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c 378 Pits and Quarries Control Act

Ontario

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CHAPTER 378

Pits and Quarries Control Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "inspector" means a member of the public service who is designated in writing by the Minister as an inspector for the purposes of this Act;
- (c) "Minister" means the Minister of Natural Resources;
- (d) "Ministry" means the Ministry of Natural Resources;
- (e) "operator" means the person or persons who own the right to extract material from a pit or quarry or wayside pit or quarry;
- (f) "pit" means a place where unconsolidated gravel, stone, sand, earth, clay, fill, mineral or other material is being or has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside pit;
- (g) "quarry" means a place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside quarry or open pit metal mine;
- (h) "regulations" means the regulations made under this Act;
- (i) "wayside pit" or "wayside quarry" means a temporary pit or quarry opened and used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way. 1971, c. 96, s. 1; 1972, c. 4, s. 12.

2. This Act applies only in such parts of Ontario as are designated by the Lieutenant Governor in Council by regulation. ^{Application of Act}
1971, c. 96, s. 2.

Duty of
operator

3. Every operator shall ensure that the requirements of this Act and the regulations are complied with in respect of his pit or quarry or wayside pit or quarry. 1971, c. 96, s. 3.

Pit or
quarry
licence

4.—(1) No person shall open, establish or operate a pit or quarry except under the authority of a licence issued by the Minister to the operator. 1971, c. 96, s. 4 (1).

Site plan

(2) An application for a licence to operate a pit or quarry shall be filed with the Minister and shall be accompanied by a site plan in quadruplicate, which shall include,

- (a) the location, true shape, topography, contours, dimensions, hectarage and description of the lands set aside for the purposes of the pit or quarry;
- (b) the use of all land and the location and use of all buildings and structures lying within a distance of 150 metres of any of the boundaries of the lands set aside for the purposes of the pit or quarry;
- (c) the location, height, dimensions and use of all buildings or structures existing or proposed to be erected on the lands set aside;
- (d) existing and anticipated final grades of excavation, contours where necessary and excavation set backs;
- (e) drainage provisions;
- (f) all entrances and exits;
- (g) as far as possible, ultimate pit development, progressive and ultimate road plan, any water diversion or storage, location of stockpiles for stripping and products, tree screening and berming, progressive and ultimate rehabilitation and, where possible, intended use and ownership of the land after the extraction operations have ceased;
- (h) cross-sections where necessary to show geology, progressive pit development and ultimate rehabilitation; and

- (i) such other information as the Minister may require or as is prescribed by the regulations. 1971, c. 96, s. 4 (2); 1978, c. 87, s. 29 (1) (a).

(3) The site plan for an application in respect of a pit or quarry producing less than 15,000 tonnes per year may be in a short form prescribed by the regulations in lieu of the form required by subsection (2). 1971, c. 96, s. 4 (3); 1978, c. 87, s. 29 (1) (b). Short form of site plan

(4) Every operator shall carry on his operations in accordance with the site plan upon which his licence is based and the operator may amend the site plan with the consent of the Minister. 1971, c. 96, s. 4 (4). Site plan binding

5.—(1) Upon the receipt of an application, the Minister shall fix a day as the last day upon which written objections may be filed with him by the municipal council or any other authority having an interest or any person directly affected by the issuing of a licence. Time for objections

(2) After filing his application, the applicant shall publish notice of the application in such form and manner as is prescribed by the regulations. Publication of notice

(3) If any person entitled to object under subsection (1) requires a hearing by notice in writing to the Minister before the expiration of the period for objection, the Minister shall refer the matter to the Board for a hearing. Hearing by O.M.B.

(4) The Minister may refer an application to the Board for a hearing on his own motion. 1971, c. 96, s. 5. Referral by Minister

6.—(1) The Minister shall refuse to issue a licence to operate a pit or quarry where the site plan does not comply with this Act or the regulations or where, in his opinion, the operation of the pit or quarry would be against the interest of the public taking into account, Grounds for refusal to issue a licence

- (a) the preservation of the character of the environment;
- (b) the availability of natural environment for the enjoyment of the public;
- (c) the need, if any, for restricting excessively large total pit or quarry output in the locality;
- (d) the traffic density on local roads;

- (e) any possible effect on the water table or surface drainage pattern;
- (f) the nature and location of other land uses that could be affected by the pit or quarry operation; and
- (g) the character, location and size of nearby communities.

