

1980

## c 204 Horticultural Societies Act

Ontario

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CHAPTER 204

Horticultural Societies Act

1. In this Act,

Interpretation

- (a) "board" means a board of directors elected under this Act;
- (b) "Director" means the Director of the Agricultural and Horticultural Societies Branch of the Ministry of Agriculture and Food;
- (c) "Minister" means the Minister of Agriculture and Food;
- (d) "society" means a horticultural society organized under this Act or under any former Act having a similar purpose. 1975, c. 36, s. 2, *revised*.

2.—(1) Where any dispute arises as to the operation or construction of this Act, the Director shall, after a hearing, decide such dispute. 1971, c. 50, s. 47 (1), *part*; 1975, c. 36, s. 1.

Disputes

(2) A party to a dispute under this section may appeal from a decision of the Director to the Minister within fifteen days after receipt of the decision of the Director and the Minister may, after considering the record of the proceedings before the Director and affording to the parties an opportunity for an argument on the appeal, affirm, vary or annul the decision of the Director. 1971, c. 50, s. 47 (1), *part*; 1975, c. 36, s. 1.

Appeal from decision of Director

(3) The Director or the Minister, as the case may be, may of his own motion, or upon the request of any party to a dispute or an appeal, state a case in writing to the Divisional Court setting forth any question of law that arises at the hearing or on the appeal and the facts material thereto. 1971, c. 50, s. 47 (1), *part*; 1975, c. 36, s. 1.

Stated case

(4) If the Director or the Minister, as the case may be, refuses to state a case under this section, the party requesting

Refusal to state case

it may apply to the Divisional Court for an order directing him to state such a case. 1971, c. 50, s. 47 (1), *part*; 1975, c. 36, s. 1.

Decision  
of court

(5) Where a case is stated under this section, the Divisional Court shall hear and determine the question raised in a summary manner and shall certify its decision to the Director or the Minister, as the case may be, and the Director or the Minister shall dispose of the dispute in accordance therewith. 1971, c. 50, s. 47 (1), *part*; 1975, c. 36, s. 1.

Where  
societies  
may be  
organized

**3.—**(1) A society may be organized in any local municipality or in a police village having a population of not less than 200, or in any two of them that adjoin each other.

Additional  
societies

(2) In a local municipality having a population of not less than 100,000 there may be two societies and for each additional 100,000 of population there may be an additional society.

Reorgan-  
ization,  
etc., of mun-  
cipality does  
not affect  
existing  
society

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any society that has been organized prior thereto. 1975, c. 36, s. 3.

Organiza-  
tion

**4.** The mode of organization of a society shall be as follows:

Agreement

1. An agreement in the form prescribed by the Minister shall be signed by the persons who desire to organize a society and who are resident in the municipality or municipalities in which the society is to be organized.

Signatories  
to agreement

2. The number of persons signing the agreement shall be, in the case of a society in a territorial district or provisional county, at least 25 and elsewhere in Ontario, at least 50.

Fee payable  
by  
signatories

3. Every person who signs the agreement shall pay to the person having charge thereof the sum of \$2 as a membership fee and all such sums become the property of the society upon its organization, and, where no society is organized, the sums shall be repaid to the persons entitled thereto.

Organiza-  
tion  
meeting;  
call

4. Within two months after the date of the first signature to the agreement, the agreement shall be transmitted to the Director who may, with the approval of the Minister, authorize any person to call a meeting for the organization of a society.

when to be  
held

5. The organization meeting shall be held as soon as practicable after the required number of signatures

are obtained or at such other time as the Director authorizes, upon at least one week's notice published in a newspaper having a general circulation in the area in which the society is to be organized.

