

1980

c 242 Line Fences Act

Ontario

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CHAPTER 242

Line Fences Act

1.—(1) In this Act,

Interpre-
tation

- (a) “Minister” means the Minister of Intergovernmental Affairs;
- (b) “occupant” means the occupant of adjoining land that is subject or proposed to be made subject to proceedings instituted under section 4;
- (c) “prescribed” means prescribed by the regulations;
- (d) “regulations” means regulations made under this Act;
- (e) “value of the work” and “costs of the work” have the same meaning and include the value of the materials used and the value of the labour performed to complete the work.

(2) Where, within the meaning of section 4, there is a ^{Idem} dispute between owners or occupants of lands situate in different local municipalities,

- (a) “fence-viewers” means two fence-viewers of the local municipality in which is situate the land of the owner or occupant notified under section 4, and one fence-viewer of the local municipality in which is situate the land of the person instituting the proceedings under that section;
- (b) “in which the land is situate” or “in which the land lies” means in which is situate the land of the owner or occupant so notified under section 4.

(3) Where, within the meaning of section 4, there is a ^{Idem} dispute between the owner or occupant of land situate in a local municipality and the owner or occupant of land situate in territory without municipal organization,

- (a) “fence-viewers” means three fence-viewers appointed by the local municipality in which the land of the one owner or occupant is situate, and at least one of the fence-viewers shall be resident outside the

municipality in the vicinity of the land of the other owner or occupant;

- (b) "local municipality in which the land is situate" means the local municipality in which is situate the land of the one owner or occupant. 1979, c. 31, s. 1.

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 *per diem* remuneration to be paid to the fence-viewers. 1979, c. 31, s. 2.

Owner of land
may construct
boundary
fence

3. An owner of land may construct and maintain a fence to mark the boundary between his land and adjoining lands. 1979, c. 31, s. 3.

Owner may
request fence-
viewers to
view and
arbitrate

4.—(1) Where the owner of any land desires to have a fence constructed to mark the boundary between his land and the land of an adjoining owner, or where such a fence exists, to have it repaired or reconstructed and where he has not entered into a written agreement with the adjoining owner for sharing the costs of the construction, reconstruction, or repair, as the case may be, of such fence, he may notify the clerk of the local municipality in which the land is situate that he desires fence-viewers to view and arbitrate as to what portion of the fence each owner shall construct, reconstruct or repair and maintain and keep up.

Notice by
clerk

(2) Where the clerk of a municipality is notified under subsection (1), he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall notify in the prescribed form the owner mentioned in subsection (1) and the adjoining owner or the occupant of the land of the adjoining owner that he will on a day named, not less than one week from the service of the notice, cause three fence-viewers of the locality to arbitrate in the premises and he shall notify in the prescribed form the fence-viewers not less than one week before their services are required that they are required to meet to arbitrate in the premises.

Idem

(3) A notice under subsection (2) shall be signed by the clerk or such other designated person, as the case may be, and shall specify the time, being not more than thirty days from the date of the receipt of the notice under subsection (1), and place of the meeting for the arbitration, and the notice shall be given to a person mentioned in subsection (2) by sending it to him by registered mail at the address where he resides or, in the case of a notice to an owner or occupant,

may instead be given by leaving it with him at his place of residence or with some other person, over the age of eighteen years, residing thereat. 1979, c. 31, s. 4.

5. Where an occupant who is not the owner of the land is given a notice under this Act, he shall immediately inform the owner of the notice, and, if he neglects to do so, he is liable for all damage caused to the owner by such neglect. 1979, c. 31, s. 5.

Duty and liability of occupants as to notifying owners

6. The fence-viewers shall examine the premises and, if required by either adjoining owner, shall hear evidence and may examine the owners and their witnesses on oath. 1979, c. 31, s. 6.

