

1980

## c 239 Lightning Rods Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

---

### Bibliographic Citation

*Lightning Rods Act*, RSO 1980, c 239

### Repository Citation

Ontario (1980) "c 239 Lightning Rods Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 4, Article 14.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss4/14>

## CHAPTER 239

## Lightning Rods Act

## 1. In this Act,

Interpre-  
tation

- (a) "Fire Marshal" means the Fire Marshal of Ontario;
- (b) "inspector" means an inspector appointed under this Act;
- (c) "lightning rods" means the points, cables, groundings and other apparatus installed or to be installed to protect buildings and structures from damage by lightning;
- (d) "regulations" means the regulations made under this Act;
- (e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 245, s. 1; 1972, c. 3, s. 17 (1).

2. No person shall offer for sale, sell or install lightning rods unless licensed to do so by the Fire Marshal under this Act. R.S.O. 1970, c. 245, s. 2.

Sellers, etc.,  
of lightning  
rods to be  
licensed

## 3.—(1) Upon receipt of,

Power to  
license

- (a) an application in the prescribed form for a licence to offer for sale, sell and install lightning rods, containing a sworn statement of the amount received from the sale of lightning rods in Ontario during the previous licence year and a statement of the specifications of the lightning rods to be offered for sale, sold and installed during the licence year;
- (b) a licence fee computed at four-fifths of 1 per cent of the amount received from the sale of lightning rods in Ontario during the preceding licence year, and in addition the sum of \$50, payable to the Treasurer; and
- (c) samples of the lightning rods to be offered for sale, sold and installed during the licence year, or such parts thereof as may be required by the Fire Marshal,

the Fire Marshal shall, subject to subsection (3), issue to the applicant a licence to offer for sale, sell and install lightning rods, and the licence shall remain in force until the 31st day of December next after the date of issue unless it is sooner suspended or revoked. R.S.O. 1970, c. 245, s. 3 (1); 1971, c. 50, s. 51 (1).

What may  
be sold, etc.

(2) No licensee under this section shall offer for sale, sell or install lightning rods other than those in respect of which the licence was issued. R.S.O. 1970, c. 245, s. 3 (2).

Refusal  
to issue

(3) The Fire Marshal may, after hearing the applicant, refuse to issue a licence under this section where,

- (a) the applicant is not competent to install lightning rods properly;
- (b) the lightning rods to be offered for sale, sold or installed under the licence are not of adequate quality or serviceability; or
- (c) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on operations authorized by the licence in accordance with law and with integrity and honesty. 1971, c. 50, s. 51 (2).

Agents

4.—(1) Upon receipt of,

- (a) an application in the prescribed form from a licensee under section 3 for a licence for the person named therein, who shall be a resident of Ontario, to act as an agent of such licensee, containing a statement in writing from the person named therein giving the address of his place of residence and place of business, his experience in connection with lightning rods, and his financial standing with any licensee under section 3 for whom he has acted as agent; and
- (b) a licence fee of \$3 payable to the Treasurer,

the Fire Marshal shall, subject to subsection (3), issue a licence to him to act as agent for the licensee, and the licence remains in force until the 31st day of December next after the date of issue unless it is sooner suspended or revoked. R.S.O. 1970, c. 245, s. 4 (1); 1971, c. 50, s. 51 (3).

What may  
be sold, etc.,  
by agents

(2) No licensed agent shall offer for sale, sell or install lightning rods other than those in respect of which his principal is licensed. R.S.O. 1970, c. 245, s. 4 (2).

(3) The Fire Marshal may, after hearing the applicant, <sup>Refusal to issue</sup> refuse to issue a licence under this section where,

- (a) the applicant is not competent to install lightning rods properly; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on operations authorized by the licence in accordance with law and with integrity and honesty. 1971, c. 50, s. 51 (4).

5. Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, the holder of a licence under this Act has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue, <sup>Continuation of licence pending issue of new licence</sup>

- (a) until the renewal is granted; or
- (b) until the application has been finally determined by the Fire Marshal, or where renewal is refused, until fourteen days after mailing of the decision of the Fire Marshal, or where application is made for a hearing by a judge, such later time as the judge may fix. 1971, c. 50, s. 51 (5).

6.—(1) The Fire Marshal may, after a hearing, suspend or revoke a licence if the licensee has contravened any provision of this Act or the regulations and his conduct affords reasonable grounds for belief that he will not comply with this Act and the regulations in the operations authorized by the licence. <sup>Suspension or revocation of licence</sup>

(2) The notice of a hearing required under subsection (1) shall afford to the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence. <sup>Notice of hearing</sup>

(3) An applicant or licensee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 51 (6). <sup>Examination of documentary evidence</sup>

7.—(1) Where an applicant or licensee, as the case may be, is dissatisfied with a decision of the Fire Marshal under section 3, 4 or 6, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he resides for a hearing by the judge. <sup>Application for hearing by county judge</sup>

Extension of  
time for  
application

(2) A judge to whom application is made for a hearing under subsection (1) may extend the time for making the application, either before or after expiration of the time fixed in subsection (1), where he is satisfied that there are *prima facie* grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Recording  
of evidence

(3) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings  
of fact

(4) The findings of fact of a judge pursuant to a hearing under this section shall be based exclusively on evidence admissible under the law of evidence or matters that may be judicially noticed.

Powers  
of judge

(5) On an application under subsection (1), the judge may, after a hearing *de novo* to which the applicant, the Fire Marshal and such other persons as the judge may specify are parties, confirm, vary or reverse the decision of the Fire Marshal and may direct the Fire Marshal to do any act the Fire Marshal is authorized to do under this Act and as the judge considers proper. 1971, c. 50, s. 51 (7), *part*.