6. At the organization meeting, and at every regular meeting of a society, ten members constitute a quorum.
7. At the organization meeting there shall be elected a board of directors composed of a president, first vice-president and second vice-president to hold office until the next annual meeting and ten directors of whom five shall hold office until the next annual meeting and five shall hold office until the next following annual meeting and,
  - (a) where any member of the board so elected has not paid the sum of \$2 required by paragraph 3, he shall pay such sum to the treasurer or secretary-treasurer within two weeks of the election; and
  - (b) where the Director has so authorized, there may be elected not more than five additional directors and not more than five junior directors and no person is eligible for election as a junior director who, at the time of the election, is more than twenty-six years of age.
8. At the organization meeting and at every annual meeting there shall be elected two auditors to hold office until the next annual meeting.
9. The board, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee that is appointed by the board.
10. The board may require the treasurer or secretary-treasurer to furnish such bond as is considered necessary to ensure the faithful performance of his duties and the proper administration of all funds belonging to the society coming into his hands and, where no such bond is required by the board, every member of the board is personally liable for all funds belonging to the society that come into the hands of the treasurer.

Report of  
organiza-  
tion  
meeting

11. A report of the organization meeting, certified by the president, the secretary and the person calling the meeting, containing a statement of the number of members and a list of the officers and directors elected or appointed, together with their addresses, shall be sent to the Director by the secretary within one week after the holding of the meeting. R.S.O. 1970, c. 207, s. 4; 1975, c. 36, ss. 1, 4.

Declaration  
of society

5. Upon the receipt of such report, the Director, with the approval of the Minister, may declare the society to be a society within the meaning of this Act. R.S.O. 1970, c. 207, s. 5; 1975, c. 36, s. 1.

Combina-  
tion of  
societies

6. Subject to the approval of the Minister, any two or more societies may combine to form one society on such terms and conditions as the Minister may prescribe. R.S.O. 1970, c. 207, s. 6.

Dissolution  
of society  
upon  
petition

7. Upon the petition of not less than twenty-five members of a society, the Minister may dissolve the society or may constitute two or more societies upon such terms and conditions as he considers proper. R.S.O. 1970, c. 207, s. 7.

Persons  
entitled to  
membership

8.—(1) Every person of the full age of sixteen years or over is entitled to become a member of a society and every person under the age of sixteen years is entitled to become an associate member of a society.

Partnership,  
corporation  
or associa-  
tion may  
be member

(2) Subject to the by-laws of a society, a partnership or incorporated company or an association directed towards horticultural interests may become a member of the society upon payment of the prescribed fee but, in every such case, the partnership, company or association shall delegate one person to exercise the privilege of membership in the society.

Membership  
fee

(3) In every society there shall be an annual membership fee of not less than \$1. 1975, c. 36, s. 5, *part.*

Fiscal  
year

(4) The fiscal year of every society is the calendar year unless the Minister otherwise authorizes. R.S.O. 1970, c. 207, s. 8 (4).

Voting of  
members

(5) Every full member in good standing of a society is entitled to vote on all questions coming before a regular or special meeting of the society. 1975, c. 36, s. 5, *part.*

Object

9.—(1) The object of a society is to encourage interest and improvement in horticulture,

- (a) by holding meetings for instruction and discussion on subjects connected with the theory and practice of horticulture;
- (b) by encouraging the improvement of private and public grounds, including highways and streets, by the planting of trees, shrubs and flowers, and by otherwise promoting outdoor art, public beautification, balcony gardening, therapeutic use of horticulture, community gardens and plot gardening;
- (c) by interesting youth and others in the study of horticulture by the holding of meetings, field trips, contests and competitions and by such other means as the society considers proper;
- (d) by holding exhibitions and awarding premiums for the production of vegetables, plants, flowers, fruits, trees and shrubs;
- (e) by the distribution of seeds, plants, bulbs, flowers, trees and shrubs in ways calculated to create an interest in horticulture;
- (f) by promoting the protection of the environment with appropriate horticultural projects; and
- (g) by promoting the circulation of horticultural information through all available media including periodicals and provision of books for libraries. R.S.O. 1970, c. 207, s. 9 (1); 1975, c. 36, s. 6.