Duties and powers of fence-viewers

7.—(1) The fence-viewers shall make an award in the prescribed form, signed by any two of them, respecting the matters in dispute and the award shall state that a fence shall be constructed and maintained and kept up to mark the boundary between the adjoining lands, or, where such a fence exists, that the fence shall be reconstructed or repaired, and shall be maintained and kept up, and the award shall specify,

Award of fence-viewers

(a) the location of the fence;

(b) that,

(i) each adjoining owner shall construct, reconstruct or repair, as the case may be, and maintain and keep up a designated one-half of the fence, or

(ii) the adjoining owner designated shall construct, reconstruct or repair, as the case may be, and maintain and keep up the fence, and that the other adjoining owner shall, upon being notified by the designated adjoining owner of the costs of the work incurred from time to time, pay to the designated adjoining owner one-half of the costs incurred,

unless the fence-viewers, in the circumstances of the case, consider an award in the terms of sub-clause (i) or (ii) to be unjust, in which case the fence-viewers may make such award in respect of the construction, reconstruction, repair or maintenance of the fence as they consider appropriate;

(c) the description of the fence, including the materials to be used in the construction, reconstruction, repair or maintenance and keeping up of the fence;

- (d) the date by which the construction, reconstruction or repairs shall be commenced and the date by which such work shall be completed; and
- (e) the costs of the proceedings and by which of the owners or in what proportion the costs of the proceedings are to be paid.

Character
of fence

(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, and the nature of the fences in use in the locality and may have regard to any other factors that they consider relevant.

Where
by-law
under
R.S.O. 1980,
c. 302
in force

(3) Where there is a by-law in force in the municipality under the *Municipal Act* prescribing the height and description of lawful fences or otherwise regulating the construction of fences, the description of the fence specified in the award shall conform to the by-law.

Location
of fence

(4) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the adjoining owners, they may locate it either wholly or partly on the land of either of the adjoining owners where it seems to be most convenient, but such location shall not in any way affect the title to the land.

Employment
of surveyor

(5) Where the fence-viewers locate a fence wholly or partly on the land of either of the adjoining owners under subsection (4), the fence-viewers may employ an Ontario land surveyor to have the location of the fence described by metes and bounds.

Fees of
land
surveyor

(6) 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 fees payable to a land surveyor employed under subsection (5). 1979, c. 31, s. 7.

Deposit of
award, etc.

8.—(1) The award shall be deposited in the office of the clerk of the local municipality in which the land is situate, and may be proved by a copy certified by the clerk, and a copy of the award certified by the clerk shall forthwith be sent by him by registered mail to the owners and occupants of the adjoining lands to their last known place of residence.

(2) Where the lands of the adjoining owners are situate in different local municipalities, a clerk under subsection (1) shall, forthwith upon the deposit of an award in his office, forward a copy of it certified by him to the clerk of the other municipality in which part of the lands are situate. 1979, c. 31, s. 8.

Where land situate in different municipalities

9.—(1) An owner dissatisfied with the award may appeal therefrom to a judge of the small claims court for the territorial division in which the land is situate by serving on the owner or occupant of the adjoining land and the fence-viewers, 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 each notice together with an affidavit of service of the notice in the prescribed form with the clerk of the court 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 mentioned in subsection (1), the clerk of the court shall forthwith fix the time and place for the hearing of the appeal, and notice of the time and place of the appeal shall be served on each 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 of trial is served on a party to a suit under the *Small Claims Courts Act*.

Notice of hearing

R.S.O. 1980, c. 476

(4) The judge 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 costs by either party and fix the amount of the costs.

Powers of judge

(5) The decision of the judge 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.

Decision of judge to be final

(6) The practice and procedure on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the small claims court, but the judge may at any time give special direction as to the conduct of the hearing so that he may properly and fully inform himself of all relevant facts and may at any time order such sum of

Procedure

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
different
court
divisions

(7) Notwithstanding subsections (1) and (3), where the award affects land in two or more territorial divisions, the appeal may be to the judge of the small claims court for the territorial 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 court in which the appeal is to be heard. 1979, c. 31, s. 9.

Judge's
expenses

10.—(1) If the judge of the small claims court inspects the premises or hears the appeal at a place other than the place where proceedings in that court are usually conducted, he is entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the amount is to be paid.

Municipality
to pay
expenses
and collect
amount

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and it shall be collected in the same manner as is provided in respect of the fence-viewer's fees. 1979, c. 31, s. 10.

Owner may
require
award to be
obeyed

11.—(1) Where the award specifies that a portion or all of the fence shall be repaired, constructed, reconstructed, maintained or kept up by one adjoining owner and that adjoining owner fails to obey the award, the other adjoining owner may, by notice, served by him on the first adjoining owner or the occupant of his land, require the first adjoining owner to obey the award.

