of Ontario, 1984)*

An Act to amend the Courts of Justice Act, 1984

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	November 13th, 1984
<i>2nd Reading</i>	December 4th, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 145

1984

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 47 (2) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

2. Clause 56 (1) (b) of the said Act is amended by striking out "61" in the second line and inserting in lieu thereof "60".

3.—(1) Section 67 of the said Act is amended by striking out "62" in the fourth line and inserting in lieu thereof "61".

(2) Section 67 of the said Act is further amended by adding thereto the following subsection:

(2) The Provincial Court (Criminal Division) is a youth court for the purposes of the *Young Offenders Act* (Canada).

Idem
S.C. 1980-
81-82-83,
c. 110

4. Subsection 75 (2) of the said Act is repealed.

5. Subsection 86 (4) of the said Act is amended by adding at the end thereof "and, with the approval of the Attorney General, every clerk and bailiff of the Provincial Court (Civil Division) in an area that is not designated under clause 87 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff".

6. Clause 89 (1) (i) of the said Act is amended by striking out "or" in the first line and inserting in lieu thereof "and".

7. Clause 90 (1) (d) of the said Act is amended by adding at the end thereof "and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the High Court or the District Court".

8. Section 126 of the said Act is amended by inserting after "claim" in the second line "or crossclaim".

9. Subsection 141 (1) of the said Act is amended by inserting after “of” in the second line “and incidental to”.

10. Section 179 of the said Act is amended by adding thereto the following subsection:

Application
R.S.O. 1980,
c. 152

(5) Notwithstanding subsection (4), subsection 30 (2) of the *Family Law Reform Act* continues to apply in respect of attachment orders made before subsection (4) comes into force.

Commence-
ment

11.—(1) This Act, except sections 2, 3, 5, 8, 9 and 10, comes into force on the day it receives Royal Assent.

Idem

(2) Section 2, subsection 3 (1) and sections 5, 8, 9 and 10 come into force on the day the sections they amend, respectively, are proclaimed in force under section 221 of the *Courts of Justice Act, 1984*.

1984, c. 11

Idem

(3) Subsection 3 (2) comes into force on the 1st day of April, 1985, notwithstanding section 221 of the *Courts of Justice Act, 1984*.

Short title

12. The short title of this Act is the *Courts of Justice Amendment Act, 1984*.

Bill 146

An Act to amend the Residential Tenancies Act

Mr. Conway

1st Reading November 15th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill adds to the Act a new Part X-A (Central Register of Rents) creating a public automated register of rents charged for residential rental units.

Landlords are required to file details of rents charged from January 1, 1976 (or from the time the unit was first rented, if later) up to the present with the Residential Tenancy Commission. The Commission will assist landlords in preparing this historical information for filing and may accept incomplete information where it is satisfied, after an investigation, that a landlord is unable to provide full details.

Landlords are also required to file notices of rent increases with the Commission when they serve them on their tenants. If an increase requires a rent review hearing, the increase will not be shown in the register until the Commission makes an order.

The Commission will assist landlords in preparing this historical information for filing and may accept incomplete information where it is satisfied after an investigation where a landlord is unable to provide full details.

Part X-A applies to all residential rental units except those described in section 4 of the Act (transient accommodation, housing co-operatives, etc.) and except those for which rents are based only on the tenant's income.

Landlords are required to make the information that is on file in the register available to their tenants.

Tenants are not liable to pay rents in excess of the most recent rents shown in the register, and landlords are not entitled to be awarded rent increases if they have not complied with the filing requirements of Part X-A.

The Bill also makes it an offence to charge rents in excess of those permitted by Part XI (Rent Review).

Bill 146

1984

An Act to amend the Residential Tenancies Act

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

1. Subsection 123 (1) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ba) knowingly charges rent for a rental unit to which Part XI applies in excess of the amount permitted to be charged under that Part.

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

PART X-A

CENTRAL REGISTER OF RENTS

123a. In this Part, “register” means the register referred to in section 123c. Interpretation

123b. This Part applies to every rental unit except a rental unit for which the rent is based only on the tenant’s income. Application

123c.—(1) The Commission shall maintain an automated register for the purposes of this Part and shall seek to make the register readily accessible to the public throughout Ontario. Register

(2) Any person may inspect the information contained in the register during ordinary business hours. Public inspection

123d.—(1) Within six months of the coming into force of this Part, every landlord shall file with the Commission the following information with respect to every rental unit of which he is the landlord: Initial filing

1. The municipal address, and the apartment or room number, if any.
2. The number of rooms.
3. The number of bedrooms, bathrooms and kitchens, if any.
4. A description of the facilities, if any, that the tenant shares with other tenants of the landlord.
5. Full details of the rents charged from the 1st day of January, 1976, or from the day on which the rental unit was first rented, whichever is later, up to the date of filing, including a statement of every rent increase, both in dollar and percentage terms, and a statement of the effective date of every rent increase.
6. A description of any other services, facilities, accommodations or things included in the rent, and full details of charges allocated to them during the period described in paragraph 5.

Where
landlord
unable to
comply

(2) If a landlord is unable to determine what the rents and charges were during any part of the period described in paragraph 5 of subsection (1), the landlord shall file as much of the required information as possible and give an explanation of the details that are missing.

Idem

(3) On receiving incomplete information and the landlord's explanation under subsection (2), the Commission shall investigate the matter and may,

- (a) require further information from the landlord; or
- (b) accept the filing and the explanation, if it is satisfied that the information is as complete as possible.

Commission
to assist
landlords

(4) The Commission shall make its services available to landlords to assist them in preparing the information to be filed under subsection (1).

Notice of
rent increase
to be filed

123e.—(1) A landlord who gives or serves a notice of a rent increase on a tenant shall file a copy of the notice with the Commission within fourteen days of giving or serving the notice.

Commission
to note
increase
in register

(2) The Commission shall note the rent increase and its effective date in the register if,

- (a) Part XI (Rent Review) does not apply to the rental unit; or
- (b) there has been no rent increase during the immediately preceding twelve month period and the amount of the increase does not exceed the percentage referred to in section 125 (maximum permitted rent increase without application).

(3) If Part XI applies to the rental unit and there has been a rent increase during the immediately preceding twelve month period, the Commission shall advise the landlord and the tenant that the rent charged for the rental unit shall not be increased before the first anniversary of the last increase.

Idem, within 12 months of last increase

(4) If Part XI applies to the rental unit, there has been no rent increase during the immediately preceding twelve month period and the amount of the rent increase exceeds the percentage referred to in section 125,

Idem, where rent review hearing required

- (a) the Commission shall advise the landlord and the tenant that no rent increase is payable until an order has been made under Part XI; and
- (b) the Commission shall note in the register only the rent increase, and its effective date, that is authorized by an order under Part XI.

123f. No tenant is liable to pay rent in an amount exceeding the current rent shown for the rental unit in the register.

No rent payable in excess of amount shown in register

123g.—(1) Every landlord shall maintain and keep available, in the residential complex, for examination at reasonable hours, a schedule showing, for each rental unit located in the residential complex of which he is the landlord, the information shown in the register.

Rent schedule

(2) Where there is more than one rental unit in a residential complex, the landlord shall keep conspicuously posted a notice advising of the existence of the schedule and when and where it may be examined by persons having an interest in the matter.

Posting of notice

(3) Every landlord shall, at least once in every twelve month period, give to the Commission a copy of the schedule maintained by him under subsection (1).

Copy to Commission

3. Part XI (Rent Review) of the said Act is amended by adding thereto the following section:

No rent
increase
where
landlord
has not filed
under Part
X-A

130a. Despite anything else in this Part, the Commission shall not allow a rent increase in respect of a rental unit to which Part X-A (Central Register of Rents) applies unless the landlord has satisfied the filing obligations imposed by section 123d (initial filing) and subsection 123e (1) (notice of increase) of that Part.

Commence-
ment

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

Short title

5. The short title of this Act is the *Residential Tenancies Amendment Act, 1984*.



Bill 147

An Act to amend the Residential Complexes Financing Costs Restraint Act, 1982

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading November 15th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill extends the operation of the *Residential Complexes Financing Costs Restraint Act, 1982* for a period of one year, that is, from December 31st, 1984 to December 31st, 1985.

Bill 147

1984

**An Act to amend the Residential Complexes
Financing Costs Restraint Act, 1982**

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

1.—(1) Subsection 7 (1) of the *Residential Complexes Financing Costs Restraint Act, 1982*, being chapter 59, as re-enacted by the Statutes of Ontario, 1983, chapter 69, section 1, is repealed and the following substituted therefor:

(1) This Act is repealed on the 31st day of December, 1985. Repeal

(2) Subsection 7 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 69, section 1, is further amended by striking out “1984” in the amendment of 1983 and inserting in lieu thereof “1985”.

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

3. The short title of this Act is the *Residential Complexes Financing Costs Restraint Amendment Act, 1984*. Short title

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Bill 147

*(Chapter 65
Statutes of Ontario, 1984)*

An Act to amend the Residential Complexes Financing Costs Restraint Act, 1982

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	November 15th, 1984
<i>2nd Reading</i>	November 27th, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 147

1984

**An Act to amend the Residential Complexes
Financing Costs Restraint Act, 1982**

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

1.—(1) Subsection 7 (1) of the *Residential Complexes Financing Costs Restraint Act, 1982*, being chapter 59, as re-enacted by the Statutes of Ontario, 1983, chapter 69, section 1, is repealed and the following substituted therefor:

(1) This Act is repealed on the 31st day of December, 1985. Repeal

(2) Subsection 7 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 69, section 1, is further amended by striking out “1984” in the amendment of 1983 and inserting in lieu thereof “1985”.

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

3. The short title of this Act is the *Residential Complexes Financing Costs Restraint Amendment Act, 1984*. Short title

Bill 148

An Act respecting certain land in the Township of Marathon in the District of Thunder Bay

The Hon. L. Bernier
Minister of Northern Affairs

1st Reading November 15th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to remove a cloud on the title of numerous lots and blocks on Plan 55M-468 resulting from the possibility that Road C, as described in the Bill, is a public highway although it was never formally assumed as a public highway.

Bill 148

1984

**An Act respecting certain land in the Township
of Marathon in the District of Thunder Bay**

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,

Interpretation

- (a) "Plan 55M-468" means the plan of subdivision registered in the land registry office for the Land Titles Division of Thunder Bay (No. 55) as Plan 55M-468;
- (b) "Road C" means Road "C" in the Township of Marathon, as shown as an underlying feature in broken outline on Plan 55M-468.

2. That portion of Road C within the limits of Plan 55M-468, except the parts of Road C dedicated by Plan 55M-468 as public highways, shall be deemed not to be a public highway.

Land deemed
not be
public
highway

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

Commence-
ment

4. The short title of this Act is the *Township of Marathon Land Act, 1984*.

Short title

Bill 148

*(Chapter 53
Statutes of Ontario, 1984)*

An Act respecting certain land in the Township of Marathon in the District of Thunder Bay

The Hon. L. Bernier
Minister of Northern Affairs

<i>1st Reading</i>	November 15th, 1984
<i>2nd Reading</i>	November 20th, 1984
<i>3rd Reading</i>	November 20th, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 148

1984

**An Act respecting certain land in the Township
of Marathon in the District of Thunder Bay**

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,

Interpretation

- (a) "Plan 55M-468" means the plan of subdivision registered in the land registry office for the Land Titles Division of Thunder Bay (No. 55) as Plan 55M-468;
- (b) "Road C" means Road "C" in the Township of Marathon, as shown as an underlying feature in broken outline on Plan 55M-468.

2. That portion of Road C within the limits of Plan 55M-468, except the parts of Road C dedicated by Plan 55M-468 as public highways, shall be deemed not to be a public highway.

Land deemed
not be
public
highway

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

Commence-
ment

4. The short title of this Act is the *Township of Marathon Land Act, 1984*.

Short title

Bill 149

An Act to amend the Ministry of Correctional Services Act

The Hon. N. G. Leluk
Minister of Correctional Services

1st Reading November 16th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill is required for the extension of the *Young Offenders Act* (Canada) to sixteen and seventeen year olds in Ontario, which will take place on the 1st day of April, 1985. It also deals with sixteen and seventeen year olds who are detained before trial or sentenced to terms of imprisonment under the *Provincial Offences Act*.

SECTION 1. Self-explanatory.

SECTION 2. References to young persons and services and facilities for them are added to section 4 of the Act.

SECTION 3. References to young persons are added to subsection 8 (1) of the Act. New subsections 8 (1a) and (1b) make provision for the transfer of individual young persons from the custody or supervision of the Ministry of Community and Social Services to the Ministry of Correctional Services.

SECTION 4. References to the *Young Offenders Act* (Canada) and *Provincial Offences Act* are added.

SECTION 5. Ministry employees and other persons employed at places of custody and detention may be designated as peace officers.

SECTIONS 6 and 7. References to young persons are added.

SECTION 8. Subsections 16 (1) and (2) provide that persons convicted of provincial offences may be sentenced to be held in correctional institutions. Sixteen and seventeen year olds in this category will, instead, generally be held in places of open custody (see section 12).

SECTION 9. A technical amendment to prevent confusion of the Board of Parole with the Custody Review Board.

SECTION 10. Because the office of supervisor of probation services no longer exists, subsection 42 (3) is redundant.

SECTION 11. Breaches of probation orders, the subject of section 44 of the Act, are now dealt with in the *Provincial Offences Act*.

SECTION 12. Part V (Young Persons), which is added to the Act, makes provision for different levels of security in places of temporary detention and secure custody and sets out criteria for assigning young persons to them. A Custody Review Board is established to deal with young persons' applications concerning the level of security or the particular place of their detention, and the rights of young persons in custody, including an internal review procedure for complaints, are set out in detail.

Part V also provides for the appointment of provincial directors and youth workers, makes section 19 (bailiffs), subsections 20 (1) and (2) (directors and superintendents) and section 30 (employee interest in contracts) of the Act applicable to young persons, and provides that sixteen and seventeen year olds detained before trial or sentenced to terms of imprisonment under the *Provincial Offences Act* will, in general, be held in places of temporary detention or open custody. However, they will be entitled to remission and parole in the same manner as adult inmates.

SECTION 13. In Part VI (General Provisions), formerly numbered Part V, existing provisions are re-enacted and references to young persons are added wherever necessary.

Bill 149

1984

**An Act to amend the
Ministry of Correctional Services Act**

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

1. Section 1 of the *Ministry of Correctional Services Act*, being chapter 275 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. In this Act,

Interpretation

- (a) "compassionate allowance" means an allowance made under section 13 of this Act and the regulations;
- (b) "correctional institution" means a correctional institution established or continued under section 14 and does not include a place of open custody, a place of secure custody, a place of temporary detention, a training school established or authorized under the *Training Schools Act*, or a lock-up established under section 206 of the *Municipal Act*;
- (c) "Deputy Minister" means the Deputy Minister of Correctional Services;
- (d) "inmate" means a person confined in a correctional institution or otherwise detained in lawful custody under a court order, but does not include a young person within the meaning of the *Young Offenders Act* (Canada);
- (e) "maximum security place of custody" means a place of secure custody in which the Minister has established a maximum security custody program;

R.S.O. 1980,
cc. 508, 302

S.C. 1980-
81-82-83, c.
110

- (f) “medium security place of custody” means a place of secure custody in which the Minister has established a medium security custody program;
- (g) “Minister” means the Minister of Correctional Services;
- (h) “Ministry” means the Ministry of Correctional Services;
- (i) “parole” means authority granted to an inmate to be at large during the inmate’s term of imprisonment;
- (j) “parolee” means an inmate who has been granted parole under this Act;
- (k) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (l) “place of open temporary detention” means a place of temporary detention in which the Minister has established an open detention program;
- (m) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (n) “place of secure temporary detention” means a place of temporary detention in which the Minister has established a secure detention program;
- (o) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (p) “prescribed” means prescribed by the regulations;
- (q) “probation” means the disposition of a court authorizing a person to be at large subject to the conditions of a probation order or community service order;
- (r) “provincial director” means a provincial director appointed under clause 45 (1) (a);

- (s) "regulations" means the regulations made under this Act;
- (t) "remission" means statutory or earned remission, as the case requires;
- (u) "young person" means a person who is, or, in the absence of evidence to the contrary, appears to be,
 - (i) sixteen years of age, or more, but
 - (ii) under eighteen years of age,

and includes a person eighteen years of age or more charged with having committed an offence while the person was sixteen years of age or more but under eighteen years of age, but does not include an inmate or a person who is a young person within the meaning of the *Young Offenders Implementation Act, 1984*.

1984, c. 19

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

4. It is the function of the Ministry to supervise the detention and release of inmates, parolees, probationers and young persons and to create for them a social environment in which they may achieve changes in attitude by providing training, treatment and services designed to afford them opportunities for successful personal and social adjustment in the community, and, without limiting the generality of the foregoing, the objects of the Ministry are to,

Functions
of
Ministry

- (a) provide for the custody of persons awaiting trial or convicted of offences;
- (b) establish, maintain and operate correctional institutions;
- (c) provide for the open custody, secure custody and temporary detention of young persons awaiting trial, found guilty or convicted of offences;
- (d) establish, maintain and operate places of open custody, secure custody and temporary detention;
- (e) provide programs and facilities designed to assist in the rehabilitation of inmates and young persons;
- (f) establish and operate a system of parole;

- (g) provide probation services;
- (h) provide supervision of non-custodial dispositions, where appropriate; and
- (i) provide programs for the prevention of crime.

3. Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

Agreements

(1) The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Crown in right of Ontario, make agreements with the Crown in right of Canada or of any province of Canada or with any municipality respecting,

- (a) the exchange of services provided by the Ministry;
- (b) the transfer of inmates or of young persons serving custodial sentences;
- (c) any matter relating to the supervision and rehabilitation of an inmate, parolee, probationer or young person; or
- (d) any matter for the administration of which the Minister is responsible.

Persons under sixteen
S.C. 1980-81-82-83, c. 110

(1a) With the approval of a provincial director, services may be provided under this Act to a person who is a young person within the meaning of the *Young Offenders Act* (Canada) but not within the meaning of clause 1 (u).

Idem

(1b) A person who is the subject of an approval under subsection (1a) shall be deemed to be a young person for the purposes of this Act.

4. Clause 10 (a) of the said Act is amended by inserting after “(Canada)” in the fourth line “the *Young Offenders Act* (Canada), the *Provincial Offences Act*”.

5. Section 11 of the said Act is repealed and the following substituted therefor:

Designation of peace officers

11.—(1) The Minister may designate in writing,

- (a) a person who is an employee of the Ministry or is employed at a place of open custody, secure custody or temporary detention, to be a peace officer

while performing the person's duties and functions;
or

- (b) a class or classes of persons from among the persons described in clause (a), to be peace officers while performing their duties and functions,

and may set out in the designation any conditions or limitations to which it is subject.

(2) A designation under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

Designation
not a
regulation
R.S.O. 1980,
c. 446

6. Subsection 12 (1) of the said Act is amended by striking out "or probationer" in the seventh line and inserting in lieu thereof "probationer or young person".

7. Section 13 of the said Act is repealed and the following substituted therefor:

13. The Lieutenant Governor in Council may pay a compassionate allowance in the prescribed manner and amounts as compensation to an inmate or young person for permanent disability arising from an injury suffered while engaged in an authorized activity at a correctional institution or place of open custody, secure custody or temporary detention or to any other person for injury or damage inflicted upon that person by an inmate or young person while under the custody and supervision of the Ministry.

Compassionate
allowance

8. Section 16 of the said Act is amended by adding thereto the following subsection:

- (3) Subsections (1) and (2) do not apply to young persons.

Exception

9. Part III (Parole) of the said Act is amended by adding thereto the following section:

30a. In this Part, "Board" means the Board of Parole continued by section 31.

Interpretation

10. Subsection 42 (3) of the said Act is repealed.

11. Section 44 of the said Act is repealed.

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

PART V

YOUNG PERSONS

Interpretation **44.** In this Part, "Board" means the Custody Review Board established by subsection 50 (1).

Appointments by Minister **45.**—(1) The Minister may appoint any person as,
 (a) a provincial director, to perform any or all of the duties and functions of a provincial director,

S.C. 1980-81-82-83, c. 110 (i) under the *Young Offenders Act* (Canada), and

(ii) under the regulations; and

(b) a youth worker, to perform any or all of the duties and functions of a youth worker,

(i) under the *Young Offenders Act* (Canada), and

(ii) under the regulations.