Idem

(2) No licence shall be issued in respect of a pit or quarry where the location is in contravention of an official plan or by-law of the municipality in which it is located.

Idem

(3) Where a local municipality does not have an official plan or by-law governing the location of pits and quarries, the Minister shall give the municipal council notice of the filing of the application and if the council objects to the location of the pit or quarry within forty-five days after receiving the notice, the Minister shall not issue the licence and subsection 5 (3) does not apply.

Terms and conditions

(4) The Minister may issue the licence subject to such terms and conditions as the Minister, in his discretion, considers advisable. 1971, c. 96, s. 6.

Review of licence

7.—(1) The Minister shall review the operation of each licensee at least once in each year for the purpose of reassessing the licensee's compliance with this Act, the regulations, the site plan and the terms and conditions of the licence.

Revocation of licences

(2) The Minister may revoke a licence for a contravention of any provision of the site plan, any term or condition of the licence or any requirement of this Act or the regulations. 1971, c. 96, s. 7.

Notice of intention to refuse

8.—(1) Where the Minister proposes to refuse to issue a licence or proposes to revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice requiring hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Board if he mails or delivers, within thirty days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Minister and the Board and he may so require such a hearing.

Powers of Minister where no hearing

(3) Where an applicant or registrant does not require a hearing by the Board in accordance with subsection (2), the Minister may carry out the proposal stated in his notice under subsection (1).

(4) Where the Minister gives notice of his intention to revoke a licence and, in the opinion of the Minister, the continuation of the operation of the pit or quarry constitutes an immediate threat to the interests of the public, the Minister may, upon notice to the licensee, immediately suspend the licence pending the final disposition of the matter. 1971, c. 96, s. 8. Interim suspension

9.—(1) Where a matter is referred to the Board for a hearing, the Board shall hold a hearing as to whether the licence to which the hearing relates should be issued or revoked, as the case may be, and the applicant or licensee, the Director of the Inspection Branch of the Ministry and such other persons as the Board specifies shall be parties to the proceeding. 1971, c. 96, s. 9 (1); 1972, c. 1, s. 1. Hearing by Board

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the *Ontario Municipal Board Act*, except that section 94 of the said Act does not apply. Procedure
R.S.O. 1980,
c. 347

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister which shall set out its findings and its recommendations as to the issue or revocation of the licence to which the hearing relates, as the case may be, and shall send a copy of its report to each party to the proceedings. Report of Board

(4) After considering the report of the Board under this section, the Minister may refuse to issue or may revoke the licence to which the report relates and shall within thirty days after he receives the report of the Board give notice of his decision to the applicant or licensee specifying the reasons therefor, and the decision of the Minister is final. 1971, c. 96, s. 9 (2-4). Decision of Minister

10.—(1) Notwithstanding that a licence or permit has been issued under this Act, no person shall quarry in the Amabel or Lockport Formation at any point nearer to the natural edge of the Niagara Escarpment than ninety metres measured horizontally. 1971, c. 96, s. 10 (1); 1978, c. 87, s. 29 (2). Quarrying near escarpment

(2) For the purposes of this section, the Amabel and Lockport Formations are as defined in Geological Survey of Canada Memoir 289, 1957, entitled "Silurian Stratigraphy and Palaeontology of the Niagara Escarpment". 1971, c. 96, s. 10 (2). Idem

11.—(1) Every licensee shall maintain on deposit with the Treasurer of Ontario such security in such amount and form as is prescribed by the regulations. Security for rehabilitation

Forfeiture

(2) Where the rehabilitation program of a pit or quarry or abandoned pit or quarry is not carried out in accordance with the requirements of this Act, the regulations or the site plan or the terms and conditions of the licence, the Minister may direct that the security deposited under subsection (1) be forfeited.

Completion of rehabilitation

(3) Upon the direction of the Minister under subsection (2), the security is forfeited and the Minister may authorize any person or persons to enter upon the premises on which the pit or quarry is situate and perform such work as is necessary to complete the rehabilitation requirements, and the cost thereof shall be paid out of the moneys forfeited and the balance refunded in accordance with the regulations. 1971, c. 96, s. 11.

Permits for wayside pits and quarries

12.—(1) No person shall open, establish or operate a wayside pit or quarry except under the authority of a permit issued by the Minister to the operator.

Issuance of permits

(2) The Minister may issue a permit to operate a wayside pit or quarry where,

- (a) the pit or quarry is necessary for the purposes of the contract or project;
- (b) adequate provision can be made as terms and conditions of the permit to ensure a method of operation and adequate rehabilitation so as to constitute only a temporary inconvenience to the public.