Service
of notice

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

Completion
of work
by owner

(3) If the notice is not obeyed within two weeks after it has been served, the owner desiring to enforce the award may do or complete the work that the award directs and may immediately institute proceedings to recover the value of the work done or completed and the costs of the proceedings from the owner of the adjoining land.

Entry on
property of
adjoining
owner

(4) An owner, or any person acting on his behalf, in doing or completing work pursuant to an award under section 7 or under subsection (3) or under subsection 13 (7), may enter on the property of the adjoining owner to the extent that it is necessary to do or complete the work, but in making such entry or doing or completing such work shall do no unnecessary spoil or waste.

(5) No person shall obstruct or threaten to obstruct a person entering onto property or doing or completing work in accordance with subsection (4) and every person who contravenes this subsection is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Obstruction
an offence

(6) Where the award specifies that one adjoining owner shall pay to the designated adjoining owner a portion of the costs of the work under subclause 7 (1) (b) (ii), the designated adjoining owner may notify the other adjoining owner or the occupant of his land of the amount owing in accordance with the award in the same manner as an owner may give notice under subsection (2), and, where such amount is not paid within twenty-eight days following the day on which the notice is given, the designated adjoining owner may institute proceedings to recover the amount and the costs of the proceedings from the other adjoining owner.

Notice of
amount
owing in
accordance
with award

(7) An owner desiring to institute proceedings under subsection (3) or (6) shall notify the clerk of the local municipality in which the land is situate that he desires the three fence-viewers who made the award to reattend at the premises and certify,

Certification
of fence-
viewers

(a) the default of the adjoining owner; and

(b) the value of the work done by the owner which according to the award ought to have been done by the adjoining owner or the portion of the costs of the work done which ought to have been paid by the adjoining owner, as the case may be.

(8) Where the clerk of a municipality is notified by an owner under subsection (7), he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall forthwith notify in the prescribed form that owner and the owner or occupant of the adjoining land that he will, on a day named, not less than one week from the service of the notice, cause the fence-viewers to reattend at the premises and he shall also notify in the prescribed form the fence-viewers not less than one week before their services are required.

Notice by
clerk

(9) The notices in each case shall be signed by the clerk or such other designated person, as the case may be, and shall specify the time and place of the reconvening of the fence-viewers, and the notices shall be served in the same manner as a notice served under subsection 4 (3).

Idem

Notice to
another
fence-viewer
to attend

(10) Where an owner notifies the clerk under subsection (7), and for any reason any of the three fence-viewers who made the award is unable to reattend at the premises, the clerk shall notify another fence-viewer of the municipality to attend in his place. 1979, c. 31, s. 11.

Duties of
fence-viewers

12.—(1) The fence-viewers, upon receiving a notice served under subsection 11 (8), or upon being notified under subsection (10) of that section, shall attend in accordance with such notice, and if satisfied that the adjoining owner or the occupant of his land was duly notified under subsection 11 (1) or (6), as the case may be, and has failed to obey the award, the fence-viewers shall,

(a) where the adjoining owner or the occupant of his land was notified under subsection 11 (1), determine the value of the work done by the owner desiring to enforce the award which is attributable to the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and certifying the value of the said work; or

(b) where the adjoining owner or the occupant of his land was notified under subsection 11 (6), determine the value of the work done by the owner desiring to enforce the award and the portion of that value payable by the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and the amount payable by him as his share of the costs of the work.

Costs

(2) The fence-viewers shall specify in a certificate under subsection (1) the costs of the proceedings described in that subsection and shall specify either that the adjoining owner or that the other owner pay the costs, or that each of them pay a specified portion of the costs.

Idem

(3) The fence-viewers shall, in the certificate, certify the amount payable by the adjoining owner as his share of the costs of the proceedings described in subsection (1) and of the proceedings under section 4, less the portion of that amount payable as fees to the fence-viewers or fees to a land surveyor employed under subsection 7 (5), and the total amount certified under this subsection and subsection (1) shall become payable to the owner desiring to enforce the award.

Deposit of
certificate

(4) Upon preparing a certificate under subsection (1), the fence-viewers shall forthwith deposit the certificate with the clerk of the

local municipality within which the land is situate and the provisions of subsections 8 (1) and (2) respecting an award apply with necessary modifications to the certificate.