Limitations, etc., on appointments (2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

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

Secure and open temporary detention programs **46.**—(1) The Minister may establish,

(a) secure temporary detention programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community; and

(b) open temporary detention programs, in which restrictions that are less stringent than in a secure temporary detention program are imposed on the liberty of young persons,

in places of temporary detention.

Maximum and medium security custody programs (2) The Minister may establish,

(a) maximum security custody programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community; and

- (b) medium security custody programs, in which restrictions that are less stringent than in a maximum security custody program are imposed on the liberty of young persons,

in places of secure custody.

(3) The said Act is further amended by adding thereto the following section:

47.—(1) Section 19 (provincial bailiffs) applies with necessary modifications to the transfer of young persons in accordance with this Act and the *Young Offenders Act* (Canada). Bailiffs

(2) Subsections 20 (1) and (2) (director or superintendent) apply with necessary modifications to places of open custody, secure custody and temporary detention. Directors, superintendents

(3) Section 30 (employee interest in contracts) applies with necessary modifications in respect of places of open custody, secure custody and temporary detention and in respect of young persons. Employee interest in contracts

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

48.—(1) A young person who is detained under the *Young Offenders Act* (Canada) in a place of temporary detention shall be detained in a place of open temporary detention unless a provincial director determines under subsection (2) that the young person is to be detained in a place of secure temporary detention. Open detention unless provincial director determines otherwise
S.C. 1980-81-82-83, c. 110

(2) A provincial director may detain a young person who is detained under the *Young Offenders Act* (Canada) in a place of secure temporary detention, Where secure detention available

- (a) if the young person,

- (i) is charged with an offence that includes causing or attempting to cause serious bodily harm to another person,

- (ii) has, at any time, failed to appear in court when required to do so under the *Young Offenders Act* (Canada) or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or R.S.O. 1970, c. J-3

(iii) has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more; or

(b) where the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention,

(i) to ensure the young person's attendance in court, or

(ii) to protect the public interest or safety.

Idem

S.C. 1980-81-82-83, c. 110

(3) Despite subsection (1), a young person who is detained under the *Young Offenders Act* (Canada) in a place of temporary detention may be detained in a place of secure temporary detention for a period not exceeding twenty-four hours while a provincial director makes a determination in respect of the young person under subsection (2).

Review by youth court

R.S.O. 1970, c. C-34

(4) A young person who is being detained in a place of secure temporary detention and is brought before a youth court for a review under the *Criminal Code* (Canada) may request that the youth court review the level of the young person's detention, and the youth court may confirm the provincial director's decision under subsection (2) or may direct that the young person be transferred to a place of open temporary detention.

Medium rather than maximum security custody unless provincial director determines otherwise

Where maximum security custody available

49.—(1) A young person who is committed to secure custody under the *Young Offenders Act* (Canada) shall be held in a medium security place of custody unless a provincial director determines under subsection (2) that the young person is to be held in a maximum security place of custody.

(2) A provincial director may place a young person in or transfer a young person to a maximum security place of custody if the young person is committed to secure custody under the *Young Offenders Act* (Canada) and,

(a) the offence for which the young person is committed to secure custody includes causing or attempting to cause serious bodily harm to another person;

- (b) the young person has, within the twelve months immediately preceding the offence for which the young person is committed to secure custody,
- (i) been held in a maximum security place of custody, or
 - (ii) been found guilty of an offence for which an adult would be liable to imprisonment for five years or more; or
- (c) the provincial director is satisfied that it would not be appropriate to hold the young person in a medium security place of custody, having regard to,
- (i) the young person's age and previous history,
 - (ii) the circumstances of the commission of the offence for which the young person is committed to secure custody,
 - (iii) the contents of a pre-disposition report,
 - (iv) the needs of the young person, and
 - (v) the need to protect the public interest and safety.

(3) A provincial director may transfer a young person from a maximum security place of custody to a medium security place of custody if the provincial director is satisfied that the transfer is justified because the young person has made sufficient progress or for some other appropriate reason.

Transfer from maximum to medium security custody

(4) A provincial director who makes a determination under this section shall give written reasons for the determination to the young person.

Reasons

50.—(1) The Custody Review Board is established, composed of the prescribed number of full-time and part-time members appointed by the Lieutenant Governor in Council, and has the powers and duties given to it by this Act and the regulations.

Custody Review Board

(2) The Lieutenant Governor in Council may appoint a member of the Board as chairman and may appoint one or more other members as vice-chairmen.

Chairman and vice-chairmen

(3) A member of the Board shall hold office for the prescribed term.

Term

Quorum (4) The prescribed number of members of the Board is a quorum.

Remuneration of part-time members (5) The members of the Board who are part-time members shall serve without salary but may be paid such expenses and allowances for attendance at meetings and for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council.

Duties of Board (6) The Board shall conduct reviews under section 51 and perform such other duties as are assigned to it by the regulations.

Application to Board **51.**—(1) A young person may apply to the Board for a review of,

(a) a provincial director's decision to hold the young person in or transfer the young person to a maximum security place of custody;

(b) the particular place where the young person is held or to which the young person has been transferred; or

(c) a provincial director's refusal to authorize the young person's temporary release under section 35 of the *Young Offenders Act* (Canada),

S.C. 1980-81-82-83, c. 110

within thirty days of the decision, placement or transfer, as the case may be.

Duty of Board (2) The Board shall conduct a review with respect to an application made under subsection (1) and may do so by holding a hearing.

Idem (3) The Board shall advise the young person whether it intends to hold a hearing or not within ten days of receiving the young person's application.

Idem (4) The Board shall complete its review and make a determination within thirty days of receiving a young person's application, unless,

(a) the Board holds a hearing with respect to the application; and

(b) the young person and the provincial director whose decision is being reviewed consent to a longer period for the Board's determination.

(5) After conducting a review under subsection (2), the Board may, Board's
recommen-
dations

- (a) recommend to the provincial director,
 - (i) that the young person be transferred to a medium security place of custody,
 - (ii) where the Board is of the opinion that the place where the young person is held or to which the young person has been transferred is not appropriate to meet the young person's needs, that the young person be transferred to another place, or
 - (iii) that the young person's temporary release be authorized under section 35 of the federal Act; or
- (b) confirm the decision, placement or transfer.

(5) The said Act is further amended by adding thereto the following section:

52.—(1) Where a young person is ordered to be detained in custody under subsection 134 (4) or 135 (2) (pre-trial detention) of the *Provincial Offences Act*, the young person shall be detained in a place of temporary detention. Pre-trial
detention
R.S.O. 1980,
c. 400

(2) Where a young person is sentenced to a term of imprisonment under the *Provincial Offences Act*, Open custody
for provincial
offences

- (a) the term of imprisonment shall be served in a place of open custody, subject to subsections (3) and (4);
- (b) section 35 (temporary release) of the *Young Offenders Act* (Canada) applies with necessary modifications; and S.C. 1980-
81-82-83, c.
110
- (c) sections 25, 26, 28 and 29 (rehabilitation programs, work outside institution, remission, early release) and Part III (Parole) apply with necessary modifications.

(3) Where in the opinion of the director or superintendent of a place of open custody a young person held there under clause (2) (a) cannot be safely or securely detained in that place, the director or superintendent may transfer the young person to a place of secure custody to be detained there. Transfer to
place of
secure
custody

Concurrent terms

S.C. 1980-81-82-83, c. 110

R.S.O. 1980, c. 400

(4) Where a young person who is committed to secure custody under the *Young Offenders Act* (Canada) is sentenced concurrently to a term of imprisonment under the *Provincial Offences Act*, the term of imprisonment under the *Provincial Offences Act* shall be served in the same place as the disposition under the *Young Offenders Act* (Canada).

(6) The said Act is further amended by adding thereto the following sections:

Interpretation

53.—(1) In this section and in section 54, “young person in custody” means a young person who is detained in a place of temporary detention or committed to secure or open custody under the *Young Offenders Act* (Canada).

No corporal punishment

(2) A young person in custody shall not be subjected to corporal punishment.

Rights of communication, etc.

(3) A young person in custody has a right,

(a) to speak in reasonable privacy with and receive visits from members of the young person’s family regularly;

(b) to speak in reasonable privacy with and receive visits from,

(i) the young person’s solicitor,

(ii) the Ombudsman appointed under the *Ombudsman Act* and members of the Ombudsman’s staff, and

(iii) a member of the Legislative Assembly of Ontario or of the Parliament of Canada; and

(c) to send and receive mail that is not read, examined or censored by another person, subject to subsection (4).

R.S.O. 1980, c. 325

Opening, etc., of young person’s mail

(4) Mail to and from a young person in custody,

(a) may be opened by the director or superintendent or that person’s designate in the young person’s presence and may be inspected for articles prohibited by the director or superintendent;

(b) where the director or superintendent or that person’s designate believes on reasonable grounds that the contents of the mail may be prejudicial to the

best interests of the recipient, the public safety or the security of the place of detention or custody, may be examined or read by the director or superintendent or designate and may be withheld from the recipient in whole or in part;

- (c) shall not be examined or read under clause (b) if it is to or from the young person's solicitor, unless there are reasonable and probable grounds to believe that it contains material that is not privileged as a solicitor-client communication; and
 - (d) shall not be opened and inspected under clause (a) or examined or read under clause (b) if it is from a person described in subclause (3) (b) (ii) or (iii) (Ombudsman, member of Legislative Assembly, etc.).
- (5) A young person in custody has a right, Personal liberties
- (a) to have reasonable privacy, and to have possession of the young person's own personal property, except articles prohibited by the director or superintendent; and
 - (b) to receive the religious instruction and participate in the religious activities of the young person's choice, subject to subsection (8).
- (6) A young person in custody has a right to a plan of care designed to meet the young person's particular needs, which shall be prepared within a reasonable time of admission to the place of detention or custody. Plan of care
- (7) A young person in custody has a right, Rights to care
- (a) to participate in the development of the young person's individual plan of care and in any changes made to it;
 - (b) to receive meals that are well-balanced, of good quality and appropriate for the young person;
 - (c) to be provided with clothing that is of good quality and appropriate for the young person, given the young person's size and activities and prevailing weather conditions;
 - (d) to receive necessary medical and dental care, subject to subsection (8), at regular intervals and when-

ever required, in a community setting whenever possible;

- (e) to participate in appropriate educational, training or work programs, in a community setting whenever possible; and
- (f) to participate in recreational and athletic activities that are appropriate for the young person's aptitudes and interests, in a community setting whenever possible.

Parental consent, etc.

(8) The parent of a young person in custody retains any right that the parent may have,

- (a) to direct the young person's education and religious upbringing; and
- (b) to give or refuse consent to medical treatment for the young person.

Right to be heard

(9) A young person in custody has a right to be consulted and to express views whenever significant decisions concerning the young person are made, including decisions with respect to medical treatment, training or work programs, education and religion and decisions with respect to the young person's transfer to another place of detention or custody.

Right to be informed

(10) A young person in custody has a right to be informed of,

- (a) the young person's rights under this section;
- (b) the internal complaints procedure established under subsection 54 (1) and the further review available under section 55;
- (c) the review procedures available under section 51 (Custody Review Board);
- (d) the young person's responsibilities while in the place of detention or custody; and
- (e) the rules governing day-to-day operation of the place of detention or custody, including disciplinary procedures,

upon admission to the place.

54.—(1) A director or superintendent shall establish a written procedure, in accordance with the regulations, for hearing and dealing with complaints regarding alleged violations of the rights under section 53 of young persons in custody. Internal complaints procedure

(2) A director or superintendent shall conduct a review or ensure that a review is conducted, in accordance with the procedure established under subsection (1), on the complaint of, Idem

- (a) a young person in custody;
- (b) the young person's parent; or
- (c) another person representing the young person,

and shall seek to resolve the complaint.

55.—(1) Where a person referred to in subsection 54 (2) who makes a complaint and is not satisfied with the result of the review conducted under that subsection requests in writing that the Minister appoint a person to conduct a further review of the complaint, the Minister shall appoint a person to do so. Further review

(2) A person appointed under subsection (1) shall review the complaint in accordance with the regulations and may, but is not required to, do so by holding a hearing. Idem

(3) A person appointed under subsection (1) shall, within thirty days after the day of the appointment, complete the review, set out in a report the person's findings and recommendations, including the reasons for not holding a hearing if none was held, and provide copies of the report to, Review and report within thirty days

- (a) the person who made the complaint;
- (b) the director or superintendent; and
- (c) the Minister.

56.—(1) Where the Minister decides to take any action with respect to a complaint after receiving a report under subsection 55 (3), the Minister shall advise the person who made the complaint and the director or superintendent of the decision. Minister to advise persons affected of any decision

(2) The Minister's decision referred to in subsection (1) does not affect any other remedy that may be available. Remedies preserved

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

PART VI

GENERAL PROVISIONS

Application
of R.S.O.
1980, c. 484

57. The *Statutory Powers Procedure Act* does not apply to proceedings,

- (a) for the discipline or transfer of inmates or young persons;
- (b) for the grievances of inmates or young persons;
- (c) under section 55 (review of young persons' complaints);
- (d) for the authorization of temporary absences for inmates or temporary release for young persons; or
- (e) of the Board of Parole or of the Custody Review Board,

notwithstanding anything in that Act.

Member of
Legislative
Assembly

58. Every member of the Legislative Assembly of Ontario is entitled to enter and inspect any correctional institution, community resource centre or other facility established or designated under this Act for any purpose related to the member's duties and responsibilities as a member of the Legislative Assembly, unless the Minister determines that the institution, community resource centre or facility is insecure or an emergency condition exists in it.

Regulations

59. The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation, management, inspection and classification of correctional institutions;
- (b) respecting the operation, management and inspection of community resource centres;
- (c) respecting the establishment, operation, management and inspection of places of open custody, secure custody and temporary detention;

- (d) designating correctional institutions as reformatories for the purpose of the *Prisons and Reformatories Act* (Canada);
- (e) respecting the treatment, training, employment, discipline, control, grievances and privileges of inmates and young persons;
- (f) requiring the maintenance of records and providing for their destruction;
- (g) respecting the retention and disposal of the property of inmates and young persons;
- (h) providing for the granting of compassionate allowances;
- (i) providing for and establishing criteria for the granting of temporary absences or parole in respect of inmates and temporary release in respect of young persons;
- (j) establishing rules of procedure for the Board of Parole;
- (k) providing for the appointment and remuneration of members of the Board of Parole;
- (l) respecting the duties and powers of directors, superintendents, probation officers, parole officers, correctional officers, other employees of the Ministry and volunteers;
- (m) prescribing additional duties and functions of provincial directors and youth workers;
- (n) prescribing the number of members of the Custody Review Board, their terms of office and the number of members that is a quorum;
- (o) prescribing additional powers, duties and procedures of the Custody Review Board;
- (p) governing internal complaints procedures to be established under section 54;
- (q) establishing procedures for reviews under section 55;

R.S.C. 1970,
c. P-21

- (r) providing for the assessment of inmates and young persons;
- (s) providing for and prescribing fees and charges to recover costs incurred by the Ministry;
- (t) prescribing forms and providing for their use.

Commencement **14.—(1) This Act, except subsections 12 (2), (4) and (6), comes into force on the 1st day of April, 1985.**

Idem **(2) Subsections 12 (2), (4) and (6) come into force on a day to be named by proclamation of the Lieutenant Governor.**

Short title **15. The short title of this Act is the *Ministry of Correctional Services Amendment Act, 1984*.**

Bill 149

An Act to amend the Ministry of Correctional Services Act

The Hon. N. G. Leluk
Minister of Correctional Services

1st Reading November 16th, 1984
2nd Reading December 4th, 1984
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The Bill is required for the extension of the *Young Offenders Act* (Canada) to sixteen and seventeen year olds in Ontario, which will take place on the 1st day of April, 1985. It also deals with sixteen and seventeen year olds who are detained before trial or sentenced to terms of imprisonment under the *Provincial Offences Act*.

SECTION 1. Self-explanatory.

SECTION 2. References to young persons and services and facilities for them are added to section 4 of the Act.

SECTION 3. References to young persons are added to subsection 8 (1) of the Act. New subsections 8 (1a) and (1b) make provision for the transfer of individual young persons from the custody or supervision of the Ministry of Community and Social Services to the Ministry of Correctional Services.

SECTION 4. References to the *Young Offenders Act* (Canada) and *Provincial Offences Act* are added.

SECTION 5. Ministry employees and other persons employed at places of custody and detention may be designated as peace officers.

SECTIONS 6 and 7. References to young persons are added.

SECTION 8. Subsections 16 (1) and (2) provide that persons convicted of provincial offences may be sentenced to be held in correctional institutions. Sixteen and seventeen year olds in this category will, instead, generally be held in places of open custody (see section 12).

SECTION 9. A technical amendment to prevent confusion of the Board of Parole with the Custody Review Board.

SECTION 10. Because the office of supervisor of probation services no longer exists, subsection 42 (3) is redundant.

SECTION 11. Breaches of probation orders, the subject of section 44 of the Act, are now dealt with in the *Provincial Offences Act*.

SECTION 12. Part V (Young Persons), which is added to the Act, makes provision for different levels of security in places of temporary detention and secure custody and sets out criteria for assigning young persons to them. A Custody Review Board is established to deal with young persons' applications concerning the level of security or the particular place of their detention, and the rights of young persons in custody, including an internal review procedure for complaints, are set out in detail.

Part V also provides for the appointment of provincial directors and youth workers, makes section 19 (bailiffs), subsections 20 (1) and (2) (directors and superintendents) and section 30 (employee interest in contracts) of the Act applicable to young persons, and provides that sixteen and seventeen year olds detained before trial or sentenced to terms of imprisonment under the *Provincial Offences Act* will, in general, be held in places of temporary detention or open custody. However, they will be entitled to remission and parole in the same manner as adult inmates.

SECTION 13. In Part VI (General Provisions), formerly numbered Part V, existing provisions are re-enacted and references to young persons are added wherever necessary.

SECTION 14. The *Young Offenders Implementation Act, 1984* is amended to make it clear that the places of open custody, secure custody and temporary detention referred to in that Act are facilities operated by or for the Ministry of Community and Social Services, and to provide for transfers of individual young persons between that Ministry and the Ministry of Correctional Services.

Bill 149

1984

**An Act to amend the
Ministry of Correctional Services Act**

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

1. Section 1 of the *Ministry of Correctional Services Act*, being chapter 275 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. In this Act,

Interpretation

- (a) “compassionate allowance” means an allowance made under section 13 of this Act and the regulations;
- (b) “correctional institution” means a correctional institution established or continued under section 14 and does not include a place of open custody, a place of secure custody, a place of temporary detention, a training school established or authorized under the *Training Schools Act*, or a lock-up established under section 206 of the *Municipal Act*;
- (c) “Deputy Minister” means the Deputy Minister of Correctional Services;
- (d) “inmate” means a person confined in a correctional institution or otherwise detained in lawful custody under a court order, but does not include a young person within the meaning of the *Young Offenders Act* (Canada);
- (e) “maximum security place of custody” means a place of secure custody in which the Minister has established a maximum security custody program;

R.S.O. 1980,
cc. 508, 302

S.C. 1980-
81-82-83, c.
110

- (f) “medium security place of custody” means a place of secure custody in which the Minister has established a medium security custody program;
- (g) “Minister” means the Minister of Correctional Services;
- (h) “Ministry” means the Ministry of Correctional Services;
- (i) “parole” means authority granted to an inmate to be at large during the inmate’s term of imprisonment;
- (j) “parolee” means an inmate who has been granted parole under this Act;
- (k) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (l) “place of open temporary detention” means a place of temporary detention in which the Minister has established an open detention program;
- (m) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (n) “place of secure temporary detention” means a place of temporary detention in which the Minister has established a secure detention program;
- (o) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (p) “prescribed” means prescribed by the regulations;
- (q) “probation” means the disposition of a court authorizing a person to be at large subject to the conditions of a probation order or community service order;
- (r) “provincial director” means a provincial director appointed under clause 45 (1) (a);

- (s) “regulations” means the regulations made under this Act;
- (t) “remission” means statutory or earned remission, as the case requires;
- (u) “young person” means a person who is, or, in the absence of evidence to the contrary, appears to be,
 - (i) sixteen years of age, or more, but
 - (ii) under eighteen years of age,

and includes a person eighteen years of age or more charged with having committed an offence while the person was sixteen years of age or more but under eighteen years of age, but does not include an inmate or a person who is a young person within the meaning of the *Young Offenders Implementation Act, 1984*.