Terms and conditions of permits

(3) The Minister may issue the permit subject to such terms and conditions, including terms for rehabilitation and security therefor, as the Minister, in his discretion, considers advisable.

Expiration and renewal

(4) A permit issued under this section expires on the completion of the project or contract or one year after its issue, whichever occurs first, but in the latter case the Minister may renew the permit for such further period as the Minister considers appropriate for the completion, in good faith, of the project or contract.

Revocation

(5) The Minister may revoke a permit issued under this section for any breach of the terms and conditions of the permit or of this Act or the regulations.

Permit subject to satisfying other requirements

(6) The issuance of a permit to operate a wayside pit or quarry shall not be construed to affect the application of any other law or requirements applying to the right to establish the wayside pit or quarry or its location. 1971, c. 96, s. 12:

13.—(1) An inspector may enter in or upon any land or premises set aside for the purposes of a pit or quarry or wayside pit or quarry at any reasonable time to make such examinations, tests and inquiries as may be necessary for the purposes of ensuring compliance with this Act, the regulations, the site plan and the terms and conditions of the licence or permit. Authority of inspectors

(2) No person shall hinder or obstruct an inspector in the performance of his duties or furnish him with false information or refuse to furnish him with information. 1971, c. 96, s. 13. Impeding inspector

14. A licence or permit issued under this Act is not transferable. 1971, c. 96, s. 14. Licence or permit not transferable

15.—(1) Where it appears to the Minister that any person does not comply or intend to comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such noncompliance, the Minister may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order as he considers fitting. Restraining order

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1971, c. 96, s. 15. Appeal

16.—(1) Subject to subsection 9 (2), any notice required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. 1971, c. 96, s. 16 (1); 1972, c. 1, s. 1. Service

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 96, s. 16 (2). Idem

17.—(1) The provisions of this Act and the regulations are in addition to and not in substitution for the provisions of Part IX of the *Mining Act*. Application of Part IX of R.S.O. 1980, c. 268

(2) Where there is a conflict between any provision of this Act or the regulations and any municipal by-law, the provision of this Act or the regulations prevails. 1971, c. 96, s. 17. Conflict with municipal by-laws

Offence

18.—(1) Every person who contravenes any provision of this Act or the regulations or is in breach of any term or condition of his licence or permit is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000 for each day on which the offence occurs or continues.

Idem

(2) No proceedings under subsection (1) shall be instituted except with the consent or under the direction of the Minister. 1971, c. 96, s. 18.

Regulations

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

- (a) governing applications for licences and permits and providing for their issue;
- (b) designating the parts of Ontario in which this Act applies;
- (c) prescribing additional information to be included on site plans under section 4;
- (d) prescribing the form, terms, conditions and amount of security to be deposited under section 11;
- (e) governing the management and operation of pits and quarries and wayside pits and quarries including,
 - (i) the use that shall be made of land set aside for the purpose,
 - (ii) the location, construction and use of buildings on the lands set aside for the purpose,
 - (iii) prescribing the hours during which any class or classes of activity may be carried on, on lands set aside for the purpose,
 - (iv) prescribing the sound levels permissible in their operation,
 - (v) governing final slopes, excavation set backs, fencing, tree screening and berming, warning signs, blasting requirements, roads and exits;
- (f) governing the rehabilitation of pits and quarries and wayside pits and quarries including the stockpiling of soil for the purpose;
- (g) requiring the payment of fees for licences and permits and prescribing the amounts thereof;

- (h) prescribing forms for the purposes of this Act and providing for their use;
- (i) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act.

(2) The Minister may, where in his opinion to do so would ^{Relief from compliance} not be against the public interest, in writing relieve a licensee or permittee from strict compliance with any provision of the regulations subject to such terms and conditions as the Minister may impose. 1971, c. 96, s. 19.

20.—(1) This Act does not apply to operators of pits and quarries operating in a part of Ontario immediately before it is designated under section 2 until six months after the designation. ^{Application to existing pits and quarries}

(2) This Act does not apply to operators of wayside pits or quarries operating in a part of Ontario immediately ^{Application to existing wayside pits and quarries} before it is designated under section 2 until one month after the designation.

(3) Section 5 does not apply to applications for licences ^{Application of s. 5} in respect of pits and quarries referred to in subsection (1). 1971, c. 96, s. 20.