(5) The clerk of the local municipality in which the land of the adjoining owner is situate shall, upon receiving a certificate prepared under subsection (1) and the award in respect of which the certificate was made, or copies thereof certified by the clerk in accordance with this Act, and upon application in writing by the owner entitled to receive the amount certified, have the total amount certified placed upon the collector's roll and the amount may be collected in the same manner as taxes, together with interest thereon accruing from the date the application was made at the same rate as interest added by the municipality under section 412 of the *Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof and when collected shall forthwith be paid over to the owner entitled thereto.

Collection
of amount
as taxes

R.S.O. 1980,
c. 302

(6) Notwithstanding subsection (5), the council of a local municipality may, by by-law, provide that where a certificate and an award mentioned in that subsection and made in respect of land situate within the municipality, or copies thereof certified by a clerk in accordance with this Act, are deposited with the clerk of the municipality, the treasurer of the municipality may, upon written application therefor, pay to the owner entitled to receive the amount certified, the amount so certified or a portion thereof, where he is satisfied that the owner is entitled thereto, and where an owner has received the amount certified or a portion thereof under this subsection, he is not entitled to make an application or receive an amount under subsection (5).

Payment by
treasurer

(7) An amount paid to an owner under subsection (6) shall be placed upon the collector's roll and may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 412 of the *Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof.

Collection
of amount
as taxes

(8) Upon making a payment to an owner under subsection (6), the treasurer shall forthwith notify in the prescribed form the adjoining owner against whom the award is being enforced that the payment has been made.

Notice by
treasurer

Levy of amount against goods and chattels

(9) Instead of having the amount certified placed upon the collector's roll, or instead of applying for that amount or a portion thereof under a by-law passed under subsection (6), the owner entitled to receive the amount may file a copy of the certificate and of the award in respect of which the certificate was made, certified by the clerk in accordance with this Act, with the clerk of the small claims court of the division in which any part of the land affected by the award is situate, and upon being so filed, the amount may be levied against the goods and chattels and land of the adjoining owner in the same manner as the amount of a judgment of a small claims court may be levied under the *Small Claims Courts Act*. 1979, c. 31, s. 12.

R.S.O. 1980, c. 476

When work may be dismantled

13.—(1) Notwithstanding subsection 11 (3), an owner desiring to enforce an award shall not dismantle work done by the adjoining owner in respect of the fence mentioned in the award except in accordance with this section.

Notice

(2) Where in the opinion of an owner work done by an adjoining owner pursuant to an award made under section 7 in respect of their lands is not in compliance with the description of the fence or the location of the fence as specified in the award, the owner may, by notice served by him on the adjoining owner or occupant of his land, require the adjoining owner to make the work comply with the award.

Particulars

(3) A notice under subsection (2) shall specify in what particulars the work done fails to comply with the award and shall be served by an owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4.

Fence-viewers to reattend

(4) If the notice is not obeyed within two weeks after it has been served, the owner may cause the fence-viewers to reattend at the premises to view the work and to determine whether or not the work complies with the award.

Service of notices

(5) The provisions of section 4 respecting the convening of fence-viewers apply with necessary modifications to the recalling of fence-viewers under subsection (4).

Powers of fence-viewers

(6) Where the fence-viewers determine under subsection (4) that the work does not comply with the award, they shall in the prescribed form set out their determination with reasons therefor and shall specify the action to be taken by the adjoining owner to make such work comply, the date by which such action shall commence, and the date by which the work shall be completed.

(7) Where the adjoining owner does not comply with the directions given by the fence-viewers under subsection (6), ^{Where owner does not comply} the owner that initiated the proceedings under this section may, by notice to the adjoining owner or the occupant of his land, require the adjoining owner to obey the directions, and the provisions of sections 11 and 12 respecting the enforcement of an award apply with necessary modifications to the enforcement of the directions given by the fence-viewers under subsection (6).

(8) Where the fence-viewers make a determination with directions under subsection (6), they shall specify the fees payable in respect of their services under subsections (4) and (6) and that the fees be paid by the adjoining owner or the other owner or that a specified portion of the fees be paid by each of them. ^{Fees}

(9) Section 8 applies with necessary modifications to a determination with directions made by the fence-viewers under subsection (6). ^{Deposit of determination} 1979, c. 31, s. 13.