1984, c. 19

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

4. It is the function of the Ministry to supervise the detention and release of inmates, parolees, probationers and young persons and to create for them a social environment in which they may achieve changes in attitude by providing training, treatment and services designed to afford them opportunities for successful personal and social adjustment in the community, and, without limiting the generality of the foregoing, the objects of the Ministry are to,

Functions
of
Ministry

- (a) provide for the custody of persons awaiting trial or convicted of offences;
- (b) establish, maintain and operate correctional institutions;
- (c) provide for the open custody, secure custody and temporary detention of young persons awaiting trial, found guilty or convicted of offences;
- (d) establish, maintain and operate places of open custody, secure custody and temporary detention;
- (e) provide programs and facilities designed to assist in the rehabilitation of inmates and young persons;
- (f) establish and operate a system of parole;

- (g) provide probation services;
- (h) provide supervision of non-custodial dispositions, where appropriate; and
- (i) provide programs for the prevention of crime.

3. Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

Agreements

(1) The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Crown in right of Ontario, make agreements with the Crown in right of Canada or of any province of Canada or with any municipality respecting,

- (a) the exchange of services provided by the Ministry;
- (b) the transfer of inmates or of young persons serving custodial sentences;
- (c) any matter relating to the supervision and rehabilitation of an inmate, parolee, probationer or young person; or
- (d) any matter for the administration of which the Minister is responsible.

Persons
under
sixteen
S.C. 1980-
81-82-83, c.
110

(1a) With the approval of a provincial director, services may be provided under this Act to a person who is a young person within the meaning of the *Young Offenders Act* (Canada) but not within the meaning of clause 1 (u).

Idem

(1b) A person who is the subject of an approval under subsection (1a) shall be deemed to be a young person for the purposes of this Act.

4. Clause 10 (a) of the said Act is amended by inserting after “(Canada)” in the fourth line “the *Young Offenders Act* (Canada), the *Provincial Offences Act*”.

5. Section 11 of the said Act is repealed and the following substituted therefor:

Designation
of peace
officers

11.—(1) The Minister may designate in writing,

- (a) a person who is an employee of the Ministry or is employed at a place of open custody, secure custody or temporary detention, to be a peace officer

while performing the person's duties and functions;
or

- (b) a class or classes of persons from among the persons described in clause (a), to be peace officers while performing their duties and functions,

and may set out in the designation any conditions or limitations to which it is subject.

(2) A designation under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

Designation
not a
regulation
R.S.O. 1980,
c. 446

6. Subsection 12 (1) of the said Act is amended by striking out "or probationer" in the seventh line and inserting in lieu thereof "probationer or young person".

7. Section 13 of the said Act is repealed and the following substituted therefor:

13. The Lieutenant Governor in Council may pay a compassionate allowance in the prescribed manner and amounts as compensation to an inmate or young person for permanent disability arising from an injury suffered while engaged in an authorized activity at a correctional institution or place of open custody, secure custody or temporary detention or to any other person for injury or damage inflicted upon that person by an inmate or young person while under the custody and supervision of the Ministry.

Compas-
sionate
allowance

8. Section 16 of the said Act is amended by adding thereto the following subsection:

- (3) Subsections (1) and (2) do not apply to young persons.

Exception

9. Part III (Parole) of the said Act is amended by adding thereto the following section:

30a. In this Part, "Board" means the Board of Parole continued by section 31.

Interpretation

10. Subsection 42 (3) of the said Act is repealed.

11. Section 44 of the said Act is repealed.

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

PART V

YOUNG PERSONS

Interpretation **44.** In this Part, "Board" means the Custody Review Board established by subsection 50 (1).

Appointments by Minister **45.—(1)** The Minister may appoint any person as,

(a) a provincial director, to perform any or all of the duties and functions of a provincial director,

S.C. 1980-81-82-83, c. 110

(i) under the *Young Offenders Act* (Canada), and

(ii) under the regulations; and

(b) a youth worker, to perform any or all of the duties and functions of a youth worker,

(i) under the *Young Offenders Act* (Canada), and

(ii) under the regulations.

Limitations, etc., on appointments

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

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

Secure and open temporary detention programs

46.—(1) The Minister may establish,

(a) secure temporary detention programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community; and

(b) open temporary detention programs, in which restrictions that are less stringent than in a secure temporary detention program are imposed on the liberty of young persons,

in places of temporary detention.

Maximum and medium security custody programs

(2) The Minister may establish,

(a) maximum security custody programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community; and

- (b) medium security custody programs, in which restrictions that are less stringent than in a maximum security custody program are imposed on the liberty of young persons,

in places of secure custody.

(3) The said Act is further amended by adding thereto the following section:

47.—(1) Section 19 (provincial bailiffs) applies with necessary modifications to the transfer of young persons in accordance with this Act and the *Young Offenders Act* (Canada). Bailiffs

(2) Subsections 20 (1) and (2) (director or superintendent) apply with necessary modifications to places of open custody, secure custody and temporary detention. Directors, superintendents

(3) Section 30 (employee interest in contracts) applies with necessary modifications in respect of places of open custody, secure custody and temporary detention and in respect of young persons. Employee interest in contracts

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

48.—(1) A young person who is detained under the *Young Offenders Act* (Canada) in a place of temporary detention shall be detained in a place of open temporary detention unless a provincial director determines otherwise Open detention unless provincial director determines otherwise
S.C. 1980-81-82-83, c. 110

(2) A provincial director may detain a young person who is detained under the *Young Offenders Act* (Canada) in a place of secure temporary detention, Where secure detention available

(a) if the young person,

(i) is charged with an offence that includes causing or attempting to cause serious bodily harm to another person,

(ii) has, at any time, failed to appear in court when required to do so under the *Young Offenders Act* (Canada) or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or R.S.O. 1970, c. J-3

- (iii) has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more; or
- (b) where the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention,
 - (i) to ensure the young person's attendance in court, or
 - (ii) to protect the public interest or safety.

Idem

S.C. 1980-81-82-83, c. 110

(3) Despite subsection (1), a young person who is detained under the *Young Offenders Act* (Canada) in a place of temporary detention may be detained in a place of secure temporary detention for a period not exceeding twenty-four hours while a provincial director makes a determination in respect of the young person under subsection (2).

Review by youth court

R.S.O.1970, c. C-34

(4) A young person who is being detained in a place of secure temporary detention and is brought before a youth court for a review under the *Criminal Code* (Canada) may request that the youth court review the level of the young person's detention, and the youth court may confirm the provincial director's decision under subsection (2) or may direct that the young person be transferred to a place of open temporary detention.

Medium rather than maximum security custody unless provincial director determines otherwise

Where maximum security custody available

49.—(1) A young person who is committed to secure custody under the *Young Offenders Act* (Canada) shall be held in a medium security place of custody unless a provincial director determines under subsection (2) that the young person is to be held in a maximum security place of custody.

(2) A provincial director may place a young person in or transfer a young person to a maximum security place of custody if the young person is committed to secure custody under the *Young Offenders Act* (Canada) and,

- (a) the offence for which the young person is committed to secure custody includes causing or attempting to cause serious bodily harm to another person;

- (b) the young person has, within the twelve months immediately preceding the offence for which the young person is committed to secure custody,
- (i) been held in a maximum security place of custody, or
 - (ii) been found guilty of an offence for which an adult would be liable to imprisonment for five years or more; or
- (c) the provincial director is satisfied that it would not be appropriate to hold the young person in a medium security place of custody, having regard to,
- (i) the young person's age and previous history,
 - (ii) the circumstances of the commission of the offence for which the young person is committed to secure custody,
 - (iii) the contents of a pre-disposition report,
 - (iv) the needs of the young person, and
 - (v) the need to protect the public interest and safety.

(3) A provincial director may transfer a young person from a maximum security place of custody to a medium security place of custody if the provincial director is satisfied that the transfer is justified because the young person has made sufficient progress or for some other appropriate reason.

Transfer from maximum to medium security custody

(4) A provincial director who makes a determination under this section shall give written reasons for the determination to the young person.

Reasons

50.—(1) The Custody Review Board is established, composed of the prescribed number of full-time and part-time members appointed by the Lieutenant Governor in Council, and has the powers and duties given to it by this Act and the regulations.

Custody Review Board

(2) The Lieutenant Governor in Council may appoint a member of the Board as chairman and may appoint one or more other members as vice-chairmen.

Chairman and vice-chairmen

(3) A member of the Board shall hold office for the prescribed term.

Term

Quorum

(4) The prescribed number of members of the Board is a quorum.

Remuneration
of part-time
members

(5) The members of the Board who are part-time members shall serve without salary but may be paid such expenses and allowances for attendance at meetings and for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council.

Duties of
Board

(6) The Board shall conduct reviews under section 51 and perform such other duties as are assigned to it by the regulations.

Application
to Board

51.—(1) A young person may apply to the Board for a review of,

- (a) a provincial director's decision to hold the young person in or transfer the young person to a maximum security place of custody;
- (b) the particular place where the young person is held or to which the young person has been transferred; or
- (c) a provincial director's refusal to authorize the young person's temporary release under section 35 of the *Young Offenders Act* (Canada),

S.C. 1980-
81-82-83, c.
110

within thirty days of the decision, placement or transfer, as the case may be.

Duty of
Board

(2) The Board shall conduct a review with respect to an application made under subsection (1) and may do so by holding a hearing.

Idem

(3) The Board shall advise the young person whether it intends to hold a hearing or not within ten days of receiving the young person's application.

Idem

(4) The Board shall complete its review and make a determination within thirty days of receiving a young person's application, unless,

- (a) the Board holds a hearing with respect to the application; and
- (b) the young person and the provincial director whose decision is being reviewed consent to a longer period for the Board's determination.

(5) After conducting a review under subsection (2), the Board may, Board's
recommen-
dations

- (a) recommend to the provincial director,
 - (i) that the young person be transferred to a medium security place of custody,
 - (ii) where the Board is of the opinion that the place where the young person is held or to which the young person has been transferred is not appropriate to meet the young person's needs, that the young person be transferred to another place, or
 - (iii) that the young person's temporary release be authorized under section 35 of the federal Act; or
- (b) confirm the decision, placement or transfer.

(5) The said Act is further amended by adding thereto the following section:

52.—(1) Where a young person is ordered to be detained in custody under subsection 134 (4) or 135 (2) (pre-trial detention) of the *Provincial Offences Act*, the young person shall be detained in a place of temporary detention. Pre-trial
detention

R.S.O. 1980,
c. 400

(2) Where a young person is sentenced to a term of imprisonment under the *Provincial Offences Act*, Open custody
for provincial
offences

- (a) the term of imprisonment shall be served in a place of open custody, subject to subsections (3) and (4);
- (b) section 35 (temporary release) of the *Young Offenders Act* (Canada) applies with necessary modifications; and S.C. 1980-
81-82-83, c.
110
- (c) sections 25, 26, 28 and 29 (rehabilitation programs, work outside institution, remission, early release) and Part III (Parole) apply with necessary modifications.

(3) Where in the opinion of the director or superintendent of a place of open custody a young person held there under clause (2) (a) cannot be safely or securely detained in that place, the director or superintendent may transfer the young person to a place of secure custody to be detained there. Transfer to
place of
secure
custody

Concurrent terms

S.C. 1980-81-82-83, c. 110

R.S.O. 1980, c. 400

(4) Where a young person who is committed to secure custody under the *Young Offenders Act* (Canada) is sentenced concurrently to a term of imprisonment under the *Provincial Offences Act*, the term of imprisonment under the *Provincial Offences Act* shall be served in the same place as the disposition under the *Young Offenders Act* (Canada).

(6) The said Act is further amended by adding thereto the following sections:

Interpretation

53.—(1) In this section and in section 54, “young person in custody” means a young person who is detained in a place of temporary detention or committed to secure or open custody under the *Young Offenders Act* (Canada).

No corporal punishment

(2) A young person in custody shall not be subjected to corporal punishment.

Rights of communication, etc.

(3) A young person in custody has a right,

(a) to speak in reasonable privacy with and receive visits from members of the young person’s family regularly;

(b) to speak in reasonable privacy with and receive visits from,

(i) the young person’s solicitor,

(ii) the Ombudsman appointed under the *Ombudsman Act* and members of the Ombudsman’s staff, and

(iii) a member of the Legislative Assembly of Ontario or of the Parliament of Canada; and

(c) to send and receive mail that is not read, examined or censored by another person, subject to subsection (4).

R.S.O. 1980, c. 325

(4) Mail to and from a young person in custody,

Opening, etc., of young person’s mail

(a) may be opened by the director or superintendent or that person’s designate in the young person’s presence and may be inspected for articles prohibited by the director or superintendent;

(b) where the director or superintendent or that person’s designate believes on reasonable grounds that the contents of the mail may be prejudicial to the

best interests of the recipient, the public safety or the security of the place of detention or custody, may be examined or read by the director or superintendent or designate and may be withheld from the recipient in whole or in part;

- (c) shall not be examined or read under clause (b) if it is to or from the young person's solicitor, unless there are reasonable and probable grounds to believe that it contains material that is not privileged as a solicitor-client communication; and
- (d) shall not be opened and inspected under clause (a) or examined or read under clause (b) if it is from a person described in subclause (3) (b) (ii) or (iii) (Ombudsman, member of Legislative Assembly, etc.).

(5) A young person in custody has a right,

Personal liberties

- (a) to have reasonable privacy, and to have possession of the young person's own personal property, except articles prohibited by the director or superintendent; and
- (b) to receive the religious instruction and participate in the religious activities of the young person's choice, subject to subsection (8).

(6) A young person in custody has a right to a plan of care designed to meet the young person's particular needs, which shall be prepared within a reasonable time of admission to the place of detention or custody.

Plan of care

(7) A young person in custody has a right,

Rights to care

- (a) to participate in the development of the young person's individual plan of care and in any changes made to it;
- (b) to receive meals that are well-balanced, of good quality and appropriate for the young person;
- (c) to be provided with clothing that is of good quality and appropriate for the young person, given the young person's size and activities and prevailing weather conditions;
- (d) to receive necessary medical and dental care, subject to subsection (8), at regular intervals and when-

ever required, in a community setting whenever possible;

- (e) to participate in appropriate educational, training or work programs, in a community setting whenever possible; and
- (f) to participate in recreational and athletic activities that are appropriate for the young person's aptitudes and interests, in a community setting whenever possible.

Parental consent, etc.

(8) The parent of a young person in custody retains any right that the parent may have,

- (a) to direct the young person's education and religious upbringing; and
- (b) to give or refuse consent to medical treatment for the young person.

Right to be heard

(9) A young person in custody has a right to be consulted and to express views whenever significant decisions concerning the young person are made, including decisions with respect to medical treatment, training or work programs, education and religion and decisions with respect to the young person's transfer to another place of detention or custody.

Right to be informed

(10) A young person in custody has a right to be informed of,

- (a) the young person's rights under this section;
- (b) the internal complaints procedure established under subsection 54 (1) and the further review available under section 55;
- (c) the review procedures available under section 51 (Custody Review Board);
- (d) the young person's responsibilities while in the place of detention or custody; and
- (e) the rules governing day-to-day operation of the place of detention or custody, including disciplinary procedures,

upon admission to the place.

54.—(1) A director or superintendent shall establish a written procedure, in accordance with the regulations, for hearing and dealing with complaints regarding alleged violations of the rights under section 53 of young persons in custody. Internal complaints procedure

(2) A director or superintendent shall conduct a review or ensure that a review is conducted, in accordance with the procedure established under subsection (1), on the complaint of, Idem

- (a) a young person in custody;
- (b) the young person's parent; or
- (c) another person representing the young person,

and shall seek to resolve the complaint.

55.—(1) Where a person referred to in subsection 54 (2) who makes a complaint and is not satisfied with the result of the review conducted under that subsection requests in writing that the Minister appoint a person to conduct a further review of the complaint, the Minister shall appoint a person to do so. Further review

(2) A person appointed under subsection (1) shall review the complaint in accordance with the regulations and may, but is not required to, do so by holding a hearing. Idem

(3) A person appointed under subsection (1) shall, within thirty days after the day of the appointment, complete the review, set out in a report the person's findings and recommendations, including the reasons for not holding a hearing if none was held, and provide copies of the report to, Review and report within thirty days

- (a) the person who made the complaint;
- (b) the director or superintendent; and
- (c) the Minister.

56.—(1) Where the Minister decides to take any action with respect to a complaint after receiving a report under subsection 55 (3), the Minister shall advise the person who made the complaint and the director or superintendent of the decision. Minister to advise persons affected of any decision

(2) The Minister's decision referred to in subsection (1) does not affect any other remedy that may be available. Remedies preserved

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

PART VI

GENERAL PROVISIONS

Application
of R.S.O.
1980, c. 484

57. The *Statutory Powers Procedure Act* does not apply to proceedings,

- (a) for the discipline or transfer of inmates or young persons;
- (b) for the grievances of inmates or young persons;
- (c) under section 55 (review of young persons' complaints);
- (d) for the authorization of temporary absences for inmates or temporary release for young persons; or
- (e) of the Board of Parole or of the Custody Review Board,

notwithstanding anything in that Act.

Member of
Legislative
Assembly

58. Every member of the Legislative Assembly of Ontario is entitled to enter and inspect any correctional institution, community resource centre or other facility established or designated under this Act for any purpose related to the member's duties and responsibilities as a member of the Legislative Assembly, unless the Minister determines that the institution, community resource centre or facility is insecure or an emergency condition exists in it.

Regulations

59. The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation, management, inspection and classification of correctional institutions;
- (b) respecting the operation, management and inspection of community resource centres;
- (c) respecting the establishment, operation, management and inspection of places of open custody, secure custody and temporary detention;

- (d) designating correctional institutions as reformatories for the purpose of the *Prisons and Reformatories Act* (Canada);
- (e) respecting the treatment, training, employment, discipline, control, grievances and privileges of inmates and young persons;
- (f) requiring the maintenance of records and providing for their destruction;
- (g) respecting the retention and disposal of the property of inmates and young persons;
- (h) providing for the granting of compassionate allowances;
- (i) providing for and establishing criteria for the granting of temporary absences or parole in respect of inmates and temporary release in respect of young persons;
- (j) establishing rules of procedure for the Board of Parole;
- (k) providing for the appointment and remuneration of members of the Board of Parole;
- (l) respecting the duties and powers of directors, superintendents, probation officers, parole officers, correctional officers, other employees of the Ministry and volunteers;
- (m) prescribing additional duties and functions of provincial directors and youth workers;
- (n) prescribing the number of members of the Custody Review Board, their terms of office and the number of members that is a quorum;
- (o) prescribing additional powers, duties and procedures of the Custody Review Board;
- (p) governing internal complaints procedures to be established under section 54;
- (q) establishing procedures for reviews under section 55;

- (r) providing for the assessment of inmates and young persons;
- (s) providing for and prescribing fees and charges to recover costs incurred by the Ministry;
- (t) prescribing forms and providing for their use.

➔ **14.**—(1) Clauses 1 (c), (d) and (e) of the *Young Offenders Implementation Act, 1984*, being chapter 19, are amended by adding at the end thereof in each case “and operated by or for the Minister”.

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

Approval of provincial director for provision of services to person over sixteen

3a.—(1) With the approval of a provincial director, services may be provided under this Act to a person sixteen years of age or more who is a young person within the meaning of the *Young Offenders Act* (Canada) but not within the meaning of clause 1 (i).

Person deemed to be young person

(2) A person who is the subject of an approval under subsection (1) shall be deemed to be a young person for the purposes of this Act. ▲

Commencement

15.—(1) This Act, except subsections 12 (2), (4) and (6), comes into force on the 1st day of April, 1985.