(2) A society shall not expend more than one-half of its total annual receipts, other than grants or donations made for specific purposes, upon any one of the projects enumerated in subsection (1), except for the purposes of planting trees, shrubs and plants on public grounds and the promotion of outdoor art and public beautification. Expenditure of annual receipts

(3) None of the funds of a society shall be expended for any purpose not indicated in subsection (1), and a society that contravenes any of the provisions of this section is not entitled to a Government grant for the year in which the contravention occurs, or where the grant for such year has already been paid, for the next following year, subject however to any direction that the Minister may make. R.S.O. 1970, c. 207, s. 9 (2, 3). Expenditure of funds

**10.**—(1) Every society shall hold a meeting annually during the month of January or such other month as the Director Annual meeting:

approves at such time and place as the board determines. R.S.O. 1970, c. 207, s. 10 (1); 1975, c. 36, s. 1.

notice

(2) At least one week's notice of every annual meeting shall be given by the publication of a notice of the meeting in a newspaper having a general circulation in the municipality or by mailing a notice of the meeting to each member of the society at the address furnished to the secretary. R.S.O. 1970, c. 207, s. 10 (2).

Procedure

**11.**—(1) At an annual meeting, the board shall present a report of the activities and accomplishments of the society during the preceding year and the financial statement for the preceding year certified by the auditors on the form prescribed by the Minister, and the officers and other members of the board shall be elected or appointed in the manner provided by section 4, provided that five directors shall be elected at each annual meeting. R.S.O. 1970, c. 207, s. 11.

*ex officio*  
member

(2) Where there is an immediate past president of a society, he is *ex officio* a member of the board. 1975, c. 36, s. 7.

Dissolution

**12.**—(1) In the event of failure to hold the annual meeting in accordance with this Act or in the event of the number of members of a society on the 1st day of July in any year being less than the number required for organization, the society is not entitled to receive any further Government grant and shall be deemed to be dissolved, subject to any direction of the Minister, and the persons comprising the board during the last year of the existence of the society shall be trustees of the assets of the society and shall deliver to the Director a statement of its assets and liabilities. R.S.O. 1970, c. 207, s. 12 (1); 1975, c. 36, s. 1.

Payment of  
debts and  
disposal of  
surplus  
moneys

(2) The Director may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and liquidate any of the assets for such purpose and may direct such members to dispose of any moneys or other assets then remaining in such manner as he determines. R.S.O. 1970, c. 207, s. 12 (2); 1975, c. 36, s. 1.

Statement  
to be sent  
to Minister

**13.**—(1) A statement of officers and members and a copy of the financial statement in the form prescribed by the Minister and certified by the president, secretary-treasurer or secretary and treasurer, and auditors to be true copies shall be forwarded to the Director within ninety days of the holding of the annual meeting. 1975, c. 36, s. 8.

(2) The Minister may at any time require a society or any officer of a society to furnish such information regarding the society as he considers necessary or desirable. <sup>Minister may require information</sup>

(3) The Minister may require any financial or other statement or information required to be furnished to him to be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. R.S.O. 1970, c. 207, s. 13 (2, 3). <sup>Minister may require affidavit certifying</sup>

**14.** A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least three days before the time fixed for the meeting; but a meeting of the board may be held immediately following any annual, regular or special meeting of the society, without notice. R.S.O. 1970, c. 207, s. 14. <sup>Meetings of board</sup>

**15.—**(1) Subject to the by-laws and regulations of the society, the board has power to act for and on behalf of the society in all matters. R.S.O. 1970, c. 207, s. 15 (1). <sup>Powers of board</sup>

(2) One-third of the members of the board constitutes a quorum. 1975, c. 36, s. 9. <sup>Quorum</sup>

(3) When a vacancy occurs on the board by reason of the death or resignation of any officer or director or otherwise, the remaining members of the board may appoint any member of the society to fill the vacancy. R.S.O. 1970, c. 207, s. 15 (3). <sup>Vacancies</sup>