14.—(1) Where the fence-viewers have attended at premises pursuant to a notice given under subsection 4 (2), subsection 11 (8) or subsection 13 (5) or (7), and have decided, ^{Where no award, etc., made, fees of fence-viewers}

- (a) that no award shall be made because they have no jurisdiction to make the award or because the owners of the adjoining lands have requested that no award be made; or
- (b) that no certificate or determination with directions shall be made,

they shall prepare their decision in the prescribed form giving reasons therefor, and shall specify in the decision that the fees of the fence-viewers in respect of such attendance be paid either by one adjoining owner or by the other or that a specified portion of the fees be paid by each of them.

(2) Section 8 applies, with necessary modifications, to a decision made under subsection (1). ^{Deposit of decision} 1979, c. 31, s. 14.

15.—(1) The award and a certificate made in respect of the award may be registered in the proper land registry office and when registered are charges upon the land affected by them. ^{Award to be a charge on land if registered}

(2) Registration may be by the registration of a duplicate of the award or certificate, as the case may be, or of a copy ^{How registered}

thereof, verified by an affidavit, together with an affidavit of the execution of the award or certificate. 1979, c. 31, s. 15.

Enforcement
of agreements

16. Any agreement in writing in the prescribed form between owners respecting a line fence may be registered and enforced as if it were an award of fence-viewers. 1979, c. 31, s. 16.

Fees to
surveyors
and witnesses

17.—(1) An Ontario land surveyor and a witness are entitled to the same compensation as if subpoenaed in a small claims court.

Payment of
fence-viewers
fees

(2) The corporation of the local municipality shall, at the expiration of the time for appeal from an award made under section 7 or after appeal, as the case may be, and, where applicable, upon the depositing of a certificate under subsection 12 (4) or subsection 13 (7), or of a determination with directions under subsection 13 (9), or a decision under section 14, pay to the fence-viewers their fees, and shall, unless the fees or a portion thereof are forthwith repaid by the person adjudged to pay the fees or the portion thereof, place the amount unpaid upon the collector's roll, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 412 of the *Municipal Act*, to taxes due and unpaid and is until so collected or otherwise paid a charge upon the land liable for payment thereof.

R.S.O. 1980,
c. 302

Where land
in adjacent
municipality

(3) Where the land of the person adjudged to pay the fees or a portion thereof is not situate within the local municipality, the clerk of the municipality shall, where the land is situate in an adjacent municipality, notify the clerk of the adjacent municipality of the amount owing by such person in respect of the fees or the portion thereof, and the clerk of the adjacent municipality shall place the amount upon the collector's roll for that municipality, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 412 of the *Municipal Act*, to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof, and when the amount with interest or any part thereof is collected the clerk shall forthwith remit it to the clerk of the municipality that gave the notice under this subsection.

Where land in
unorganized
territory

(4) Where the land of the person adjudged to pay the fees or a portion thereof is situate in territory without

municipal organization, the amount owing by such person in respect of the fees or the portion thereof may be recovered with interest as a debt due to the municipality from such person. 1979, c. 31, s. 17.

18.—(1) Where there is an unopened road allowance lying between the lands of two owners and not enclosed by a lawful fence, it is the duty of the fence-viewers, when called upon, to divide the road allowance equally between the owners of the lands, and to require each owner to construct, keep up and maintain a just proportion of fence to mark the division line, but nothing in this section in any way affects or interferes with the rights of the municipality in the road allowance or is deemed to confer any title therein upon such owners or either of them.

(2) No person shall initiate proceedings for calling on the fence-viewers to act under subsection (1) without the approval of the council of the municipality in which the road allowance is situate. 1979, c. 31, s. 18.

19.—(1) Where land that was formerly used as part of a line of railway is conveyed in its entire width by the railway company,

(a) to the owner of abutting land, such owner, his heirs, executors and assigns, are responsible for constructing, keeping up and repairing the fence that marks the lateral boundary between the conveyed lands and the lands of the adjoining owner for a period of ten years from the date of the conveyance and thereafter section 4 applies;

(b) to a person who is not the owner of abutting land, such person, his heirs, executors and assigns, are responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land; or

(c) to the Crown in right of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the corporation of a municipality where the Crown, Crown agency or corporation, as the case may be, is not the owner of abutting land, the Crown, Crown agency or corporation is responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land.

(2) For the purpose of clause (1) (c), "municipality" includes a regional, metropolitan or district municipality and the County of Oxford. 1979, c. 31, s. 19.

