

1980

## c 107 Crown Attorneys Act

Ontario

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## CHAPTER 107

## Crown Attorneys Act

1.—(1) The Lieutenant Governor in Council may appoint a Crown attorney for each county and for each provisional judicial district and such Crown attorneys and assistant Crown attorneys for the Province as he considers necessary. R.S.O. 1970, c. 101, s. 1 (1). <sup>Appointment</sup>

(2) The Crown attorneys and assistant Crown attorneys appointed for the Province or a county or provisional judicial district thereof shall act anywhere in the Province as directed by the Deputy Attorney General. R.S.O. 1970, c. 101, s. 1 (2); 1973, c. 3, s. 1. <sup>Special Crown attorneys</sup>

2. The Lieutenant Governor in Council may appoint one or more assistant Crown attorneys for any county or provisional judicial district who shall act under the direction of the Crown attorney and when so acting has the like powers and shall perform the like duties as the Crown attorney. R.S.O. 1970, c. 101, s. 2. <sup>Assistant Crown attorneys</sup>

3.—(1) The Lieutenant Governor in Council may appoint a Crown Attorney, a Deputy Crown Attorney and such assistant Crown attorneys as he considers necessary for the Judicial District of York who shall be known respectively as the Crown Attorney, the Deputy Crown Attorney and the Assistant Crown Attorneys for the Judicial District of York. <sup>Judicial District of York</sup>

(2) The Deputy Crown Attorney and the Assistant Crown Attorneys for the Judicial District of York shall act under the direction of the Crown Attorney for the Judicial District of York and when so acting shall have the like powers and perform the like duties as the Crown Attorney for the Judicial District of York. R.S.O. 1970, c. 101, s. 3. <sup>Idem</sup>

4. No person shall be appointed a Crown attorney or assistant Crown attorney or act in either of such capacities who is not a member of the bar of Ontario. R.S.O. 1970, c. 101, s. 4. <sup>Qualification</sup>

5.—(1) When a Crown attorney or an assistant Crown attorney is absent or ill or is unable to perform all his duties, the Deputy Attorney General may appoint a member of the bar of Ontario to act *pro tem* as Crown attorney or <sup>Pro tem appointments</sup>

assistant Crown attorney, as the case may be, during the period that the Crown attorney or assistant Crown attorney is absent or ill or is unable to perform all his duties. R.S.O. 1970, c. 101, s. 5 (1); 1972, c. 1, s. 9 (7).

*Idem*

(2) When there is a vacancy in the office of Crown attorney, the Deputy Attorney General may appoint a member of the bar of Ontario to act *pro tem* as Crown attorney until the vacancy is filled by the Lieutenant Governor in Council. R.S.O. 1970, c. 101, s. 5 (2); 1972, c. 1, s. 9 (7).

Clerk of  
the peace

**6.**—(1) Except in the Judicial District of York, every Crown attorney is *ex officio* clerk of the peace for the county or district for which he is Crown attorney.

Judicial  
District  
of York

(2) In the Judicial District of York, the offices of Crown attorney and clerk of the peace may be held by different persons.

Court  
duties

(3) Where the offices of Crown attorney and clerk of the peace are held by the same person, the duties that the clerk of the peace is required to perform in the court room during the sittings of the court of general sessions of the peace and of the county or district court judges' criminal court shall be performed by the clerk of the county or district court. R.S.O. 1970, c. 101, s. 6 (1-3).

*Pro tem*  
appoint-  
ments

(4) When a Crown attorney is absent or ill or is unable to perform his duties as clerk of the peace, or when there is a vacancy in the office of clerk of the peace, the Deputy Attorney General may appoint another Crown attorney to act *pro tem* as clerk of the peace during the period that the Crown attorney is absent or ill or is unable to perform his duties as clerk of the peace, or until there is no longer a vacancy in the office of the clerk of the peace, as the case may be. R.S.O. 1970, c. 101, s. 6 (4); 1972, c. 1, s. 9 (7).

Provincial  
prosecutors  
R.S.O. 1980,  
c. 418

**7.**—(1) The Attorney General may by order authorize persons appointed under the *Public Service Act* to be provincial prosecutors.

Qualifica-  
tions

(2) A provincial prosecutor may be a person who is not a member of the bar.

Jurisdiction

(3) A provincial prosecutor shall act anywhere in Ontario as directed by the Director of Crown attorneys of the Ministry of the Attorney General. 1973, c. 134, s. 1, *part*.

Duties

(4) A provincial prosecutor shall conduct such prosecutions for provincial offences and offences punishable on summary conviction.

tion as are delegated to him by the Crown attorney for the county or provisional judicial district in which the provincial prosecutor acts and shall be subject to the direction and supervision of the Crown attorney. 1973, c. 134, s. 1, *part, revised*.

(5) Every provincial prosecutor before he enters upon his <sup>Oath</sup> duties shall take and subscribe before a Crown attorney the following oath:

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of provincial prosecutor for Ontario without favour or affection to any party: So help me God.

1973, c. 134, s. 1, *part*.

8. Every Crown attorney shall give security for the due <sup>Security</sup> performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 101, s. 8.

9. Every Crown attorney and every assistant Crown attorney, before he enters upon his duties, shall take and subscribe before a judge of the county or district court of the county or district for which he is appointed the following <sup>Oath of office</sup> oath:

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney (or assistant Crown attorney) for the County (or District) of.....without favour or affection to any party: So help me God.

R.S.O. 1970, c. 101, s. 9.