Idem

(2) Subsections 12 (2), (4) and (6) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

16. The short title of this Act is the *Ministry of Correctional Services Amendment Act, 1984*.

Bill 149

*(Chapter 66
Statutes of Ontario, 1984)*

An Act to amend the Ministry of Correctional Services Act

The Hon. N. G. Leluk
Minister of Correctional Services

<i>1st Reading</i>	November 16th, 1984
<i>2nd Reading</i>	December 4th, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 149

1984

**An Act to amend the
Ministry of Correctional Services Act**

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

1. Section 1 of the *Ministry of Correctional Services Act*, being chapter 275 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. In this Act,

Interpretation

- (a) “compassionate allowance” means an allowance made under section 13 of this Act and the regulations;
- (b) “correctional institution” means a correctional institution established or continued under section 14 and does not include a place of open custody, a place of secure custody, a place of temporary detention, a training school established or authorized under the *Training Schools Act*, or a lock-up established under section 206 of the *Municipal Act*;
- (c) “Deputy Minister” means the Deputy Minister of Correctional Services;
- (d) “inmate” means a person confined in a correctional institution or otherwise detained in lawful custody under a court order, but does not include a young person within the meaning of the *Young Offenders Act* (Canada);
- (e) “maximum security place of custody” means a place of secure custody in which the Minister has established a maximum security custody program;

R.S.O. 1980,
cc. 508, 302

S.C. 1980-
81-82-83,
c. 110

- (f) “medium security place of custody” means a place of secure custody in which the Minister has established a medium security custody program;
- (g) “Minister” means the Minister of Correctional Services;
- (h) “Ministry” means the Ministry of Correctional Services;
- (i) “parole” means authority granted to an inmate to be at large during the inmate’s term of imprisonment;
- (j) “parolee” means an inmate who has been granted parole under this Act;
- (k) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (l) “place of open temporary detention” means a place of temporary detention in which the Minister has established an open detention program;
- (m) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (n) “place of secure temporary detention” means a place of temporary detention in which the Minister has established a secure detention program;
- (o) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and operated by or for the Minister;
- (p) “prescribed” means prescribed by the regulations;
- (q) “probation” means the disposition of a court authorizing a person to be at large subject to the conditions of a probation order or community service order;
- (r) “provincial director” means a provincial director appointed under clause 45 (1) (a);

- (s) "regulations" means the regulations made under this Act;
- (t) "remission" means statutory or earned remission, as the case requires;
- (u) "young person" means a person who is, or, in the absence of evidence to the contrary, appears to be,
 - (i) sixteen years of age, or more, but
 - (ii) under eighteen years of age,

and includes a person eighteen years of age or more charged with having committed an offence while the person was sixteen years of age or more but under eighteen years of age, but does not include an inmate or a person who is a young person within the meaning of the *Young Offenders Implementation Act, 1984*.

1984, c. 19

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

4. It is the function of the Ministry to supervise the detention and release of inmates, parolees, probationers and young persons and to create for them a social environment in which they may achieve changes in attitude by providing training, treatment and services designed to afford them opportunities for successful personal and social adjustment in the community, and, without limiting the generality of the foregoing, the objects of the Ministry are to,

Functions
of
Ministry

- (a) provide for the custody of persons awaiting trial or convicted of offences;
- (b) establish, maintain and operate correctional institutions;
- (c) provide for the open custody, secure custody and temporary detention of young persons awaiting trial, found guilty or convicted of offences;
- (d) establish, maintain and operate places of open custody, secure custody and temporary detention;
- (e) provide programs and facilities designed to assist in the rehabilitation of inmates and young persons;
- (f) establish and operate a system of parole;

- (g) provide probation services;
- (h) provide supervision of non-custodial dispositions, where appropriate; and
- (i) provide programs for the prevention of crime.

3. Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

Agreements

(1) The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Crown in right of Ontario, make agreements with the Crown in right of Canada or of any province of Canada or with any municipality respecting,

- (a) the exchange of services provided by the Ministry;
- (b) the transfer of inmates or of young persons serving custodial sentences;
- (c) any matter relating to the supervision and rehabilitation of an inmate, parolee, probationer or young person; or
- (d) any matter for the administration of which the Minister is responsible.

Persons
under
sixteen
S.C. 1980-
81-82-83,
c. 110

(1a) With the approval of a provincial director, services may be provided under this Act to a person who is a young person within the meaning of the *Young Offenders Act* (Canada) but not within the meaning of clause 1 (u).

Idem

(1b) A person who is the subject of an approval under subsection (1a) shall be deemed to be a young person for the purposes of this Act.

4. Clause 10 (a) of the said Act is amended by inserting after “(Canada)” in the fourth line “the *Young Offenders Act* (Canada), the *Provincial Offences Act*”.

5. Section 11 of the said Act is repealed and the following substituted therefor:

Designation
of peace
officers

11.—(1) The Minister may designate in writing,

- (a) a person who is an employee of the Ministry or is employed at a place of open custody, secure custody or temporary detention, to be a peace officer

while performing the person's duties and functions;
or

- (b) a class or classes of persons from among the persons described in clause (a), to be peace officers while performing their duties and functions,

and may set out in the designation any conditions or limitations to which it is subject.

(2) A designation under subsection (1) is not a regulation within the meaning of the *Regulations Act*.

Designation
not a
regulation
R.S.O. 1980,
c. 446

6. Subsection 12 (1) of the said Act is amended by striking out "or probationer" in the seventh line and inserting in lieu thereof "probationer or young person".

7. Section 13 of the said Act is repealed and the following substituted therefor:

13. The Lieutenant Governor in Council may pay a compassionate allowance in the prescribed manner and amounts as compensation to an inmate or young person for permanent disability arising from an injury suffered while engaged in an authorized activity at a correctional institution or place of open custody, secure custody or temporary detention or to any other person for injury or damage inflicted upon that person by an inmate or young person while under the custody and supervision of the Ministry.

Compas-
sionate
allowance

8. Section 16 of the said Act is amended by adding thereto the following subsection:

- (3) Subsections (1) and (2) do not apply to young persons.

Exception

9. Part III (Parole) of the said Act is amended by adding thereto the following section:

30a. In this Part, "Board" means the Board of Parole continued by section 31.

Interpretation

10. Subsection 42 (3) of the said Act is repealed.

11. Section 44 of the said Act is repealed.

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

PART V

YOUNG PERSONS

Interpretation **44.** In this Part, "Board" means the Custody Review Board established by subsection 50 (1).

Appointments by Minister **45.—**(1) The Minister may appoint any person as,

(a) a provincial director, to perform any or all of the duties and functions of a provincial director,

S.C. 1980-81-82-83, c. 110

(i) under the *Young Offenders Act* (Canada), and

(ii) under the regulations; and

(b) a youth worker, to perform any or all of the duties and functions of a youth worker,

(i) under the *Young Offenders Act* (Canada), and

(ii) under the regulations.

Limitations, etc., on appointments

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

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

Secure and open temporary detention programs

46.—(1) The Minister may establish,

(a) secure temporary detention programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community; and

(b) open temporary detention programs, in which restrictions that are less stringent than in a secure temporary detention program are imposed on the liberty of young persons,

in places of temporary detention.

Maximum and medium security custody programs

(2) The Minister may establish,

(a) maximum security custody programs, in which restrictions are continuously imposed on the liberty of young persons by physical barriers, close staff supervision or limited access to the community; and

- (b) medium security custody programs, in which restrictions that are less stringent than in a maximum security custody program are imposed on the liberty of young persons,

in places of secure custody.

(3) The said Act is further amended by adding thereto the following section:

47.—(1) Section 19 (provincial bailiffs) applies with necessary modifications to the transfer of young persons in accordance with this Act and the *Young Offenders Act* (Canada). Bailiffs

(2) Subsections 20 (1) and (2) (director or superintendent) apply with necessary modifications to places of open custody, secure custody and temporary detention. Directors, superintendents

(3) Section 30 (employee interest in contracts) applies with necessary modifications in respect of places of open custody, secure custody and temporary detention and in respect of young persons. Employee interest in contracts

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

48.—(1) A young person who is detained under the *Young Offenders Act* (Canada) in a place of temporary detention shall be detained in a place of open temporary detention unless a provincial director determines otherwise. Open detention unless provincial director determines otherwise
S.C. 1980-81-82-83, c. 110

(2) A provincial director may detain a young person who is detained under the *Young Offenders Act* (Canada) in a place of secure temporary detention, Where secure detention available

(a) if the young person,

(i) is charged with an offence that includes causing or attempting to cause serious bodily harm to another person,

(ii) has, at any time, failed to appear in court when required to do so under the *Young Offenders Act* (Canada) or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or R.S.O. 1970, c. J-3

(iii) has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more; or

(b) where the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention,

(i) to ensure the young person's attendance in court, or

(ii) to protect the public interest or safety.

Idem

S.C. 1980-81-82-83, c. 110

(3) Despite subsection (1), a young person who is detained under the *Young Offenders Act* (Canada) in a place of temporary detention may be detained in a place of secure temporary detention for a period not exceeding twenty-four hours while a provincial director makes a determination in respect of the young person under subsection (2).

Review by youth court

R.S.O. 1970, c. C-34

(4) A young person who is being detained in a place of secure temporary detention and is brought before a youth court for a review under the *Criminal Code* (Canada) may request that the youth court review the level of the young person's detention, and the youth court may confirm the provincial director's decision under subsection (2) or may direct that the young person be transferred to a place of open temporary detention.

Medium rather than maximum security custody unless provincial director determines otherwise

49.—(1) A young person who is committed to secure custody under the *Young Offenders Act* (Canada) shall be held in a medium security place of custody unless a provincial director determines under subsection (2) that the young person is to be held in a maximum security place of custody.

Where maximum security custody available

(2) A provincial director may place a young person in or transfer a young person to a maximum security place of custody if the young person is committed to secure custody under the *Young Offenders Act* (Canada) and,

(a) the offence for which the young person is committed to secure custody includes causing or attempting to cause serious bodily harm to another person;

- (b) the young person has, within the twelve months immediately preceding the offence for which the young person is committed to secure custody,
 - (i) been held in a maximum security place of custody, or
 - (ii) been found guilty of an offence for which an adult would be liable to imprisonment for five years or more; or
- (c) the provincial director is satisfied that it would not be appropriate to hold the young person in a medium security place of custody, having regard to,
 - (i) the young person's age and previous history,
 - (ii) the circumstances of the commission of the offence for which the young person is committed to secure custody,
 - (iii) the contents of a pre-disposition report,
 - (iv) the needs of the young person, and
 - (v) the need to protect the public interest and safety.

(3) A provincial director may transfer a young person from a maximum security place of custody to a medium security place of custody if the provincial director is satisfied that the transfer is justified because the young person has made sufficient progress or for some other appropriate reason.

Transfer from maximum to medium security custody

(4) A provincial director who makes a determination under this section shall give written reasons for the determination to the young person.

Reasons

50.—(1) The Custody Review Board is established, composed of the prescribed number of full-time and part-time members appointed by the Lieutenant Governor in Council, and has the powers and duties given to it by this Act and the regulations.

Custody Review Board

(2) The Lieutenant Governor in Council may appoint a member of the Board as chairman and may appoint one or more other members as vice-chairmen.

Chairman and vice-chairmen

(3) A member of the Board shall hold office for the prescribed term.

Term

Quorum

(4) The prescribed number of members of the Board is a quorum.

Remuneration
of part-time
members

(5) The members of the Board who are part-time members shall serve without salary but may be paid such expenses and allowances for attendance at meetings and for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council.

Duties of
Board

(6) The Board shall conduct reviews under section 51 and perform such other duties as are assigned to it by the regulations.

Application
to Board

51.—(1) A young person may apply to the Board for a review of,

- (a) a provincial director's decision to hold the young person in or transfer the young person to a maximum security place of custody;
- (b) the particular place where the young person is held or to which the young person has been transferred; or
- (c) a provincial director's refusal to authorize the young person's temporary release under section 35 of the *Young Offenders Act* (Canada),

S.C. 1980-
81-82-83,
c. 110

within thirty days of the decision, placement or transfer, as the case may be.

Duty of
Board

(2) The Board shall conduct a review with respect to an application made under subsection (1) and may do so by holding a hearing.

Idem

(3) The Board shall advise the young person whether it intends to hold a hearing or not within ten days of receiving the young person's application.

Idem

(4) The Board shall complete its review and make a determination within thirty days of receiving a young person's application, unless,

- (a) the Board holds a hearing with respect to the application; and
- (b) the young person and the provincial director whose decision is being reviewed consent to a longer period for the Board's determination.

(5) After conducting a review under subsection (2), the Board may,

Board's recommendations

- (a) recommend to the provincial director,
 - (i) that the young person be transferred to a medium security place of custody,
 - (ii) where the Board is of the opinion that the place where the young person is held or to which the young person has been transferred is not appropriate to meet the young person's needs, that the young person be transferred to another place, or
 - (iii) that the young person's temporary release be authorized under section 35 of the federal Act; or
- (b) confirm the decision, placement or transfer.

(5) The said Act is further amended by adding thereto the following section:

52.—(1) Where a young person is ordered to be detained in custody under subsection 134 (4) or 135 (2) (pre-trial detention) of the *Provincial Offences Act*, the young person shall be detained in a place of temporary detention.

Pre-trial detention
R.S.O. 1980, c. 400

(2) Where a young person is sentenced to a term of imprisonment under the *Provincial Offences Act*,

Open custody for provincial offences

- (a) the term of imprisonment shall be served in a place of open custody, subject to subsections (3) and (4);
- (b) section 35 (temporary release) of the *Young Offenders Act* (Canada) applies with necessary modifications; and
- (c) sections 25, 26, 28 and 29 (rehabilitation programs, work outside institution, remission, early release) and Part III (Parole) apply with necessary modifications.

S.C. 1980-81-82-83, c. 110

(3) Where in the opinion of the director or superintendent of a place of open custody a young person held there under clause (2) (a) cannot be safely or securely detained in that place, the director or superintendent may transfer the young person to a place of secure custody to be detained there.

Transfer to place of secure custody

Concurrent terms

S.C. 1980-81-82-83, c. 110

R.S.O. 1980, c. 400

(4) Where a young person who is committed to secure custody under the *Young Offenders Act* (Canada) is sentenced concurrently to a term of imprisonment under the *Provincial Offences Act*, the term of imprisonment under the *Provincial Offences Act* shall be served in the same place as the disposition under the *Young Offenders Act* (Canada).

(6) The said Act is further amended by adding thereto the following sections:

Interpretation

53.—(1) In this section and in section 54, “young person in custody” means a young person who is detained in a place of temporary detention or committed to secure or open custody under the *Young Offenders Act* (Canada).

No corporal punishment

(2) A young person in custody shall not be subjected to corporal punishment.

Rights of communication, etc.

(3) A young person in custody has a right,

(a) to speak in reasonable privacy with and receive visits from members of the young person’s family regularly;

(b) to speak in reasonable privacy with and receive visits from,

(i) the young person’s solicitor,

(ii) the Ombudsman appointed under the *Ombudsman Act* and members of the Ombudsman’s staff, and

(iii) a member of the Legislative Assembly of Ontario or of the Parliament of Canada; and

(c) to send and receive mail that is not read, examined or censored by another person, subject to subsection (4).

R.S.O. 1980, c. 325

Opening, etc., of young person’s mail

(4) Mail to and from a young person in custody,

(a) may be opened by the director or superintendent or that person’s designate in the young person’s presence and may be inspected for articles prohibited by the director or superintendent;

(b) where the director or superintendent or that person’s designate believes on reasonable grounds that the contents of the mail may be prejudicial to the

best interests of the recipient, the public safety or the security of the place of detention or custody, may be examined or read by the director or superintendent or designate and may be withheld from the recipient in whole or in part;

- (c) shall not be examined or read under clause (b) if it is to or from the young person's solicitor, unless there are reasonable and probable grounds to believe that it contains material that is not privileged as a solicitor-client communication; and
 - (d) shall not be opened and inspected under clause (a) or examined or read under clause (b) if it is from a person described in subclause (3) (b) (ii) or (iii) (Ombudsman, member of Legislative Assembly, etc.).
- (5) A young person in custody has a right, Personal liberties
- (a) to have reasonable privacy, and to have possession of the young person's own personal property, except articles prohibited by the director or superintendent; and
 - (b) to receive the religious instruction and participate in the religious activities of the young person's choice, subject to subsection (8).
- (6) A young person in custody has a right to a plan of care designed to meet the young person's particular needs, which shall be prepared within a reasonable time of admission to the place of detention or custody. Plan of care
- (7) A young person in custody has a right, Rights to care
- (a) to participate in the development of the young person's individual plan of care and in any changes made to it;
 - (b) to receive meals that are well-balanced, of good quality and appropriate for the young person;
 - (c) to be provided with clothing that is of good quality and appropriate for the young person, given the young person's size and activities and prevailing weather conditions;
 - (d) to receive necessary medical and dental care, subject to subsection (8), at regular intervals and when-

ever required, in a community setting whenever possible;

- (e) to participate in appropriate educational, training or work programs, in a community setting whenever possible; and
- (f) to participate in recreational and athletic activities that are appropriate for the young person's aptitudes and interests, in a community setting whenever possible.

Parental consent, etc.

(8) The parent of a young person in custody retains any right that the parent may have,

- (a) to direct the young person's education and religious upbringing; and
- (b) to give or refuse consent to medical treatment for the young person.

Right to be heard

(9) A young person in custody has a right to be consulted and to express views whenever significant decisions concerning the young person are made, including decisions with respect to medical treatment, training or work programs, education and religion and decisions with respect to the young person's transfer to another place of detention or custody.

Right to be informed of,

(10) A young person in custody has a right to be informed of,

- (a) the young person's rights under this section;
- (b) the internal complaints procedure established under subsection 54 (1) and the further review available under section 55;
- (c) the review procedures available under section 51 (Custody Review Board);
- (d) the young person's responsibilities while in the place of detention or custody; and
- (e) the rules governing day-to-day operation of the place of detention or custody, including disciplinary procedures,

upon admission to the place.

54.—(1) A director or superintendent shall establish a written procedure, in accordance with the regulations, for hearing and dealing with complaints regarding alleged violations of the rights under section 53 of young persons in custody. Internal complaints procedure

(2) A director or superintendent shall conduct a review or ensure that a review is conducted, in accordance with the procedure established under subsection (1), on the complaint of, Idem

- (a) a young person in custody;
- (b) the young person’s parent; or
- (c) another person representing the young person,

and shall seek to resolve the complaint.

55.—(1) Where a person referred to in subsection 54 (2) who makes a complaint and is not satisfied with the result of the review conducted under that subsection requests in writing that the Minister appoint a person to conduct a further review of the complaint, the Minister shall appoint a person to do so. Further review

(2) A person appointed under subsection (1) shall review the complaint in accordance with the regulations and may, but is not required to, do so by holding a hearing. Idem

(3) A person appointed under subsection (1) shall, within thirty days after the day of the appointment, complete the review, set out in a report the person’s findings and recommendations, including the reasons for not holding a hearing if none was held, and provide copies of the report to, Review and report within thirty days

- (a) the person who made the complaint;
- (b) the director or superintendent; and
- (c) the Minister.

56.—(1) Where the Minister decides to take any action with respect to a complaint after receiving a report under subsection 55 (3), the Minister shall advise the person who made the complaint and the director or superintendent of the decision. Minister to advise persons affected of any decision

(2) The Minister’s decision referred to in subsection (1) does not affect any other remedy that may be available. Remedies preserved

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

PART VI

GENERAL PROVISIONS

Application
of R.S.O.
1980, c. 484

57. The *Statutory Powers Procedure Act* does not apply to proceedings,

- (a) for the discipline or transfer of inmates or young persons;
- (b) for the grievances of inmates or young persons;
- (c) under section 55 (review of young persons' complaints);
- (d) for the authorization of temporary absences for inmates or temporary release for young persons; or
- (e) of the Board of Parole or of the Custody Review Board,

notwithstanding anything in that Act.

Member of
Legislative
Assembly

58. Every member of the Legislative Assembly of Ontario is entitled to enter and inspect any correctional institution, community resource centre or other facility established or designated under this Act for any purpose related to the member's duties and responsibilities as a member of the Legislative Assembly, unless the Minister determines that the institution, community resource centre or facility is insecure or an emergency condition exists in it.