**16.** The board may determine what regular and special meetings of the society shall be held during each year. R.S.O. 1970, c. 207, s. 16. <sup>Meetings</sup>

**17.** By-laws and regulations of a society may be made, adopted, amended or repealed at any annual or regular meeting of the society or at a special meeting of which at least one week's notice has been given in the manner provided for by subsection 10 (2). R.S.O. 1970, c. 207, s. 17. <sup>By-laws and regulations</sup>

**18.** Every society that has complied with this Act and has furnished the statements and other information required by the Minister is entitled to receive a grant out of the moneys appropriated by the Legislature for such purpose if the membership of the society is not less than that required for organization purposes. R.S.O. 1970, c. 207, s. 18. <sup>Provincial grants</sup>



Payment  
of grants

**19.** Grants shall be paid to societies out of moneys appropriated therefor by the Legislature according to the following plan:

1. Every society shall, during the first year of its existence, receive a grant amounting to \$2 for every paid-up member as of the 1st day of July, but no such grant shall exceed \$200.
2. Subject to paragraph 3, every society that has been in existence for more than one year shall receive a grant amounting to,
  - (a) \$1 for every paid-up member during the previous year; and
  - (b) one-half of the total amount expended by the society during the preceding year for the purpose of carrying out its objects, and, for the purpose of this clause, up to one-quarter of the amount expended by the society may be composed of the value of donated labour.
3. No grant under paragraph 2 shall exceed,
  - (a) in the case of a society with 100 or fewer members, \$500;
  - (b) in the case of a society with more than 100 and fewer than 200 members, \$1,000; and
  - (c) in the case of a society with 200 members or more, \$1,500. 1975, c. 36, s. 10, *part.*

Municipal  
grants

**20.** The council of a city, town, village, township, regional municipality, district municipality or county may grant money to any society organized wholly or partly within its limits. 1975, c. 36, s. 10, *part.*

Entitlement  
to  
affiliation

**21.** Every society within the meaning of this Act is entitled to be affiliated with the Ontario Horticultural Association upon payment of the affiliation fees prescribed therefor by the Association. 1975, c. 36, s. 10, *part.*

Inspection  
and inquiry

**22.—(1)** The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act or to inquire into the affairs of such society, and every officer of the society shall, when required by such person, make available the books and accounts thereof for the purpose of such inspection or inquiry.

(2) A person appointed under subsection (1) has, for the purposes of an inspection or inquiry thereunder, the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inspection or inquiry as if it were an inquiry under that Act. 1971, c. 50, s. 47 (2), *part*.

Powers of inquiry  
R.S.O. 1980, c. 411

**23.**—(1) Where the board of a society has reason to believe that any member or other person exhibiting a product at an exhibition at which prizes are offered by the society has committed a fraud or made any misrepresentation in respect of the product, the board may withhold payment or delivery of any prize money or other prize award to the member or person and the board shall, forthwith, furnish to him a written statement of its reasons for so doing.

Fraud in obtaining prizes

(2) A member or other person from whom prize money or a prize award has been withheld by the board of a society under subsection (1) may appeal to a judge of the county or district court of the county or district in which the head office of the society is situate by filing a notice of appeal in the office of the clerk of the court and leaving a copy of the notice of appeal at the head office of the board within fifteen days after receipt of the statement of the reasons of the board furnished under subsection (1).

Appeal

(3) The appellant and the board from whose decision the appeal is taken are parties to an appeal under this section.

Parties

(4) An appeal to a judge under this section shall be held by way of a hearing *de novo*.

Hearing *de novo*

(5) On an appeal under this section, the judge may affirm, vary or annul the decision of the board and may order the board to pay or deliver any prize money or prize award withheld by it under this section. 1971, c. 50, s. 47 (2), *part*.

Decision of judge