Appeal to  
court

8.—(1) Any party to the proceedings before a judge under this Act may appeal from the decision or direction of the judge to the Divisional Court in accordance with the rules of court.

Record to  
be filed  
in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Divisional Court the record of the proceedings before him in which the decision was made or direction was given which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Fire Marshal  
entitled  
to be heard

(3) The Fire Marshal is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of  
court

(4) The Divisional Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper, and may order the Fire Marshal to do any act or thing he is authorized to do under this Act and as the court considers proper or the court may refer the matter back to the judge for rehearing, in whole or

in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 51 (7), *part.*

9. Every person offering for sale, selling or installing lightning rods shall exhibit his licence, <sup>Duty to exhibit licence</sup>

- (a) to every person to whom he offers to sell or sells, or for whom he installs lightning rods; and
- (b) upon demand to any mayor, reeve, fire chief, district deputy fire marshal, assistant to the Fire Marshal, fire prevention officer or police officer. R.S.O. 1970, c. 245, s. 7.

10.—(1) Every person who installs lightning rods on any building or structure shall, upon completion of the work, make a certificate of installation in triplicate in the prescribed form showing, <sup>Certificate of installation</sup>

- (a) his name, address and licence number and, where he is an agent, the name, address and licence number of his principal;
- (b) the name and address of the owner of the building or structure;
- (c) the location of the building or structure;
- (d) a diagram of the building or structure marking the location of each grounding;
- (e) the nature and condition of the soil at each grounding;
- (f) the method of each grounding,

and certifying that the facts shown are true and that the installation has been made in accordance with this Act and the regulations, and, after signing, he shall present the certificate for the signature of the owner or his agent to confirm that the nature and condition of the soil and the method of each grounding are as described.

(2) Every person who makes a certificate of installation shall give a copy thereof to the owner or his agent and forward a copy to the Fire Marshal. <sup>Disposal of copies</sup> R.S.O. 1970, c. 245, s. 8.

11. Every person who fails to comply with this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$200 or to imprisonment for a term of not more than six months for each offence, or to both fine and imprisonment. R.S.O. 1970, c. 245, s. 9. <sup>Offence</sup>

Non-conforming installations

**12.**—(1) Where upon inspection an installation of lightning rods is found not to conform with this Act and the regulations, the licensee under section 3 who made the installation shall, within sixty days from the receipt of the inspector's report or such further period as is allowed by the Fire Marshal, make such alterations or additions thereto as the inspector considers necessary to make the installation conform with this Act and the regulations, but this subsection does not apply where the installation is found not to so conform by reason of alterations or additions made thereto or to the building or structure other than by the licensee.

Conforming installations

(2) Where upon inspection an installation of lightning rods is found to conform with this Act and the regulations, the inspector may attach a seal indicating that the installation is at the time of the inspection in conformity with this Act and the regulations. R.S.O. 1970, c. 245, s. 10.

Hearing

(3) Where a licensee is dissatisfied with the report of an inspector under subsection (1), he may, within ten days after receipt of the report, request the Fire Marshal to hold a hearing.

Parties

(4) Pursuant to a request under subsection (1), the Fire Marshal shall hold a hearing to determine whether the inspector's report is proper and the inspector, licensee and such other persons as the Fire Marshal may specify are parties to the proceedings.

Decision of Fire Marshal

(5) After a hearing under this section, the Fire Marshal may confirm, vary or reverse the report of the inspector and may direct the inspector to do any act the inspector is authorized to do under this Act and as the Fire Marshal considers proper. 1971, c. 50, s. 51 (8).

Right to recover for loss

**13.**—(1) Where lightning rods that were installed on a building or structure by a licensed person have been installed for fewer than ten years and the owner thereof has suffered loss by reason of damage by lightning to the lightning rods, building or structure, and where no alterations or additions or repairs that affect the proper operation of the lightning rods have been made to the lightning rods or to the building or structure by persons other than the licensee, the owner may bring an action against the licensee for recovery of the amount of loss, not exceeding the total cost of the installation.

Notice of claim, commencement of action

(2) Notice of any such claim shall be given to the licensee within thirty days after the loss was suffered, and the action shall be commenced not fewer than sixty days and not more than one year after the loss was suffered. R.S.O. 1970, c. 245, s. 11.

**14.** Licence fees paid to the Treasurer under this Act shall be added to the special fund for the maintenance of the office of the Fire Marshal. R.S.O. 1970, c. 245, s. 12.

**15.** The Lieutenant Governor in Council may appoint one or more inspectors to enforce this Act and the regulations. R.S.O. 1970, c. 245, s. 13.

**16.** This Act does not apply to the installation of lightning rods on a building or structure by the owner or occupant of the building or structure where he himself does the work, or the work is done by his employee or employees under his direction. R.S.O. 1970, c. 245, s. 14.

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

- (a) prescribing minimum standards for lightning rods;
- (b) governing the manner of installing lightning rods;
- (c) designating buildings or structures or classes of buildings or structures to which this Act shall not apply;
- (d) prescribing the form of,
  - (i) the application for a licence to offer for sale, sell and install lightning rods,
  - (ii) the licence to offer for sale, sell and install lightning rods,
  - (iii) the application for a licence to act as an agent to offer for sale, sell and install lightning rods,
  - (iv) the licence to act as agent to offer for sale, sell and install lightning rods,
  - (v) the certificate of installation of lightning rods,
  - (vi) the report of the inspector mentioned in subsection 12 (1),
  - (vii) the seal mentioned in subsection 12 (2). R.S.O. 1970, c. 245, s. 15.