Regulations

59. The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation, management, inspection and classification of correctional institutions;
- (b) respecting the operation, management and inspection of community resource centres;
- (c) respecting the establishment, operation, management and inspection of places of open custody, secure custody and temporary detention;

- (d) designating correctional institutions as reformatories for the purpose of the *Prisons and Reformatories Act* (Canada); R.S.C. 1970,
c. P-21
- (e) respecting the treatment, training, employment, discipline, control, grievances and privileges of inmates and young persons;
- (f) requiring the maintenance of records and providing for their destruction;
- (g) respecting the retention and disposal of the property of inmates and young persons;
- (h) providing for the granting of compassionate allowances;
- (i) providing for and establishing criteria for the granting of temporary absences or parole in respect of inmates and temporary release in respect of young persons;
- (j) establishing rules of procedure for the Board of Parole;
- (k) providing for the appointment and remuneration of members of the Board of Parole;
- (l) respecting the duties and powers of directors, superintendents, probation officers, parole officers, correctional officers, other employees of the Ministry and volunteers;
- (m) prescribing additional duties and functions of provincial directors and youth workers;
- (n) prescribing the number of members of the Custody Review Board, their terms of office and the number of members that is a quorum;
- (o) prescribing additional powers, duties and procedures of the Custody Review Board;
- (p) governing internal complaints procedures to be established under section 54;
- (q) establishing procedures for reviews under section 55;

- (r) providing for the assessment of inmates and young persons;
- (s) providing for and prescribing fees and charges to recover costs incurred by the Ministry;
- (t) prescribing forms and providing for their use.

14.—(1) Clauses 1 (c), (d) and (e) of the *Young Offenders Implementation Act, 1984*, being chapter 19, are amended by adding at the end thereof in each case “and operated by or for the Minister”.

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

3a.—(1) With the approval of a provincial director, services may be provided under this Act to a person sixteen years of age or more who is a young person within the meaning of the *Young Offenders Act* (Canada) but not within the meaning of clause 1 (i).

(2) A person who is the subject of an approval under subsection (1) shall be deemed to be a young person for the purposes of this Act.

15.—(1) This Act, except subsections 12 (2), (4) and (6), comes into force on the 1st day of April, 1985.

(2) Subsections 12 (2), (4) and (6) come into force on a day to be named by proclamation of the Lieutenant Governor.

16. The short title of this Act is the *Ministry of Correctional Services Amendment Act, 1984*.

Approval of provincial director for provision of services to person over sixteen

S.C. 1980-81-82-83, c. 110

Person deemed to be young person

Commencement

Idem

Short title

Bill 150

An Act to amend the Legislative Assembly Act

Mr. Kolyn

1st Reading November 20th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the appointment of a Curator of Queen's Park. The Curator of Queen's Park will be responsible for advising the Speaker of the Legislative Assembly and the Lieutenant Governor in Council concerning the conservation, protection and preservation of the heritage of Queen's Park.

Bill 150

1984

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. The *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

75a.—(1) A Curator of Queen's Park shall be appointed by the Lieutenant Governor in Council upon such terms and conditions as the Speaker may recommend. Curator of Queen's Park

(2) The Curator of Queen's Park shall hold office during good behaviour but shall be removable from office for cause by the Lieutenant Governor in Council on address of the Assembly. Tenure of office

(3) The Curator of Queen's Park shall, Duties of Curator

(a) compile and maintain an inventory of all structures, objects and locations at Queen's Park that have historical, architectural or aesthetic significance;

(b) advise and make recommendations to the Speaker and to the Lieutenant Governor in Council on any matter relating to the conservation, protection and preservation of the heritage of Queen's Park including any renovation, restoration or alteration to a structure, object or location listed in the inventory that the Curator considers advisable.

(4) Such parts of the area of land within the area bounded by Queen's Park Crescent as may be designated by the Lieutenant Governor in Council shall constitute Queen's Park for determining the duties of the Curator of Queen's Park and the order in council shall be laid before the Assembly. Queen's Park

Commence-
ment

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

Short title

3. The short title of this Act is the *Legislative Assembly Amendment Act, 1984.*

Bill 151

An Act to amend the Nursing Homes Act

Mr. Cooke

1st Reading November 22nd, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill requires the financial statements of licensed nursing homes to be tabled in the Assembly and made available for public inspection.

Bill 151

1984

An Act to amend the Nursing Homes Act

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

1. The *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

17a.—(1) A licensee shall, at the end of the licensee's fiscal year, prepare or cause to be prepared a financial statement for the nursing home, including, Financial statement

- (a) a statement of profit and loss for that fiscal year, including details of expenditures for nursing care, food, recreation and other programs; and
- (b) a budget of all projected expenditures for the next fiscal year, including details of projected expenditures for nursing care, food, recreation and other programs.

(2) A licensee shall file the financial statement referred to in subsection (1) with the Minister within ninety days of the end of the licensee's fiscal year, and the Minister shall submit the financial statement to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Tabling

(3) After a financial statement has been tabled in accordance with subsection (2), the licensee shall post a copy of it in a conspicuous place at the nursing home and shall make it available for inspection by any person on request during ordinary business hours. Posting and public inspection

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

3. The short title of this Act is the *Nursing Homes Amendment Act, 1984*. Short title

Bill 152

An Act to amend the Royal Ontario Museum Act

Mr. Grande

1st Reading November 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to reform the structure of the board of trustees of The Royal Ontario Museum. The Board will continue to consist of twenty-one trustees but the Bill provides that eight of the trustees will be appointed by the Lieutenant Governor in Council, eight will be elected by members of the Museum and two will be elected by members of the Museum's professional staff. The Bill also increases the number of trustees required to constitute a quorum and provides that meetings of the Board shall be open to the public.

Bill 152**1984****An Act to amend the Royal Ontario Museum Act**

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

1.—(1) Subsection 4 (3) of the *Royal Ontario Museum Act*, being chapter 458 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Of the remaining eighteen trustees,

Appointment
and election

- (a) eight, being persons who are geographically representative of the Province of Ontario, shall be appointed by the Lieutenant Governor in Council for a three-year term;
- (b) eight shall be elected by members of the Museum for a three-year term; and
- (c) two shall be elected by the professional staff of the Museum for a one-year term.

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

(4) Notwithstanding subsection (3),

First
trustees

- (a) on the first appointment of trustees under clause (3) (a), three trustees shall be appointed for a one-year term, three trustees shall be appointed for a two-year term and two trustees shall be appointed for a three-year term;
- (b) on the first election of trustees under clause (3) (b), three trustees shall be elected for a one-year term, three trustees shall be elected for a two-year term and two trustees shall be elected for a three-year term,

and in each year thereafter the appropriate number of trustees shall be appointed and elected under clauses (3) (a), (b) and (c) in order to fully constitute the Board.

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

Quorum

(7) Ten trustees, including at least two trustees elected by the members and one trustee elected by the professional staff of the Museum, constitute a quorum for meetings of the Board.

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

Chairman,
vice-chairman

(8) The Board shall elect one of its members to be its chairman and may elect one of its members to be vice-chairman.

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

Open
meetings
of Board

4a. The meetings of the Board and meetings of a committee of the Board, including a committee of the whole Board, shall be open to the public except where the Board determines that certain committees of the Board shall not be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct.

Transition

3. The trustees who are members of the Board on the day this Act comes into force shall continue to hold office until their successors are appointed or elected.

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 *Royal Ontario Museum Amendment Act, 1984*.

Bill 153

An Act to amend the Public Vehicles Act

Mr. Mackenzie

1st Reading November 27th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would prohibit passengers from occupying the part of a bus or streetcar to the immediate right of the driver's seat after the driver has asked them to clear that area.

Bill 153

1984

An Act to amend the Public Vehicles Act

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

1. Section 23 of the *Public Vehicles Act*, being chapter 425 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(4) No person other than the driver or operator shall occupy any portion of a bus or streetcar, both as defined in the *Highway Traffic Act*, forward of the back of the driver's or operator's seat after the driver or operator has requested passengers to clear that portion of the bus or streetcar.

No
obstruction
of driver's
view
R.S.O. 1980,
c. 198

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

Commence-
ment

3. The short title of this Act is the *Public Vehicles Amendment Act, 1984*.

Short title

Bill 154

An Act to amend the Business Corporations Act, 1982

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

1st Reading December 6th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The provision is recast to clarify that the Act applies only to “bodies corporate with share capital” and not to corporations incorporated under the *Corporations Act*.

SECTION 2. Subsection 14 (4) of the Act, as recast, is new. Subsection 14 (5) is a restatement of the current subsection 14 (4).

SECTIONS 3 and 13. Sections 25 and 167 of the Act are amended to provide that where shares are to be issued in one or more series, directors may amend the corporation’s articles or the articles themselves may fix the number of shares in and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of a series.

SECTION 4. The provision is recast to clarify that the powers of the directors to declare, and the corporation to pay, a dividend on shares is subject to the articles and to any unanimous shareholder agreement.

SECTIONS 5, 6 and 7. The effect of the changes to sections 42, 45 and 56 of the Act is to permit securities dealers to police the ownership of their publicly traded shares.

SECTION 8. The amendment corrects an internal section reference.

SECTION 9. Section 125 of the Act deals with changes in the number of directors of a corporation. The proposed amendment provides that where a corporation has by special by-law increased or decreased the number of its directors as set out in the articles, in compliance with a predecessor of the Act, the special by-law shall be deemed to be effective and constitute an amendment to the articles of the corporation.

SECTION 10. Section 126 of the Act deals with meetings of directors. The provisions are recast to clarify that the minimum quorum is two-fifths of the actual number of directors in the case of a floating board and to provide that where a corporation has fewer than three directors all must be present to constitute a quorum.

SECTION 11. Subsection 138 (2) of the Act is amended in two places by changing “shares” to “voting securities” so that the wording of the subsection is more precise.

SECTION 12. The added section to Part XII of the Act provides for the effective date of an auditor’s resignation.

SECTION 14. The subsection being repealed provides that where a matter that constitutes an arrangement could be accomplished by articles of amendment, the latter procedure must be followed.

SECTION 15. Subsections are being added to section 184 of the Act, which deals with the rights of dissenting shareholders, to provide specifically that a negative proxy does not constitute a written objection for purposes of subsection 184 (6) and to require that the notice of the adoption of a resolution under subsection 184 (7) must state the resulting rights and steps to be taken by a dissenting shareholder.

SECTION 16. Subsection 239 (1) of the Act is recast to provide that the Director may, in exercising his discretion, cancel a certificate issued under the Act or a predecessor of the Act.

SECTION 17. The amendment removes the references to dissolution of a corporation under section 238, 239 or 240. A corporation can be dissolved under certain other sections. The substitution reflects this.

SECTION 18. The amendment corrects an internal section reference.

SECTION 19. The provision is recast to clarify that financial statements of corporations filed with the Director for purposes of making application for an exemption from the audit requirements in section 148 of the Act are confidential and not available to the public.

SECTION 20. The power to make regulations is expanded.

SECTION 21. The provision is recast to provide that the Director in endorsing corrected certificates may correct certificates or articles endorsed or issued under a predecessor of the Act and that a corporation may make application for a corrected certificate.

1900

1901

1902

1903

1904

1905

Bill 154

1984

**An Act to amend the
Business Corporations Act, 1982**

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 *Business Corporations Act, 1982*, being chapter 4, is repealed and the following substituted therefor:

2.—(1) This Act, except where it is otherwise expressly provided, applies to every body corporate with share capital, Application

- (a) incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; or
- (c) incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act.

R.S.O. 1980,
c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a body corporate with share capital that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. Idem

(3) This Act does not apply to a body corporate with share capital that, Idem

R.S.O. 1980,
c. 95

(a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature;

R.S.O. 1980,
c. 91

(b) is a corporation to which the *Co-operative Corporations Act* applies;

(c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*; or

R.S.O. 1980,
c. 102

(d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies.

2. Subsection 14 (4) of the said Act is repealed and the following substituted therefor:

Change of
registered
office

(4) A corporation may by special resolution change the municipality or geographic township in which its registered office is located to another place in Ontario and, if it does so, shall file a certified copy of the resolution with the Director within ten days after passing the resolution.

Validity

(5) Failure to comply with subsection (3) or (4) does not affect the validity of the resolution.

3. Subsections 25 (1), (4) and (5) of the said Act are repealed and the following substituted therefor:

Special
shares
in series

(1) The articles, subject to the limitations set out in them,

(a) may authorize the issue of any class of shares in one or more series and may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series; or

(b) may authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof.

Articles
designating
special shares

(4) Where articles have been amended under clause 167 (1) (j) or subsection 167 (1a), before the issue of shares of a series pursuant to the amendment, the directors shall send to the Director articles of amendment in the prescribed form designating such series of shares.

(5) On receipt of articles of amendment designating a series of shares under subsection (4), the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of amendment.

Certificate re special shares

4. Subsection 38 (1) of the said Act is repealed and the following substituted therefor:

(1) Subject to its articles and any unanimous shareholder agreement, the directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property.

Declaration of dividends

5.—(1) Clause 42 (2) (c) of the said Act is amended by inserting after “any” in the second line “prescribed class of”.

(2) Subsection 42 (3) of the said Act is repealed and the following substituted therefor:

(3) Nothing in clause (2) (c) or (d) authorizes a corporation to impose restrictions on the issue, transfer or ownership of shares of any class or series of which any shares are outstanding unless,

Application of subs. (2) (c, d)

- (a) in the case of restrictions in respect of a class, the shares of the class; or
- (b) in the case of restrictions in respect of a series, the shares of the series,

are already subject to restrictions for the purpose described in clause (2) (c) or (d).

(3) Clause 42 (4) (b) of the said Act is repealed and the following substituted therefor:

- (b) prohibit the ownership of its shares,

6. Subsection 45 (1) of the said Act is repealed and the following substituted therefor:

(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify,

Restricted shares held in contravention—sale by corporation

R.S.O. 1980,
c. 466

- (a) under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration as a dealer; or
- (b) for membership in a stock exchange in Ontario recognized as such by the Commission,

by reason of limiting to a specified level, the ownership of its shares by any prescribed class of person or,

- (c) under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control,

may, for a purpose set out in clause (a), (b) or (c) or, in the case of a corporation under clause (c), for the purpose of attaining or maintaining a level of Canadian ownership or control specified in its articles, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned or that the directors determine in such manner as may be prescribed may be owned, contrary to the restrictions.

7. Subsection 56 (8) of the said Act is repealed and the following substituted therefor:

Notice of
restrictions

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for a purpose set out in clause 42 (2) (c) or (d), the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

8. Subsection 96 (4) of the said Act is amended by striking out "subsection 111 (1)" in the fifth line and inserting in lieu thereof "section 111".

9. Section 125 of the said Act is amended by adding thereto the following subsection:

Articles
amendment

(1a) Where a corporation has, by special by-law, increased or decreased the number of directors under a predecessor of

this Act, the special by-law shall be deemed to constitute an amendment to its articles.

10. Subsections 126 (3) and (4) of the said Act are repealed and the following substituted therefor:

(3) Subject to the articles or by-laws and subsection (4), a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors. Quorum

(4) Where a corporation has fewer than three directors, all directors must be present at any meeting of directors to constitute a quorum. Idem

11. Clauses 138 (2) (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) a person is deemed to own beneficially, voting securities beneficially owned by a body corporate controlled by him directly or indirectly; and

(d) a body corporate is deemed to own beneficially, voting securities beneficially owned by its affiliates.

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

149a. A resignation of an auditor becomes effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever is later. Resignation of auditor

13.—(1) Section 167 of the said Act is amended by adding thereto the following subsection:

(1a) Where the directors are authorized by the articles to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof, they may amend the articles so that the articles do what the directors are authorized to do. Idem

(2) Subsection 167 (4) of the said Act is amended by inserting after “subsection” in the second line “(1a) or”.

14. Subsection 181 (7) of the said Act is repealed.

15. Section 184 of the said Act is amended by adding thereto the following subsections:

Idem

(6a) The exercise of a proxy does not constitute a written objection for purposes of subsection (6).

.

Idem

(7a) A notice sent under subsection (7) shall set out clearly the rights of the dissenting shareholder and the procedures to be followed to exercise those rights.

16. Subsection 239 (1) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Cancellation of certificate, etc., by Director

(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued or endorsed under this Act or a predecessor of this Act and,

.

17. Subsection 241 (1) of the said Act is amended by striking out “under section 238, 239 or 240” in the second line and inserting in lieu thereof “under this Act”.

18. Clause 257 (1) (c) of the said Act is amended by striking out “subsection 111 (1)” in the fourth line and inserting in lieu thereof “section 111”.

19. Section 269 of the said Act is amended by adding thereto the following subsection:

Privileged documents

(3) Subsections (1) and (2) do not apply in respect of documents and financial statements required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act.

20. Paragraphs 6 and 25 of section 271 of the said Act are repealed and the following substituted therefor:

- 6. prescribing the form and content of information circulars and proxies required by Part VIII and the discretionary authority that may be conferred in proxies;

.

- 17a. prescribing that, for the purposes of Part XII of this Act, the standards, as they exist from time to time, of a prescribed accounting body shall be followed;
-
25. prescribing, with respect to a corporation that has imposed restrictions on the issue, transfer or ownership of its shares for a purpose under subsection 42 (2),
- i. the disclosure required of the restrictions in documents issued or published by the corporation,
 - ii. the duties and powers of the directors to refuse to issue or register transfers of shares in accordance with the articles of the corporation,
 - iii. the limitations on voting rights of any shares held contrary to the articles of the corporation, and
 - iv. the powers of the directors to require disclosure of beneficial ownership of shares of the corporation and the rights of the corporation and its directors, employees or agents to rely on the disclosure and the effects of the reliance;
- 25a. prescribing persons or classes of persons for the purpose of clause 42 (2) (c) and prescribing the manner of computing the ownership of shares of a corporation by persons for such purpose;
-
27. prescribing classes of persons for the purposes of subparagraph ii of paragraph 37 of subsection 1 (1);
28. prescribing any matter referred to in this Act as prescribed by the regulations.

21. Subsection 273 (1) of the said Act is repealed and the following substituted therefor:

(1) Where a certificate endorsed or issued under this Act or a predecessor of this Act contains an error or where a certifi-

Where error
in respect of
certificate

cate has been endorsed or issued on articles or any other documents that contain an error,

- (a) the corporation, its directors or shareholders may apply to the Director for a corrected certificate in which case the certificate and related articles or documents shall be surrendered; or
- (b) the corporation shall upon the request of the Director and after being given an opportunity to be heard, surrender the certificate and related articles or documents,

and after the corporation has passed such resolutions and taken such steps as the Director may reasonably require, the Director shall endorse a corrected certificate.

Commence-
ment

22.—(1) This Act, except sections 16 and 21, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Sections 16 and 21 shall be deemed to have come into force on the 29th day of July, 1983.

Short title

23. The short title of this Act is the *Business Corporations Amendment Act, 1984*.

Bill 155

An Act to provide for a Moratorium on Farm Foreclosures

Mr. Swart

1st Reading December 6th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would require a mortgagee who wishes to realize on a mortgage against farmland to obtain a court's permission first. In considering whether to grant the order, the court is to take into account whether the land is being farmed, whether it is the mortgagor's primary source of a livelihood, whether the mortgagor has made all reasonable efforts to pay the debt, whether the mortgagee has attempted to make an arrangement with the mortgagor for payment of the debt, whether the farm is or could be viable and the need to preserve active farming operations.

Bill 155

1984

**An Act to provide for a
Moratorium on Farm Foreclosures**

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,

Interpretation

(a) "agricultural land" means land that is,

(i) zoned for agricultural use under a by-law passed under section 34 of the *Planning Act, 1983* or under an order made under section 46 of that Act, or

1983, c. 1

(ii) assessed under the *Assessment Act* or actually used as farm or agricultural land or as an orchard;

R.S.O. 1980,
c. 31

(b) "court" means the District Court.

2. Despite anything in the *Mortgages Act* and despite any agreement to the contrary, no person shall,

Realization
of mortgage
debts against
agricultural
land
restricted
R.S.O. 1980,
c. 296

(a) sell agricultural land under a power of sale contained in a mortgage or a judgment for sale given on default under a mortgage;

(b) begin or continue an action of foreclosure for default under a mortgage of agricultural land; or

(c) begin or continue an action or take any step to enforce a judgment for the recovery of a mortgage debt with respect to agricultural land,

unless the person first obtains an order under subsection 3 (1).