10.—(1) No Crown attorney or assistant Crown attorney <sup>Prohibition</sup> shall, by himself or through any partner in the practice of law, act or be directly or indirectly concerned as counsel or solicitor for any person in respect of any offence charged against such person under the laws in force in Ontario.

(2) Subsection (1) does not apply to part-time assistant Crown <sup>Exception</sup> attorneys. R.S.O. 1970, c. 101, s. 10.

11. Every Crown attorney and every provincial prosecutor <sup>Attorney-General's agent</sup> is the agent of the Attorney General for the purposes of the *Criminal Code* (Canada). R.S.O. 1970, c. 101, s. 11; 1972, c. 1, <sup>R.S.C. 1970, c. C-34</sup> s. 9 (7); 1973, c. 134, s. 2.

12. The Crown attorney shall aid in the local adminis-<sup>Duties:</sup> tration of justice and perform the duties that are assigned to Crown attorneys under the laws in force in Ontario, and,

without restricting the generality of the foregoing, every Crown attorney shall,

to examine  
informa-  
tions, etc.

(a) examine informations, examinations, depositions, recognizances, inquisitions and papers connected with offences against the laws in force in Ontario that the provincial judges, justices of the peace and coroners are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions may not be delayed unnecessarily or fail through want of proof;

to conduct  
prosecutions

(b) conduct, on the part of the Crown, preliminary hearings of indictable offences and prosecutions for indictable offences,

(i) at the sittings of the Supreme Court where no law officer of the Crown or other counsel has been appointed by the Attorney General,

(ii) at the court of general sessions of the peace,

(iii) at the county or district court judges' criminal court, and

(iv) before provincial judges in summary trials of indictable offences under the *Criminal Code* (Canada),

R.S.C. 1970,  
c. C-34

in the same manner as the law officers of the Crown conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at such courts;

special  
Crown  
counsel

(c) where a law officer of the Crown or other counsel has been appointed by the Attorney General, deliver to the Crown officer or other counsel all papers connected with the criminal business at the sittings of the Supreme Court before the opening of the court and, if required, be present at the court and assist the Crown officer or other counsel;

cases  
brought  
by private  
prosecutors

(d) watch over cases conducted by private prosecutors and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;

- (e) where in his opinion the public interest so requires, conduct proceedings in respect of any provincial offence or offence punishable on summary conviction; summary conviction matters
- (f) when requested in writing, cause prosecutions for offences against any Act of the Legislature to be instituted on behalf of any governmental ministry or agency and conduct such prosecutions to judgment and to appeal, if so instructed; government prosecutions
- (g) where in his opinion the public interest so requires, conduct appeals to the county or district court for provincial offences and offences punishable on summary conviction; summary conviction appeals
- (h) advise justices of the peace with respect to offences against the laws in force in Ontario; justices of the peace
- (i) procure the necessary forms for the use of justices of the peace, and supply them as needed, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace; and forms
- (j) where a prisoner is in custody charged with or convicted of an offence and an application is made for bail, inquire into the facts and circumstances and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of the bail bonds where bail is ordered. R.S.O. 1970, c. 101, s. 12; 1972, c. 1, ss. 2, 9 (7), *revised*. bail

**13.** Where a person is committed for trial to answer a criminal charge, the committing provincial judge shall deliver or cause to be delivered without delay to the Crown attorney the informations, depositions, examinations, recognizances and papers connected with the charge, and the Crown attorney is the "proper officer of the court by which the accused is to be tried" within the meaning of the committal for trial provisions of the *Criminal Code* (Canada) and, where an information has been laid before a justice of the peace, whether proceedings have been taken thereon or not, the justice shall deliver to the Crown attorney all papers connected therewith on being required by him so to do. R.S.O. 1970, c. 101, s. 13. Provincial judges and justices to deliver informations, etc., to Crown attorney

R.S.C. 1970,  
c. C-34

**14.** Every Crown attorney, except a Crown attorney on fees, shall collect all fees payable to him as Crown attorney and clerk of the peace and remit them to the Inspector of Legal Collection and payment over of fees

Offices by cheque payable to the Treasurer of Ontario quarterly on the 1st day of January, April, July and October in each year, together with a statement showing the fees collected. R.S.O. 1970, c. 101, s. 14.

**Annual  
returns**

**15.** Every Crown attorney and clerk of the peace shall, on or before the 31st day of January in every year, make to the Inspector of Legal Offices a return, verified by statutory declaration, of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. R.S.O. 1970, c. 101, s. 15.

**Regulations**

**16.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with prosecutions instituted on behalf of any governmental ministry or agency, and providing for the payment and disposition thereof;
- (b) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with appeals to the county or district court for provincial offences and offences punishable on summary conviction, and providing for the payment thereof;
- (c) fixing the responsibility for the payment of fees and travelling allowances of Crown attorneys;
- (d) providing that counsel fees collected from defendants under the *Provincial Offences Act* shall be credited on the Crown attorney's fees that are properly payable to him by a municipality or a governmental ministry or agency;
- (e) providing fees and charges payable to Crown attorneys not otherwise provided for under this or any other Act, and providing for the payment thereof;
- (f) for carrying out the provisions of any Act imposing duties upon or touching the office of Crown attorney;
- (g) with respect to the prosecution by Crown attorneys of offenders against the laws in force in Ontario;
- (h) providing for the safekeeping, inspection and destruction of books, documents and papers of Crown attorneys;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 101, s. 16; 1972, c. 1, s. 2.