Certain
fences
removable
on notice

20.—(1) The owner of the whole or part of a line fence that forms part of the fence marking the boundary between his land and the land of an adjoining owner shall not take down or remove any part of such fence.

(a) without giving at least six months previous notice of his intention to the owner or occupant of the adjacent land unless the owner or occupant, after demand made upon him in writing by the owner of the fence, refuses to pay therefor the sum determined as provided by section 7; or

(b) if such owner or occupant will pay to the owner of the fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 7.

Other
provisions
of Act
to apply

(2) The provisions of this Act for determining disputes between owners of adjoining lands, the manner of enforcing awards and appeals therefrom and the prescribed forms and all other provisions of this Act, so far as applicable, apply to proceedings under this section. 1979, c. 31, s. 20.

Where tree
thrown across
line fence

21.—(1) If any tree is thrown down by accident or otherwise so as to cause damage to a line fence, the owner or occupant of the land on which the tree stood shall forthwith remove the tree and repair the fence.

When
adjoining
land-owner
may remove
tree

(2) On the neglect or refusal of the owner or occupant of the land on which the tree stood so to do for forty-eight hours after notice in writing to remove the tree, the adjoining land-owner may remove it in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain the tree to remunerate him for such removal.

Recovery
of cost

(3) A person who repairs a fence under subsection (2) may recover the costs of the work in the same manner as an owner under subsection 11 (3) may recover the value of work done by him.

Right of
entry

(4) For the purpose of such removal, the owner of the tree may enter into and upon the adjoining land doing no unnecessary spoil or waste.

Fence-viewers
to decide
disputes

(5) All questions arising under this section shall be adjusted by three fence-viewers of the municipality, the decision of any two of whom is binding upon the parties. 1979, c. 31, s. 21.

22.—(1) This Act applies to lands owned by a municipality and to lands owned by a local board within the meaning of the *Municipal Affairs Act*, including a conservation authority.

Act applies to lands of municipality or local board
R.S.O. 1980, c. 303

(2) For the purposes of this section, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford.

Interpretation

(3) The council of a municipality or a local board may enter into agreements with owners of land adjoining land owned by the municipality or the local board, as the case may be, for the construction, reconstruction, repair, maintenance and keeping up of line fences to mark the boundary of such lands, and any such agreement when reduced to writing in the prescribed form may be registered and enforced as if it were an agreement between owners under section 16. 1979, c. 31, s. 22.

Agreements

23.—(1) Except as otherwise provided in subsections (2) and (3), this Act applies so as to bind the Crown in right of Ontario.

Act binds Crown

(2) This Act does not apply to lands of the Crown in right of Ontario that at no time have been disposed of by the Crown in right of Ontario by letters patent, deed or otherwise.

Exception

(3) Notwithstanding any other provision in this Act, an award made under section 7 in respect of lands vested in the Crown in right of Ontario shall not require the Crown to be responsible for more than one-half of the fence or to pay to the adjoining owner an amount exceeding 50 per cent of the cost of the fence. 1979, c. 31, s. 23.

Limitation

24. Notwithstanding sections 22 and 23, this Act does not apply to any lands that constitute a public highway. 1979, c. 31, s. 24.

Act does not apply to lands that constitute public highway

25. The provisions of this Act respecting the apportionment of the costs of a line fence and the enforcement thereof do not apply in a municipality where a by-law passed under paragraph 20 of section 210 of the *Municipal Act* is in force. 1979, c. 31, s. 25.

Where Act not to apply

R.S.O. 1980, c. 302

26. The Minister may make regulations prescribing forms for the purposes of this Act and providing for their use. 1979, c. 31, s. 26.

Regulations by Minister

27. The Lieutenant Governor in Council may make regulations to provide for determining how the costs of line fences marking the boundary between lands situate in

Regulations by Lieutenant Governor in Council

territory without municipal organization shall be apportioned, and for providing for the manner in which any amount so apportioned shall be recoverable. 1979, c. 31, s. 27.

Inspection
of awards,
decisions, etc.
R.S.O. 1980,
c. 302

28. Subsection 78(1) of the *Municipal Act* applies, with necessary modifications, to an award, certificate, determination, decision, notice or other document that, as a result of proceedings initiated under this Act is in the possession or under the control of the clerk or a person designated by the council under this Act for the purpose of giving notices. 1979, c. 31, s. 28.