3.—(1) On the application of a mortgagee to whom section 2 applies, if,

Order
permitting
realization

- (a) in the court's opinion it would not be beneficial to the mortgagor to continue the application of section 2; and
- (b) there is default in the payment of principal or interest under the mortgage,

the court may make an order exempting the mortgagee from section 2 in respect of the mortgage, and may impose terms and conditions on the order.

Criteria

(2) In determining whether to make an order under subsection (1), the court shall consider,

- (a) whether the agricultural land is being farmed;
- (b) whether the mortgagor and his or her family or, where the mortgagor is a corporation, the shareholders of the corporation depend primarily on the agricultural land for their livelihood;
- (c) whether the mortgagor has made all reasonable efforts to pay the mortgage debt;
- (d) whether the mortgagee has sought to make an arrangement with the mortgagor for the repayment of the mortgage debt;
- (e) whether the mortgagor's farming operation is viable or capable of being viable; and
- (f) the need to preserve active farming operations.

Repeal

4. This Act is repealed on the 1st day of January, 1988.

Commencement

5. This Act shall be deemed to have come into force on the 6th day of December, 1984.

Short title

6. The short title of this Act is the *Farm Foreclosures Moratorium Act, 1984*.

Bill 156

An Act to amend the Regional Municipality of Hamilton-Wentworth Act

Mr. Allen

1st Reading December 7th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides for election of the regional chairman by a general vote (rather than by the members of the Regional Council) and gives the Regional Council (rather than Cabinet) the right to appoint a majority of the members of the Hamilton-Wentworth Police Board.

Bill 156**1984**

**An Act to amend the
Regional Municipality of Hamilton-Wentworth Act**

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

1. Section 6 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:

6. The Regional Council shall consist of twenty-eight members composed of,

Composition
of Regional
Council

- (a) a chairman elected by general vote of the electors of all the area municipalities;
- (b) the mayor of each area municipality;
- (c) sixteen members of council from the City of Hamilton being the remainder of the council of the City;
- (d) one member of council from the Town of Dundas elected by general vote of the electors of the said area municipality as a member of the Regional Council and the council of such area municipality;
- (e) one member of council from the Town of Stoney Creek elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (f) one member of council from the Town of Ancaster elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (g) one member of council from the Township of Flam- borough elected by general vote of the electors of

such area municipality as a member of the Regional Council and the council of such area municipality;

- (h) the member of the council of the Township of Glanbrook elected by general vote.

2. Section 7 of the said Act is repealed.

3. Subsection 8 (3) of the said Act is amended by inserting after "than" in the second line "the chairman of the Regional Council or".

4. Subsections 11 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) When a vacancy occurs in the office of the chairman, a successor shall be elected by general vote of the electors of all the area municipalities to hold office for the remainder of the term.

5.—(1) Clauses 91 (1) (a) and (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 4, are repealed and the following substituted therefor:

- (a) three members of the Regional Council appointed by resolution of the Regional Council; and
- (b) two persons appointed by the Lieutenant Governor in Council.

(2) Subsection 91 (2) of the said Act is amended by striking out "Regional Council" in the second and third lines and inserting in lieu thereof "Lieutenant Governor in Council".

Transition

6. Until the term of one of the three members of the Hamilton-Wentworth Regional Board of Commissioners of Police appointed by the Lieutenant Governor in Council before the coming into force of section 5 has expired, all three may continue to be members, but the Regional Council may appoint an additional person to be a member of the board until the number of members appointed by the Lieutenant Governor in Council is reduced to two.

Commencement

7.—(1) This Act, except sections 1, 2, 3 and 4, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2, 3 and 4 come into force on the 14th day of October, 1985 and have effect for the purposes of the regular election to be held in that year.

**8. The short title of this Act is the *Regional Municipality of* Short title
*Hamilton-Wentworth Amendment Act, 1984.***



Bill 157

An Act respecting the City of Toronto

Mr. Peterson

1st Reading December 11th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill authorizes the City of Toronto to accept a conveyance of land in the City of York for the purpose of preventing any extension of the William R. Allen Expressway or William R. Allen Road.

Bill 157

1984

An Act respecting the City of Toronto

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

1.—(1) For the purpose of preventing any extension of the public highway known as the William R. Allen Expressway or the William R. Allen Road south of Eglinton Avenue West in the City of York, The Corporation of the City of Toronto may accept a conveyance of and hold any land in the City of York lying within or adjacent to the proposed right of way of the said highway.

City may
accept
conveyance

(2) Title to land acquired by The Corporation of the City of Toronto in accordance with subsection (1) shall not be divested in any manner by expropriation, assumption or other act by any person, body or authority, including Her Majesty in right of the Province of Ontario, or be defeated by the obtaining of title by possession or otherwise.

No
expropri-
ation,
etc.

(3) This section binds the Crown.

Crown
bound

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

Commence-
ment

3. The short title of this Act is the *City of Toronto Act, 1984*.

Short title

Bill 158

An Act to amend the Public Service Act

Mr. Newman

1st Reading December 11th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would protect from reprisals Crown employees and employees of Ontario Hydro and the Ontario Northland Transportation Commission who disclose information (with the exception of certain categories of information) that they believe shows contraventions of law, gross wastes of public funds or assets or substantial dangers to public health and safety. This would override the civil servant's duty to keep confidential all information acquired on the job.

Bill 158

1984

An Act to amend the Public Service Act

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

1. The *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

10a.—(1) Notwithstanding anything else in this Act or any other law, a Crown employee shall not be, No reprisals for disclosure of crime, etc.

- (a) dismissed or threatened with dismissal;
- (b) disciplined, suspended or threatened with discipline or suspension;
- (c) penalized in any way; or
- (d) intimidated or coerced,

by reason only that the Crown employee discloses information acquired in the usual course of employment, if the Crown employee believes on reasonable grounds that the information is evidence of a contravention of any law, a gross waste of public funds or assets, or a substantial danger to public health or safety.

(2) Subsection (1) does not apply so as to protect a Crown Exceptions employee who discloses information if the disclosure,

- (a) is an invasion of another individual's personal privacy;
- (b) reveals the substance of deliberations of the Executive Council;
- (c) can reasonably be expected to interfere with law enforcement or the administration of justice, en-

danger public safety or jeopardize the security of a place of lawful detention; or

- (d) reveals a trade secret or other commercial or financial information, unless the public interest in its disclosure outweighs the commercial interest in its continued confidentiality.

Oath of
secrecy

(3) A disclosure to which subsection (1) applies shall be deemed not to violate any oath of office and secrecy made by the Crown employee.

Employees of
Ontario
Hydro
and Ontario
Northland
Transportation
Commission

(4) This section applies to employees of Ontario Hydro and the Ontario Northland Transportation Commission with necessary modifications.

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 *Public Service Amendment Act, 1984*.

Bill 159

An Act to amend the Securities Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading December 13th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill re-enacts Part XIX of the *Securities Act*. Part XIX relates to take-over bids and issuer bids. Among the significant changes are the following:

1. The requirement for follow-up offers as set out in the present subsection 91 (1) of the Act is deleted. At the same time, new restrictions are imposed on the availability of the private agreement exemption that is now set out in clause 88 (2) (c) of the Act. The new private agreement exemption is set out in the proposed clause 92 (1) (c).
2. The proposed section 100a introduces an early warning system whereby, when an offeror's holdings in any class of voting securities of an issuer reaches 10 per cent, the offeror will be required to make public disclosure of the fact.
3. Restrictions on conditional take-over bids are removed.
4. The take-over bid and issuer bid requirements in the proposed sections 94 to 99, with the exception of those related to reporting, will be made applicable to voluntary acquisitions of non-voting participating securities. (Proposed clauses 88 (1) (c) and 88 (1) (j))
5. The proposed section 90 defines the expression "acting jointly or in concert".
6. Take-over bids and issuer bids that are made in jurisdictions with acceptable rules related to bids and that have slight connection with Ontario will be exempted from sections 94 to 99. (Proposed clauses 92 (1) (e) and 92 (3) (h))
7. Restrictions will apply to acquisitions of securities that were subject to a take-over bid or an issuer bid for a period of twenty days following the expiry of the bid. (Proposed subsection 93 (4))
8. Amendments are made to the rules governing take-over bids and issuer bids. Among other changes, the time periods related to depositing securities pursuant to a bid and for withdrawing securities so deposited are changed, as are the rules related to the duration and extension of bids. (Proposed section 94)
9. Under the proposed section 100e, the existing Part XIX will continue to apply in respect of take-over bids and issuer bids commenced before the new Part XIX comes into force.

The Bill also amends section 34 (registration requirements) and section 71 (prospectus requirements) to reflect the proposed changes to Part XIX. (Sections 1 and 2 of the Bill).

Bill 159**1984****An Act to amend the Securities Act**

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

1. Paragraph 17 of subsection 34 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

17. A trade in a security of an issuer in connection with a take-over bid exempted from the requirements of sections 94 to 99 by subsection 92 (1).

2. Clause 71 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) the trade is made in a security of an issuer in connection with a take-over bid exempted from the requirements of sections 94 to 99 by subsection 92 (1).

3. Part XIX of the said Act is repealed and the following substituted therefor:

PART XIX**TAKE-OVER BIDS AND ISSUER BIDS**

88.—(1) In this Part,

Interpretation

- (a) “business day” means a day other than a Saturday or a holiday;
- (b) “class of securities” includes a series of a class of securities;
- (c) “equity security” means any security of an issuer that carries the residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in its assets;

- (d) “issuer bid” means an offer to acquire or an offer to redeem securities of an issuer made by the issuer to any person or company who is in Ontario or to any security holder of the issuer whose last address as shown on the books of the issuer is in Ontario and includes a purchase, redemption or other acquisition of securities of the issuer by the issuer from any such person or company;
- (e) “offer to acquire” includes,
- (i) an offer to purchase, or a solicitation of an offer to sell, securities,
 - (ii) an acceptance of an offer to sell securities, whether or not such offer to sell has been solicited,
- or any combination thereof, and the person or company accepting an offer to sell shall be deemed to be making an offer to acquire to the person or company that made the offer to sell;
- (f) “offeree issuer” means an issuer whose securities are the subject of a take-over bid, an issuer bid or an offer to acquire whether or not it is a take-over bid or an issuer bid;
- (g) “offeror” means a person or company who makes a take-over bid, an issuer bid or an offer to acquire whether or not it is a take-over bid or an issuer bid;
- (h) “offeror’s securities” means securities of an offeree issuer beneficially owned, or over which control or direction is exercised, on the date of an offer to acquire, by an offeror or any person or company acting jointly or in concert with the offeror;
- (i) “published market” means, as to any class of securities, any market on which such securities are traded if the prices at which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation; and
- (j) “take-over bid” means an offer to acquire outstanding voting or equity securities of a class made to any person or company who is in Ontario or to any security holder of the offeree issuer whose last address as shown on the books of the offeree issuer

is in Ontario, where the securities subject to the offer to acquire, together with the offeror's securities, constitute in the aggregate 20 per cent or more of all outstanding securities of that class of securities at the date of the offer to acquire.

(2) For the purposes of this Part,

Computation
of time,
expiry
of bid

- (a) a period of days shall be computed as commencing on the day next following the event which began the period and terminating at midnight on the last day of the period, except that if the last day of the period falls on a Saturday or holiday, the period terminates at midnight on the next business day;
- (b) a take-over bid or an issuer bid expires at the later of,
 - (i) the end of the period, including any extensions, during which securities may be deposited pursuant to the bid, and
 - (ii) the time at which the offeror becomes obligated by the terms of the bid to take-up or reject securities deposited thereunder.

(3) For the purposes of this Part,

Convertible
securities

- (a) a security shall be deemed to be convertible into a security of another class if, whether or not on conditions, it is convertible into, exchangeable for or carries the right or obligation to acquire a security of the other class, whether of the same or another issuer; and
- (b) a security that is convertible into a security of another class shall be deemed to be convertible into a security or securities of each class into which the second-mentioned security may be converted, either directly or through securities of one or more other classes of securities that are themselves convertible.

(4) For the purposes of this Part, a reference to the acquisition or ownership of securities shall be construed to include the direct or indirect acquisition or ownership of securities.

Direct and
indirect
acquisition,
etc.

89.—(1) For the purposes of this Part, where two or more offerors acting jointly or in concert, make one or more offers to acquire securities of a class of securities of an issuer, the securities subject to such offer or offers to acquire together

Calculation
of
holdings,
joint offers

with the offeror's securities of that class of all such offerors, in respect of each such offeror's offer to acquire, shall be deemed to be securities subject to the offer and offeror's securities for the purpose of calculating the percentage that the securities subject to the offer to acquire together with the offeror's securities is of all outstanding securities of that class.

Deemed
beneficial
ownership

(2) For the purposes of this Part, in determining the beneficial ownership of securities of an offeror or any person or company acting jointly or in concert with the offeror, the offeror, person or company shall be deemed to have acquired, and be the beneficial owner of, a security, including an unissued security, if the offeror, person or company is the beneficial owner of any security convertible into such a security or has the right or obligation, whether or not on conditions, to acquire beneficial ownership of the security whether through the exercise of an option, warrant, right or subscription privilege or otherwise.

Unissued
securities
deemed
outstanding

(3) Where an offeror or any person or company acting jointly or in concert with the offeror is deemed by reason of subsection (2) to be the beneficial owner of unissued securities, the securities shall be deemed to be outstanding for the purpose of calculating the number of outstanding securities of that class in respect of that offeror's offer to acquire.

Deemed
offer
to acquire
underlying
securities

(4) Where an offeror makes an offer to acquire securities convertible into securities of another class, the offeror shall be deemed to have made an offer to acquire securities of each class into which the first-mentioned securities are convertible, and for the purpose of calculating the number of securities of each class subject to such offer to acquire, the first-mentioned securities shall be deemed to have been converted into securities of that class.

Acting jointly
or in concert

90.—(1) For the purposes of this Part, every associate and affiliate of an offeror shall be deemed to be acting jointly or in concert with the offeror in respect of an offer to acquire, and, with respect to any other person or company, it is a question of fact as to whether the person or company is acting jointly or in concert with the offeror and, without restricting the generality of the foregoing, the following shall be presumed to be acting jointly or in concert with the offeror:

1. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, acquires or offers to acquire securities of the issuer of the same class as those subject

to the offer to acquire whether or not any such person or company has an interest or potential interest, whether commercial, financial or personal, in the outcome of such offer to acquire.

2. Every person or company who intends to exercise jointly or in concert with the offeror or with any other person or company acting jointly or in concert with the offeror any voting rights attaching to any securities of the offeree issuer beneficially owned or to be beneficially owned by that person or company after the expiry of the offer to acquire.

(2) Notwithstanding subsection (1), a registered dealer acting solely in an agency capacity for the offeror in connection with a take-over bid or an issuer bid and not executing principal transactions for its own account in the class of securities subject to the offer to acquire or performing services beyond customary dealer's functions shall not be presumed solely by reason of such agency relationship to be acting jointly or in concert with the offeror in connection with the bid.

Limitation

91. For the purposes of this Part, where an offer to acquire is made for securities of a class of securities of an issuer in respect of which there is not a published market and, as a consequence, the offeror will acquire beneficial ownership of, or the right to exercise control or direction over, securities of a class of another issuer in respect of which there is a published market,

True target companies

- (a) the offeror shall be deemed to have made an offer to acquire the securities of the other issuer for a consideration per security determined in accordance with the regulations; and
- (b) the offeror shall be deemed to have acquired the securities of the other issuer from the persons or companies from whom the offeror acquired the securities of the issuer whose securities were the direct subject of the offer to acquire.

92.—(1) A take-over bid is exempt from sections 94 to 99 where,

Exempted take-over bids

- (a) the bid is made through the facilities of a stock exchange recognized by the Commission for the purposes of this clause and in accordance with the by-laws, regulations and policies of the exchange;

- (b) the bid is for not more than 5 per cent of the outstanding securities of a class of securities of the issuer and,
 - (i) the aggregate number of securities acquired by the offeror and any person or company acting jointly or in concert with the offeror within any period of twelve months in reliance upon the exemption provided by this clause does not, when aggregated with acquisitions made by the offeror and any person or company acting jointly or in concert with the offeror in reliance upon the exemptions provided by clauses (a) and (c), constitutes in excess of 5 per cent of the outstanding securities of that class of the issuer at the commencement of the twelve month period, and
 - (ii) if there is a published market for the securities acquired, the value of the consideration paid for any of the securities acquired is not in excess of the market price at the date of acquisition determined in accordance with the regulations plus reasonable brokerage fees or commissions actually paid;
- (c) subject to the regulations,
 - (i) the bid is not made generally to security holders of any class of securities of the offeree issuer,
 - (ii) the bid is made to not more than five persons or companies in the aggregate, including persons or companies outside of Ontario, and
 - (iii) if there is a published market in the securities, the value of the consideration paid for any of the securities, including reasonable brokerage fees or commissions actually paid, does not exceed 115 per cent of the market price of securities of that class at the date of the bid determined in accordance with the regulations;
- (d) the offeree issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid, and the number of holders of securities of that class is not more than fifty, exclusive of holders who are in the employ-

ment of the offeree issuer or an affiliate of the offeree issuer and exclusive of holders who were formerly in the employment of the offeree issuer or an affiliate of the offeree issuer, and who while in that employment were, and have continued after that employment to be, security holders of the offeree issuer; or

- (e) the number of holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of the class subject to the bid and securities convertible into securities of that class is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid complies in all respects with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent to holders of such securities is concurrently sent to holders of such securities whose last address as shown on the books of the offeree issuer is in Ontario and filed with the Commission.

(2) For the purposes of clause (1) (c), where an offeror makes an offer to acquire securities from a person or company and the offeror knows or ought to know after reasonable enquiry that,

Determi-
nation
of number of
security
holders

- (a) one or more other persons or companies on whose behalf that person or company is acting as nominee, agent, trustee, executor, administrator or other legal representative, has a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of persons and companies to whom a bid has been made, but, where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered a single security holder in such determination; or
- (b) the person or company acquired the securities in order that the offeror might make use of the exemption provided by clause (1) (c), then each person or company from whom those securities were acquired shall be included in the determination of the number of persons and companies to whom a bid has been made.

Exempted
issuer bids

(3) An issuer bid is exempt from sections 94, 95, 96, 97 and 99 where,

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are acquired to meet sinking fund or purchase fund requirements;
- (b) the purchase, redemption or other acquisition is required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated, organized or continued;
- (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to redeem or repurchase the securities and the securities are acquired pursuant to the exercise of such right;
- (d) the securities are acquired from a current or former employee of the issuer or of an affiliate of the issuer, and if there is a published market in respect of the securities,
 - (i) the value of the consideration paid for any of the securities acquired does not exceed the market price of the securities at the date of the acquisition determined in accordance with the regulations, and
 - (ii) the aggregate number or, in the case of convertible debt securities, the aggregate principal amount of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (e) the bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this clause and in accordance with the by-laws, regulations and policies of the exchange;
- (f) following the publication of a notice of intention in the form and manner prescribed by the regulations,

the issuer purchases securities in the normal course in the open market, including through the facilities of a stock exchange, if the aggregate number, or, in the case of convertible debt securities, the aggregate principal amount, of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;

- (g) the issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid and the number of holders of securities of the issuer is not more than fifty, exclusive of holders who are in the employment of the issuer or an affiliate of the issuer and exclusive of holders who were formerly in the employment of the issuer or an affiliate of the issuer, and who while in that employment were, and have continued after the employment to be, security holders of the issuer; or
- (h) the number of holders, whose last address as shown on the books of the issuer is in Ontario, of securities of the class subject to the bid and securities convertible into securities of that class is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid complies in all respects with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent to holders of the securities subject to the bid is concurrently sent to holders of such securities whose last address as shown on the books of the issuer is in Ontario and filed with the Commission.

(4) An issuer bid is exempt from this Part where the securities subject to the bid are debt securities and are not convertible into securities of a class other than debt securities.

Debt
securities
exemption

93.—(1) No offeror making a take-over bid, other than a take-over bid exempted from sections 94 to 99, and no person or company acting jointly or in concert with the offeror shall offer to acquire, or make or enter into any arrangement, commitment or understanding to acquire beneficial ownership of any securities of the class that are subject to the bid or of any securities convertible into securities of that class otherwise than pursuant to the bid on and from the day of the

Restrictions
on
acquisitions
during
take-over bid

announcement of the offeror's intention to make the bid until the expiry of the bid.

Permitted
purchases
during
take-over bid

(2) Notwithstanding subsection (1), an offeror making a take-over bid and any person or company acting jointly or in concert with the offeror may purchase, through the facilities of a stock exchange recognized by the Commission for the purpose of clause 92 (1) (a), securities of the class that are subject to the bid and securities convertible into securities of that class commencing on the third business day following the date of the bid until the expiry of the bid, if,

- (a) the purchase is made in compliance with the by-laws, regulations and policies of the exchange;
- (b) the intention to make such purchases is stated in the take-over bid circular;
- (c) the aggregate number of securities acquired under this subsection does not constitute, in the aggregate, in excess of 5 per cent of the outstanding securities of that class as at the date of the bid;
- (d) the offeror issues a press release forthwith after the close of business of the exchange on each day on which securities have been purchased under this subsection disclosing the number of securities purchased on that day, the average price paid for the securities, the aggregate number of securities purchased to and including that day during the currency of the take-over bid and the average price paid for the securities; and
- (e) the press release referred to in clause (d) is filed forthwith with the Commission and every stock exchange in Ontario on which the purchased securities are listed.

Restrictions
on
acquisition
during
issuer bid

- (3) No person or company that is,
 - (a) an offeror making an issuer bid, other than an issuer bid exempted from this Part or from sections 94, 95, 96, 97 and 99;
 - (b) a person or company acting jointly or in concert with an offeror referred to in clause (a); or
 - (c) as regards an offeror referred to in clause (a), a person or company or a member of a combination of persons or companies referred to in subparagraph iii

of paragraph 11 of subsection 1 (1) or an associate or affiliate thereof,

shall offer to acquire, or make or enter into any arrangement, commitment or understanding to acquire, beneficial ownership of any securities of the class that are subject to the bid or of any securities convertible into securities of that class otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until the bid's expiry but this subsection does not apply so as to prevent the offeror from purchasing, redeeming or otherwise acquiring any such securities during such period in reliance on an exemption under clause 92 (3) (a), (b) or (c).

(4) No person or company that is,

Restriction
on
post-bid
acquisition

(a) an offeror making,

(i) a take-over bid other than a take-over bid exempted from sections 94 to 99, or

(ii) an issuer bid other than an issuer bid exempted from this Part or sections 94, 95, 96, 97 and 99;

(b) a person or company that is a person or company acting jointly or in concert with an offeror referred to in clause (a); or

(c) as regards an offeror referred to in clause (a), a person or company or a member of a combination of persons or companies referred to in subparagraph iii of paragraph 11 of subsection 1 (1) or an associate or affiliate of such person, company or member,

during the period beginning with the expiry of the bid and ending at the end of the twentieth business day thereafter, shall acquire beneficial ownership of securities of the class that was subject to the bid by way of an arranged or negotiated transaction that is not generally available on identical terms to holders of that class of securities.

(5) No person or company that is,

Sales during
bid
prohibited

(a) an offeror making,

(i) a take-over bid other than a take-over bid exempted from sections 94 to 99, or

(ii) an issuer bid other than an issuer bid exempted from this Part or sections 94, 95, 96, 97 and 99; or

(b) a person or company that is a person or company acting jointly or in concert with an offeror referred to in clause (a),

shall, except pursuant to the bid, sell or make or enter into any arrangement, commitment or understanding to sell any securities of the class subject to the bid or securities convertible into securities of that class, on and from the day of the announcement of the offeror's intention to make the bid until its expiry.

General provisions

94. Subject to the regulations and section 92, the following provisions apply to every take-over bid and issuer bid:

Delivery of bid

1. The bid shall be made and delivered by the offeror to all holders, whose last address as shown on the books of the offeree issuer is in Ontario, of the class of securities that is subject to the bid and of securities convertible into securities of that class.

Minimum deposit period

2. The offeror shall allow at least twenty-one days from the date of the bid during which securities may be deposited pursuant to the bid.

When taking up prohibited

3. No securities deposited pursuant to the bid shall be taken up by the offeror until the expiration of twenty-one days from the date of the bid.

Withdrawal

4. Securities deposited pursuant to the bid may be withdrawn by or on behalf of a depositing security holder,

i. until the expiration of twenty-one days from the date of the bid,

ii. until the expiration of ten days from the date of a notice of change or variation under section 97 other than a notice of variation referred to in subsection 97 (6) if the securities have not been taken up by the offeror at the date of the notice, and

iii. where the securities have not been taken up by the offeror, after forty-five days from the date of the bid.

5. Notice of withdrawal of any securities under paragraph 4 shall be made by or on behalf of the depositing security holder by a method that provides the depository designated under the bid with a written or printed copy and, to be effective, the notice must be actually received by the depository and, where notice is given in accordance with this paragraph, the offeror shall return the securities to the depositing security holder. Notice of withdrawal
6. Where the bid is made for fewer than all of the securities of the class of securities subject to the bid and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to acquire under the bid, the securities shall be taken up by the offeror, as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each depositing security holder. Pro rata take-up
7. Where the bid is made for fewer than all of the class of securities sought, the offeror shall not reduce the number of securities the offeror is bound or willing to acquire under the bid because the offeror has purchased securities as permitted by subsection 93 (2), but the securities so purchased shall be counted in the determination of whether a condition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled. Effect of market purchases
8. Subject to paragraph 9, securities deposited pursuant to the bid shall be taken up by the offeror, if all terms and conditions of the bid, other than those waived by the offeror, have been complied with, within ten days after the later of, When securities must be taken up and paid for
- i. the last day on which securities may be deposited pursuant to the bid, and
 - ii. the first day after which all rights of withdrawal under subparagraph i or ii of paragraph 4 have expired,
- and the offeror shall pay for the securities within ten days of taking them up.
9. Any securities deposited pursuant to the bid subsequent to the date on which the offeror first takes up securities deposited under the bid shall be taken up Idem

and paid for by the offeror within ten days of the deposit of the securities.

Conditions
on extension
of bid

10. The bid may not be extended by the offeror, if all the terms and conditions thereof not waived by the offeror have been complied with, unless the offeror takes up all securities deposited thereunder and not withdrawn.

Deemed
taking up

11. Securities deposited under the bid and not withdrawn shall be deemed to have been taken up by the offeror under the bid at such time as the offeror gives notice in writing to the depository designated under the bid of the offeror's decision to take up the securities.

Press release

12. When notice of the decision to take up is given to the depository as required by paragraph 11, the offeror shall forthwith issue a notice by press release of its decision to take up securities deposited under the bid and the press release shall disclose the number of securities deposited and the approximate number of securities taken up.

Financing of
bid

95. Where a take-over bid or issuer bid provides that the consideration for the securities deposited pursuant to the bid is to be paid in cash or partly in cash, the offeror shall make adequate arrangements prior to the bid to ensure that the required funds are available to effect payment in full for all securities that the offeror has offered to acquire.

Best price
provision

96.—(1) No offeror who makes a take-over bid or an issuer bid and no person or company acting jointly or in concert with the offeror shall, before the expiry of the bid, pay or agree to pay or enter into any arrangement, commitment or understanding to pay a consideration for any securities of the class subject to the bid, or for any securities convertible into securities of that class, that has the effect of providing a value per security higher than the value per security of the consideration offered for the securities pursuant to the bid.

Identical
consideration

(2) Subject to the regulations, where a take-over bid or issuer bid is made, all holders of the same class of securities shall be offered identical consideration.

Collateral
benefit

(3) Where a take-over bid or issuer bid is made, no person or company shall enter into any agreement or arrangement that is collateral to the bid with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value for

the securities of the holder or owner than that offered to the other holders of the same class of securities.

(4) Where there is a variation in the terms of a take-over bid or issuer bid before the expiry of the bid by increasing the value of the consideration offered for the securities subject to the bid, the offeror shall pay such increased consideration to each person or company whose securities are taken up pursuant to the bid, whether or not such securities had been taken up by the offeror before the variation of the bid.

Increasing consideration

97.—(1) An offeror shall deliver, with or as part of a take-over bid or issuer bid, a take-over bid circular or issuer bid circular, as the case may be.

Offeror's circular

(2) Where, before the expiry of a take-over bid or issuer bid or after the expiry of the bid but before the expiry of all rights to withdraw the relevant securities, a change has occurred in the information contained in a take-over bid circular or issuer bid circular that would reasonably be expected to affect the decision of the holders of the securities of the offeree issuer to accept or reject the bid, a notice of the change shall be delivered to every person or company to whom the circular was delivered and whose securities have not been taken up at the date of the occurrence of the change.

Notice of change in information

(3) Subsection (2) does not apply to a change that is not within the control of the offeror or of an affiliate of the offeror unless it is a change in a material fact relating to the securities being offered in exchange for securities of the offeree issuer.

Idem

(4) Where there is a variation in the terms of a take-over bid or issuer bid, including any extension of the period during which securities may be deposited thereunder and whether or not the variation results from the exercise of any right contained in the bid, a notice of the variation shall be delivered to every person or company to whom the circular was delivered and whose securities have not been taken up at the date of the variation.

Variation in terms of bid

(5) Subject to subsection (6), where there is a variation in the terms of a take-over bid or issuer bid, the period during which securities may be deposited pursuant to the bid shall not expire before ten days after the notice of variation has been delivered.

Idem

(6) Subsection (5) does not apply to a variation in the terms of a bid consisting solely of,

Idem

- (a) an increase in the amount of cash offered for the securities that are subject to the bid; or
- (b) the waiver of a condition in the bid where the consideration offered for the securities that are subject to the bid consists solely of cash.

Content

(7) A take-over bid circular, issuer bid circular, notice of change and notice of variation shall be in the form and shall contain the information required by this Part and the regulations.

Directors' circular

98.—(1) Where a take-over bid has been made, a directors' circular, in the form prescribed by the regulations and containing the information required by this Part and the regulations, shall be prepared and delivered by the board of directors of an offeree issuer,

- (a) to every person and company to whom a take-over bid must be delivered under paragraph 1 of section 94, not later than ten days after the date of the bid; and
- (b) subject to the regulations, to every person and company to whom notice of a change or variation must be delivered under section 97, not later than five days after the date of the notice of the change or variation.

Recommendation by board

(2) The board of directors shall include in a directors' circular either a recommendation to accept or to reject a take-over bid and the reasons for their recommendation, or a statement that they are unable to make or are not making a recommendation and if no recommendation is made, the reasons for not making a recommendation.

Individual officer's or director's circular

(3) An individual director or officer may recommend acceptance or rejection of a take-over bid if the director or officer delivers with the recommendation a circular prepared in accordance with the regulations.

Advising of consideration

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending or delivering a directors' circular, advise its security holders of this fact and may advise them not to tender their securities until further communication is received from the directors.

Advising of decision of directors

(5) Where subsection (4) applies, the board of directors shall deliver the recommendation or the decision not to make

a recommendation at least seven days before the scheduled expiry of the period during which securities may be deposited under the bid.

(6) Where, before the expiry of a take-over bid or after the expiry of the bid but before the expiry of all rights to withdraw the securities that have been deposited under the bid,

Notice of change

- (a) a change has occurred in the information contained in a directors' circular or in any notice of change to a directors' circular that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, the board of directors of the offeree issuer shall forthwith deliver a notice of the change to every person to whom the circular was sent disclosing the nature and substance of the change; or
- (b) a change has occurred in the information contained in an individual director's or officer's circular or any notice of change thereto that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, other than a change that is not within the control of the individual director or officer, as the case may be, the individual director or officer, as the case may be, shall forthwith deliver a notice of change to the circular to every person to whom the circular was sent disclosing the nature and substance of such change.

(7) Where an individual director or officer submits a recommendation under subsection (3) or clause (6) (b) to the board of directors before the board of directors has delivered the directors' circular required by subsection (1) or a notice of change referred to in clause (6) (a), the board of directors shall include a copy of the recommendation or notice of change of the individual director or officer with the circular or notice of the board.

Circulation of individual recommendation

99.—(1) A take-over bid and any notice of change or variation shall be filed with the Commission and delivered to the offeree issuer at its principal office and an issuer bid and any notice of change or variation shall be filed with the Commission on the day such bid or notice is delivered to holders of securities of the offeree issuer, or as soon as practicable thereafter.

Delivery to offeree issuer

(2) Every directors' circular and every individual director's or officer's circular or any notice of change in relation thereto that is delivered to security holders of an offeree issuer shall

Delivery to offeree issuer and Commission

be filed with the Commission and delivered to the offeror at its principal office on the day the directors' circular or individual director's or officer's circular or the notice of change is delivered to the holders of securities of the offeree issuer or as soon as practicable thereafter.

Delivery by
mail, date of
bid, etc.

(3) Except as provided by the regulations, a take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first class mail to the intended recipient and any bid, circular or notice so mailed shall be deemed to have been delivered and such bid, circular or notice shall be deemed conclusively for the purposes of sections 94, 97 and 98 and this section to have been dated as of the date on which it was so mailed to all or substantially all of the persons and companies entitled to receive it.

Non-
application

100.—(1) Sections 100a, 100b and 100c do not apply to or in respect of take-over bids, issuer bids or other offers to acquire securities of a class of equity securities other than voting securities.

Interpretation

(2) For the purposes of sections 100a, 100b and 100c, "formal bid" means,

- (a) a take-over bid or an issuer bid to which section 94 applies;
- (b) a take-over bid that is exempted from sections 94 to 99 or an issuer bid that is exempted from sections 94, 95, 96, 97 and 99 by reason of an exemption under clause 92 (1) (a) or 92 (3) (e) if the offeror has delivered to every security holder whose last address as shown on the books of the offeree issuer is in Ontario a disclosure document of the type contemplated by subsection 127 (10); or
- (c) a take-over bid that is exempted from sections 94 to 99 or an issuer bid that is exempted from sections 94, 95, 96, 97 and 99 by reason of an exemption under clause 92 (1) (e) or 92 (3) (h) if the offeror has delivered to every security holder whose last address as shown on the books of the offeree issuer is in Ontario every disclosure document that is required by the laws of the jurisdiction recognized by the Commission for the purposes of the exemption to be sent to security holders in that jurisdiction.

100a.—(1) Every offeror that, other than by means of a formal bid, acquires beneficial ownership of, or the power to exercise control or direction over, voting securities of any class of a reporting issuer that, together with such offeror's securities of that class, would constitute 10 per cent or more of that class of outstanding voting securities,

Voting securities, reports of acquisitions

- (a) shall issue forthwith a press release disclosing the identity of the offeror and the extent of the beneficial ownership, control and direction and a copy thereof shall be filed by the offeror forthwith with the Commission; and
- (b) within two business days, shall file with the Commission a report disclosing the information prescribed by the regulations.

(2) If a change occurs in a material fact disclosed in a report or any amendment thereto filed with the Commission under this section, the offeror that filed the report,

Change in material facts

- (a) shall issue forthwith a press release disclosing the nature of the change and a copy thereof shall be filed forthwith by the offeror with the Commission; and
- (b) within two business days of the change, shall file with the Commission an amendment to the report disclosing the nature of the change.

(3) The requirement to file an amendment under subsection (2) shall continue as long as the offeror that filed the report or amendment beneficially owns or exercises control or direction over more than 10 per cent but not more than 20 per cent of the outstanding securities of the class in respect of which the report was filed immediately prior to the change in a material fact.

Idem

(4) Without restricting the generality of the definition of "material fact", for the purposes of subsection (2), the acquisition of beneficial ownership of an additional 2 per cent or more of the outstanding securities of the class in respect of which the report was filed shall be deemed to be a change in a material fact set forth in the report.

Deemed change in material fact

(5) The offeror at the time of filing a press release, report or amendment under subsection (1) or (2), or forthwith thereafter,

Further filing and delivery requirements

- (a) shall file a copy thereof with every stock exchange in Ontario on which the securities are listed; and
- (b) deliver a copy thereof to the principal office of the offeree issuer.

Restrictions
on purchases

(6) During the period commencing on the occurrence of an event in respect of which a report or an amendment to a report is required to be filed pursuant to this section and terminating on the expiry of one business day from the date that the report or amendment is filed in accordance with the requirements of this section, neither the offeror required to file the report or amendment nor any person or company acting jointly or in concert with the offeror shall offer to acquire or acquire beneficial ownership of any securities of the class in respect of which the report or amendment is required to be filed or any securities convertible into securities of that class.

Report of
acquisitions
by
person other
than offeror
during bid

100b.—(1) Where, after a formal bid has been made for voting securities of an offeree issuer that is a reporting issuer and before the expiry of the bid, an offeror, other than the person or company making the bid, acquires beneficial ownership of, or the power to exercise control or direction over, voting securities of any class of the offeree issuer which, when added to such offeror's securities acquired during that period, aggregates 5 per cent or more of the outstanding securities of a class of voting securities, such offeror shall by 10 o'clock in the forenoon of the next business day issue, and forthwith file with the Commission and every stock exchange in Ontario on which securities of that class are listed, a press release disclosing the offeror's identity, the number of securities of that class acquired since the commencement of the bid and the number of securities of that class beneficially owned or over which control or direction is exercised by the offeror and every person or company acting jointly or in concert with the offeror.

Further
reports

(2) Where an offeror that has filed a press release under subsection (1) or a further press release under this subsection or any person or company acting jointly or in concert with the offeror acquires beneficial ownership of, or control or direction over, voting securities of the class in respect of which the press release was filed, which, when added to voting securities of that class acquired after the filing of the press release by the offeror and any person or company acting jointly or in concert with the offeror aggregates an additional 2.5 per cent or more of the class of outstanding voting securities, the offeror shall by 10 o'clock in the forenoon of the next business day issue and forthwith file with the Commission and every stock exchange in Ontario on which the securities are listed a further press release disclosing all changes in information

since the filing of the immediately preceding press release required under this section.

100c.—(1) Every offeror that, other than by means of a formal bid, acquires beneficial ownership of, or the power to exercise control or direction over, voting securities of any class of a reporting issuer that, together with such offeror's securities of that class, would constitute 20 per cent or more of that class of outstanding securities shall file with the Commission, not later than the next business day, a report as prescribed by the regulations. Report of
20 per cent
holder

(2) Where an offeror that has filed a report under subsection (1) or a further report under this subsection or any person or company acting jointly or in concert with the offeror or the offeror acquires beneficial ownership of, or control or direction over, an additional 5 per cent or more of the outstanding voting securities of the class, the offeror, not later than the next business day following such acquisition, shall file a further report thereof with the Commission. Further
reports

(3) Where the facts required to be reported under subsection (1) or (2) are identical to those required under Part XX, a separate report under Part XX is not required. Idem

100d.—(1) Where, on the application of an interested person, it appears to the Commission that a person or company has not complied or is not complying with this Part or the regulations related to this Part, it may issue, subject to such terms and conditions as it may impose, an order, Applications
to the
Commission

- (a) restraining the distribution of any document used or issued in connection with a take-over bid or issuer bid;
- (b) requiring an amendment to or variation of any document used or issued in connection with a take-over bid or issuer bid and requiring the distribution of any amended, varied or corrected document; and
- (c) directing any person or company to comply with this Part or the regulations related to this Part or restraining any person or company from contravening this Part or the regulations related to this Part and directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease contravening this Part or the regulations related to this Part.

Idem

(2) Upon an application by any interested person, the Commission may, subject to such terms and conditions as it may impose,

- (a) decide for the purposes of subsection 96 (3) that a collateral agreement or arrangement with a selling security holder is made for reasons other than to increase the value of the consideration paid to the selling security holder for the securities of the selling security holder and that the agreement or arrangement may be entered into notwithstanding that subsection;
- (b) vary the time periods set out in this Part and the regulations in their application to take-over bids and issuer bids that are subject to corresponding requirements, but with different time periods, imposed under other applicable legislation prescribed in the regulations; and
- (c) exempt any person or company from any of the requirements of this Part or the regulations made in relation to this Part where the Commission is satisfied that to do so would not be prejudicial to the public interest.

Interpretation

(3) For the purposes of this section, "interested person" means,

- (a) an offeree issuer;
- (b) a security holder of an offeree issuer;
- (c) a director of an offeree issuer;
- (d) an officer of an offeree issuer;
- (e) an offeror;
- (f) the Director; and
- (g) any person or company not referred to in clauses (a) to (f) who in the opinion of the Commission is a proper person to make an application under this section.

Transition

100e. This Part and the regulations relating thereto, as they read immediately before the coming into force of this section, shall continue to apply in respect of every take-over

bid and issuer bid commenced before the coming into force of this section.

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

5. The short title of this Act is the *Securities Amendment Act, 1984*. Short title

Bill 160

An Act to amend the Education Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading December 13th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The amendment adds new Part XI-A to the Act. The new Part relates to the governance of schools and classes under Part XI of the Act.

The Part provides for additional members of boards and the qualifications, election and jurisdiction of the additional members.

Bill 160

1984

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. The *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART XI-A

FRENCH LANGUAGE SECTIONS OF BOARDS

277c. In this Part,

Interpretation

- (a) “additional member” means a member of a board whose qualifications and membership are provided for in this Part;
- (b) “board” means a board of education or a county or district combined Roman Catholic separate school board, the Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (c) “estimated revenues” means revenues from all sources receivable by a board as set out in the estimates prepared and adopted by the board;
- (d) “French-language”, in relation to a resident pupil, means a resident pupil enrolled in a school or class under Part XI in which French is the language of instruction;
- (e) “full-time equivalent enrolment”, in relation to resident pupils of a board, means the number of full-time French-language resident pupils or the number of full-time resident pupils other than French-language resident pupils, as the case requires, calculated by the Ministry under this Part that is repre-

sented by the number of resident pupils reported in the report of enrolment and attendance data filed with the Ministry by the board under this Part;

R.S.O. 1980,
c. 308

- (f) “regular election” has the same meaning as in the *Municipal Elections Act*;
- (g) “resident pupil”, in respect of a board, means a pupil who is registered on a register of full-time or part-time enrolment prescribed by the Minister for the purposes of this Part and who,
 - (i) is qualified to be a resident pupil of the board and is enrolled in a school,
 - (A) operated by the board,
 - (B) operated by another board to which the first-mentioned board pays fees in respect of the pupil, or
 - (C) operated by another board of education in The Municipality of Metropolitan Toronto other than the board of education of which the pupil is qualified by residence to be a resident pupil, or
 - (ii) is not qualified by residence to be a resident pupil of a board but is enrolled in a school operated by the board,
 - (A) pursuant to section 45 (ward of children’s aid society), or
 - (B) where fees are required to be paid by or on behalf of the pupil by or under this Act other than by another board, notwithstanding that the payment of all or a part of the fees is waived by the board that operates the school at which the pupil is enrolled;
- (h) “total full-time equivalent enrolment”, in relation to resident pupils of a board, means the total number of full-time resident pupils of the board calculated by the Ministry under this Part that is represented by the number of resident pupils reported in the report of enrolment and attendance data filed with the Ministry by the board.

277d.—(1) The membership of a board that has the enrolment of resident pupils specified in subsection (2) shall be increased by the number of additional members calculated in accordance with subsection (3). Additional members

(2) The enrolment of resident pupils of the board mentioned in subsection (1) is the full-time equivalent enrolment of French-language resident pupils where, Pupil requirement

- (a) the full-time French-language equivalent enrolment of resident pupils is a minority of the total full-time equivalent enrolment of resident pupils of the board; and
- (b) the full-time equivalent enrolment of French-language resident pupils,
 - (i) is equal to or greater than 10 per cent of the total full-time equivalent enrolment of resident pupils of the board, or
 - (ii) amounts to 500 or more resident pupils of the board.

(3) The number of additional members mentioned in subsection (1) shall be calculated as follows: Method of calculation

1. Determine the number of members to be elected to the board under section 59 or 113 or under the Act under which the membership of the board is constituted.
2. Multiply the number determined under paragraph 1 by the full-time equivalent enrolment of French-language resident pupils.
3. Divide the product determined under paragraph 2 by the full-time equivalent enrolment of resident pupils other than French-language resident pupils.
4. Where the number obtained under paragraph 3 is,
 - i. less than 3, increase the number to 3, or
 - ii. greater than 7, reduce the number to 7.
5. Where the number determined under paragraph 1 is 14 or more, the full-time equivalent enrolment of French-language resident pupils meets the require-

ments of both subclauses (2) (b) (i) and (ii) and the number obtained under paragraph 3 is,

- i. less than 5, increase the number to 5, or
- ii. greater than 7, reduce the number to 7.

Qualifications **277e.**—(1) A person is qualified to be an additional member of a board of education if the person,

- (a) is qualified under clauses 196 (1) (a), (b) and (c) (qualification of members);
- (b) is not disqualified under subsection 196 (3);
- (c) is a public school elector or a separate school elector, both as defined in the *Municipal Elections Act*; and
- (d) has the right under subsection 23 (1) or (2) of the *Canadian Charter of Rights and Freedoms* to have the person's children receive their primary and secondary school instruction in the French language in Ontario.

R.S.O. 1980,
c. 308

Idem

(2) A person is qualified to be an additional member of a board other than a board of education if the person,

- (a) is qualified under clauses 196 (1) (a), (b) and (c) (qualification of members);
- (b) is not disqualified under subsection 196 (3);
- (c) is a separate school elector as defined in the *Municipal Elections Act*; and
- (d) has the right under subsection 23 (1) or (2) of the *Canadian Charter of Rights and Freedoms* to have the person's children receive their primary and secondary school instruction in the French language in Ontario.

R.S.O. 1980,
c. 308

Annual
filing by
boards

277f.—(1) Every board shall file annually with the Ministry a report of enrolment and attendance data in the prescribed form in respect of the enrolment of resident pupils of the board in schools and classes operated under Part XI and in respect of the enrolment of resident pupils of the board in schools and classes not operated under Part XI.

(2) Every board shall compile the data mentioned in subsection (1) as of the 30th day of September in each year, commencing with the 30th day of September, 1984. Counting date

277g.—(1) The Ministry shall calculate the full-time equivalent enrolment of French-language resident pupils, the full-time equivalent of resident pupils other than French-language resident pupils and the total full-time equivalent enrolment of resident pupils of each board. Calculations by Ministry

(2) From the enrolments calculated under subsection (1), the Ministry shall calculate the number of additional members to be elected to each board. Idem

(3) For the purposes of the regular election in the year 1985, the calculations under subsections (1) and (2) shall be based upon the attendance and enrolment of resident pupils of the board as of the 30th day of September, 1984. Election in 1985

(4) For the purposes of a regular election held in the year 1988 or thereafter, the calculations under subsections (1) and (2) shall be based upon the attendance and enrolment of resident pupils of the board as of the 30th day of September in the year immediately preceding the year in which the regular election is held. Regular elections

(5) Where additional members are to be elected to a board, the Minister, before the 1st day of September in the year in which the election is to be held, Notice to boards and returning officers

- (a) shall notify the board and the Commission of the results of the calculations under subsections (1) and (2);
- (b) shall notify the proper returning officer of the number of additional members to be elected to the board; and
- (c) shall give public notice that the board qualifies under this Part to have additional members and of the number of additional members to be elected to the board.

(6) A board or the Commission or a committee, may appeal the accuracy of the calculations under subsections (1) and (2) to the Minister by application made not later than the 15th day of September in the year in which the election is to be held. Application to Minister

Hearing
and decision

(7) The Minister shall appoint a person to hear and consider the matter and report to the Minister, and the Minister shall make such changes in the calculations as are recommended in the report.

Further
notice

(8) The Minister,

- (a) shall notify the board of any changes in the results of the calculations;
- (b) shall notify the proper returning officer of any change in the number of additional members to be elected; and
- (c) shall give public notice of any change in the qualification of the board to have additional members or in the number of additional members,

consequent upon the report to the Minister.

Interpretation

(9) In this section, "Commission" and "committee" have the same meanings as in section 274.

Decline in
enrolment

277h. Where a board has additional members but the full-time equivalent enrolment of French-language resident pupils falls below the enrolment required to qualify for additional members, only two additional members shall be elected at the next regular election of members of the board.

Exemption
order

277i.—(1) The Minister, upon application by a board in the circumstance mentioned in subsection (2), by order may exempt the board from the application of this Part.

Circum-
stances

(2) The circumstance mentioned in subsection (1) is that the full-time equivalent enrolment of French-language resident pupils of the board is less than 200 or is less than 4 per cent of the total full-time equivalent enrolment of resident pupils of the board.

Advisory
committee

(3) A board that is exempted by an order under subsection (1) shall establish an advisory committee under Part XI.

Effect
of order

(4) A public notice by the Minister that the board qualifies under this Part to have additional members elected to the board operates to rescind the order under subsection (1).

Elector

277j.—(1) A person is qualified to be an elector in respect of an additional member of a board if,

- (a) the person is qualified to vote in a regular election of members of the board; and
- (b) the person chooses to vote only for an additional member and not for any other member of the board.

(2) No person is entitled to vote in a regular election for both an additional member of a board and another member of the board. Idem

277k.—(1) The additional members of a board shall be elected by a general vote of the persons qualified to vote for additional members of the board. General vote

(2) The election of additional members of a board shall be held at the same time and in the same manner as the election of the other members of the board. Time and manner of election

277l.—(1) Where the office of an additional member of a board becomes vacant for any reason and the remaining additional members constitute a majority of the additional members elected to the board, the remaining additional members shall, at the first regular meeting after the vacancy occurs, appoint to the office a person who is qualified to be an additional member of the board. Vacancy

(2) Where the office of an additional member of a board becomes vacant for any reason and the remaining additional members do not constitute a majority of the additional members elected to the board, a new election shall be held to fill the vacancy or vacancies. Idem

(3) An additional member appointed or elected under subsection (1) or (2) shall hold office for the remainder of the term of office of the membership of the board. Term

277m.—(1) The following matters are within the exclusive jurisdiction of the additional members of a board: Exclusive jurisdiction of additional members

1. The planning and establishment of instructional units under Part XI, including the submission of capital expenditure forecasts in respect of such units to the board for submission to the Ministry.
2. The administration and the closing of instructional units under Part XI.
3. The planning, establishment, implementation and maintenance of programs, other than the provision

of religious education and religious exercises, for pupils enrolled in schools and classes under Part XI or evening classes where French is the language of instruction.

4. The recruitment and assignment of teachers and administrative and supervisory personnel for schools and classes under Part XI.
5. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils) or 165a (adult basic education) in respect of pupils in schools or classes under Part XI.

Matters
excluded

(2) The following matters are outside the jurisdiction of the additional members of a board:

1. The planning and establishment of public schools, other than public schools under Part XI, including the preparation of capital expenditure forecasts to the board for submission to the Ministry in respect of such schools.
2. The administration and the closing of public schools, other than public schools under Part XI.
3. The planning, establishment, implementation and maintenance of programs, other than the provision of religious education and religious exercises, for pupils enrolled in public schools or classes that are not under Part XI and for pupils in evening classes that are conducted at the elementary school level and that are not under the exclusive jurisdiction of the additional members.
4. The recruitment and assignment of teachers and administrative and supervisory personnel for public schools and evening classes at the elementary school level referred to in paragraph 3.
5. The planning and establishment of secondary schools, other than secondary schools under Part XI, including the preparation of capital expenditure forecasts to the board for submission to the Ministry in respect of such schools.
6. The administration and the closing of secondary schools, other than secondary schools under Part XI.

7. The planning, establishment, implementation and maintenance of programs, other than the provision of religious education and religious exercises, for pupils enrolled in secondary schools that are not under Part XI and for pupils in evening classes that are conducted for credit purposes and that are not under the exclusive jurisdiction of the additional members.
8. The recruitment and assignment of teachers and administrative and supervisory personnel for secondary schools that are not under Part XI.
9. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 163 (secondary school education) or 165a (adult basic education) other than in respect of pupils in schools or classes under Part XI.

(3) In respect of all other matters, an additional member of a board of education has the same powers, duties, rights and responsibilities that a member elected by public school electors has as a member of the board of education. Common jurisdiction

(4) In respect of all other matters, an additional member of a board other than a board of education has the same powers, duties, rights and responsibilities that a member who is not an additional member has as a member of the board. Idem

277n.—(1) This section applies to every board that has additional members under this Part. Application

(2) This section applies in respect of the year 1986 and every subsequent year. Idem

(3) After the estimates of the board in respect of a year are approved or adopted, as the case requires, the board shall allocate the amounts of its estimated revenues for the year as follows: Allocation of estimated revenues

1. Firstly, to the specific educational programs or specific schools or classes that generated a portion of the estimated revenues, in amounts equal to the amounts generated.
2. Secondly, to the centralized services of the board, in amounts equal to the amounts set out for the centralized services in the estimates.

3. Thirdly, to the schools and classes under Part XI and to the balance of the schools and classes not under Part XI.

Schools
and classes
under
Part XI

(4) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the schools and classes under Part XI in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Balance
of schools
and classes
not under
Part XI

(5) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the balance of the schools and classes not under Part XI in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Where all of
balance is
under Part
XI

(6) Where all of the balance of the schools and classes are provided by the board under Part XI, the board shall allocate the estimated revenues under paragraph 3 of subsection (3),

- (a) to the schools and classes in which French is the language of instruction in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph; and
- (b) to the schools and classes in which French is not the language of instruction in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

Interpretation

(7) In this section, "centralized services" means,

- (a) salaries, benefits and professional development of employees other than employees whose recruitment and assignment is specified in this Part as either within the exclusive jurisdiction under subsection 277m(1) or outside the jurisdiction under subsection 277m(2) of the additional members of the board;
- (b) normal maintenance of and operational services and equipment required for school sites;
- (c) school supplies other than instructional and learning materials;
- (d) transportation of pupils to and from school and from school to school;

- (e) allocation to reserve funds and the reserve for working funds;
- (f) establishment and maintenance of the head office of the board, including services operated therefrom;
- (g) permanent improvements other than the replacement for schools and classes of furniture, furnishings, library books and instructional equipment and apparatus; and
- (h) expenditures that are not within clauses (a) to (g) but that are approved from time to time by the board.

277o.—(1) Every board shall ensure that the matters that are within the exclusive jurisdiction and the matters that are outside the jurisdiction of the additional members of the board are properly provided for when the board prepares and adopts its estimates and when the board allocates its estimated revenues. Duty of board

(2) Subsection (1) applies to The Metropolitan Toronto School Board in the allocation of amounts to the boards of education within the Metropolitan Area under the *Municipality of Metropolitan Toronto Act*. Application of subs. (1)
R.S.O. 1980, c. 314

(3) Subject to subsection (1), a board may vary an allocation in order to accommodate a change in circumstances or assumptions upon which the estimates of the board were made. Variation

277p. The chief executive officer of a board shall report to the additional members of the board in respect of the matters that are within the exclusive jurisdiction of the additional members. Chief executive officer

277q.—(1) Two or more boards, upon the request of the additional members of the boards, may establish a liaison committee. Liaison committee

(2) A liaison committee may consider and make recommendations to the additional members of a board on any matter that the board agrees may be referred to the liaison committee. Function

277r.—(1) A board that has additional members shall not have an advisory committee under Part XI. Advisory committee

Idem

(2) Where the membership of a board that has an advisory committee under Part XI is increased by the election of additional members, the advisory committee is dissolved.

English as language of instruction

277s.—(1) Where a board has the enrolment of resident pupils specified in subsection (2), this Part applies for all purposes in respect of schools and classes under Part XI in which English is the language of instruction and, for the purposes,

- (a) a reference in this Part, other than in subsection (2), to French shall be deemed to be a reference to English; and
- (b) a reference in this Part to a person who has the right under subsection 23 (1) or (2) of the *Canadian Charter of Rights and Freedoms* to have the person's children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a person who does not have such right.

Pupil requirement

(2) The enrolment of resident pupils of the board mentioned in subsection (1) is the full-time equivalent enrolment of non-French-language resident pupils where,

- (a) the full-time equivalent enrolment of non-French-language resident pupils is a minority of the total full-time equivalent enrolment of resident pupils of the board; and
- (b) the full-time equivalent enrolment of non-French-language resident pupils,
 - (i) is equal to or greater than 10 per cent of the total full-time equivalent enrolment of resident pupils of the board, or
 - (ii) amounts to 500 or more resident pupils of the board.

Forms

277t. The Minister may prescribe,

- (a) forms of registers of full-time and part-time enrolment and attendance;
- (b) the form of the report of enrolment and attendance,

and require their use for the purposes of this Part.

277u. An act of the Minister under section 277t or an order or notice by the Minister, other than a public notice under section 277g or an exemption order under section 277i, under this Part is not a regulation within the meaning of the *Regulations Act*.

Application
of R.S.O.
1980, c. 446

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

Commence-
ment

3. The short title of this Act is the *Education Amendment Act, 1984*.

Short title

Bill 161

*(Chapter 67
Statutes of Ontario, 1984)*

**An Act for granting to Her Majesty
certain sums of money for the Public Service for
the fiscal year ending the 31st day of March, 1985**

The Hon. L. Grossman
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	December 14th, 1984
<i>2nd Reading</i>	December 14th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 161

1984

**An Act for granting to Her Majesty
certain sums of money for the Public Service for
the fiscal year ending the 31st day of March, 1985**

MOST GRACIOUS SOVEREIGN:

Whereas it appears by messages from the Honourable John B. Aird, Lieutenant Governor of the Province of Ontario, and from the estimates and supplementary estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1985; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) There may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$23,250,850,100 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1984, to the 31st day of March, 1985, as set forth in the Schedule to this Act, and, subject to subsection (2), such sum shall be paid and applied only in accordance with the votes and items of the estimates and supplementary estimates upon which the Schedule is based.

\$23,250,850,100
granted for
fiscal year
1984-85

(2) Where, in the fiscal year ending the 31st day of March, 1985, powers and duties are assigned and transferred from one minister of the Crown to another minister of the Crown, the appropriate sums in the votes and items of the estimates and supplementary estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the ministry administered by the minister to whom the powers and duties are so assigned and transferred.

Exception

Accounting for expenditure

2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

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 *Supply Act, 1984*.

SCHEDULE

	ESTIMATES	SUPPLEMENTARY	TOTAL
	\$	ESTIMATES	\$
	\$	\$	\$
Office of the Lieutenant Governor.....	393,300		393,300
Office of the Premier.....	2,413,000		2,413,000
Cabinet Office.....	1,635,700		1,635,700
Office of the Deputy Premier.....	5,688,600		5,688,600
Management Board.....	176,392,900		176,392,900
Government Services.....	383,873,700		383,873,700
Intergovernmental Affairs.....	7,998,300		7,998,300
Northern Affairs.....	159,397,100		159,397,100
Revenue.....	630,853,000		630,853,000
Treasury and Economics.....	676,802,000		676,802,000
Office of the Assembly.....	32,779,600	2,520,200	35,299,800
Office of the Provincial Auditor.....	4,151,900		4,151,900
Office of the Ombudsman.....	5,596,000	279,000	5,875,000
Justice Policy.....	1,506,500		1,506,500
Attorney General.....	265,677,000		265,677,000
Consumer and Commercial Relations.....	112,873,900		112,873,900
Correctional Services.....	227,610,000		227,610,000
Solicitor General.....	306,588,400		306,588,400
Resources Development Policy	3,649,700		3,649,700
Agriculture and Food.....	286,660,100		286,660,100
Energy.....	116,356,300		116,356,300
Environment.....	309,890,500		309,890,500
Industry and Trade.....	77,826,800		77,826,800
Labour.....	71,681,300		71,681,300
Municipal Affairs and Housing	1,034,472,000		1,034,472,000
Natural Resources.....	421,976,500		421,976,500
Tourism and Recreation.....	123,094,800		123,094,800
Transportation and Communications.....	1,539,323,500		1,539,323,500
Social Development Policy....	11,468,600		11,468,600
Citizenship and Culture.....	171,332,000		171,332,000
Colleges and Universities.....	2,103,276,000		2,103,276,000
Community and Social Services	2,509,834,700		2,509,834,700
Education.....	3,222,966,200		3,222,966,200
Health.....	8,242,011,000		8,242,011,000
TOTAL	<u>23,248,050,900</u>	<u>2,799,200</u>	<u>23,250,850,100</u>

