1970

c 491 Waste Management Act

Ontario
CHAPTER 491

The Waste Management Act

1. In this Act,

(a) "Advisory Board" means the Waste Management Advisory Board;
(b) "Appeal Board" means the Waste Management Appeal Board;
(c) "Department" means the Department of Energy and Resources Management;
(d) "Director" means the Director of the Waste Management Branch of the Department of Energy and Resources Management;
(e) "inspector" means a person employed or appointed to assist in the administration of this Act;
(f) "medical officer of health" means a medical officer of health appointed under The Public Health Act; R.S.O. 1970, c. 377
(g) "Minister" means the Minister of Energy and Resources Management;
(h) "municipality" includes a metropolitan municipality, a regional municipality and a district municipality;
(i) "operator" means the person in occupation of having the charge, management, or control of a waste management system or a waste disposal site;
(j) "owner" means a person or municipality that owns or is responsible for the establishment or direction of a waste management system or a waste disposal site;
(k) "regulations" means the regulations made under this Act;
(l) "waste" includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other wastes as are designated in the regulations;
(m) "waste disposal site" means any land or land covered by water upon which, or building or structure in which, waste is deposited or processed and any machinery or equipment or operation required for the treatment or disposal of waste;
(n) "waste management system" means all facilities, equipment and operations for the complete management of waste, including the collection, handling, transporta-
2. This Act does not apply to the storage or disposal by any person of his domestic wastes on his own property unless in the opinion of the Minister such storage or disposal may create a nuisance or to any sewage or other works to which *The Ontario Water Resources Commission Act* or the regulations thereunder apply. 1970, c. 44, s. 2.

3. The Minister, for the purposes of the administration and enforcement of this Act and the regulations, may,

   (a) investigate waste management problems;
   
   (b) conduct research in the field of waste management;
   
   (c) establish and operate demonstration and other waste disposal sites;
   
   (d) publish and disseminate information on waste management;
   
   (e) make grants for research, for training persons in the field of waste management, or for the development of waste management facilities, in such amounts and upon such terms and conditions as the regulations may prescribe;
   
   (f) appoint committees to perform such advisory functions as the Minister considers desirable. 1970, c. 44, s. 3.

4. The Minister may authorize any officer or officers of the Department to exercise any of the powers conferred and perform any of the duties imposed upon him under this Act and the regulations. 1970, c. 44, s. 4.

5.—(1) The Minister may designate officers of the Department or other persons as inspectors for the purposes of this Act and the regulations.

   (2) A medical officer of health shall be deemed to be *ex officio* an inspector under this Act. 1970, c. 44, s. 5.

6. An inspector may enter in or upon any land or premises, other than a dwelling, at any reasonable time and make or require to be made such examinations, tests, or inquires as may be necessary or advisable for the purposes of this Act and the regulations. 1970, c. 44, s. 6.

7. Every operator and every owner shall furnish such information as an inspector requires for the purposes of this Act and the regulations. 1970, c. 44, s. 7.
8. No person shall hinder or obstruct any inspector in the performance of his duties or furnish any inspector with false information or refuse to furnish him with information. 1970, c. 44, s. 8.

9.-(1) The board known as the Waste Management Advisory Board is continued and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, of whom none shall be members of the public service in the employ of the Department of Energy and Resources Management or members of the Appeal Board, and who shall, subject to subsection 2, hold office during pleasure. 1970, c. 44, s. 9 (1), amended.

   (2) No member of the Advisory Board shall hold office for more than five consecutive years.

   (3) The Lieutenant Governor in Council may appoint one of the members of the Advisory Board as chairman and another of the members as vice-chairman.

   (4) Three members of the Advisory Board constitute a quorum.

   (5) The members of the Advisory Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. 1970, c. 44, s. 9 (2-5).

10.-(1) The board known as the Waste Management Appeal Board is continued and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, of whom none shall be members of the public service in the employ of the Department of Energy and Resources Management or members of the Advisory Board, and who shall, subject to subsection 2, hold office during pleasure. 1970, c. 44, s. 10 (1), amended.

   (2) No member of the Appeal Board shall hold office for more than five consecutive years.

   (3) The Lieutenant Governor in Council may appoint one of the members of the Appeal Board as chairman and another of the members as vice-chairman.

   (4) Three members of the Appeal Board constitute a quorum.

   (5) The members of the Appeal Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. 1970, c. 44, s. 10 (2-5).

11. No waste management system that is in operation or waste disposal site that is in use when this Act comes into force shall be operated or used,

   (a) for more than six months after this Act comes into force unless the owner has made application for a certificate of approval;
12. No person or municipality shall establish, alter, enlarge or extend,
(a) a waste management system; or
(b) a waste disposal site,
unless a certificate of approval or provisional certificate of approval therefor has been issued by the Minister. 1970, c. 44, s. 12.

13. No by-law for raising money to finance any work under section 12 shall be passed by the council of a municipality until a certificate of approval or a provisional certificate of approval has been issued therefor. 1970, c. 44, s. 13.

14. Where the Minister reports in writing to the clerk of a municipality that he is of the opinion that it is necessary in the public interest that waste be collected or a waste management system or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, it is not necessary to obtain the assent of the electors to any by-law for incurring a debt for any such purpose, and the municipality shall forthwith do every possible act and thing in its power to implement the report of the Minister within the time specified. 1970, c. 44, s. 14.

15. No certificate of approval shall be issued to an applicant other than a municipality unless the applicant has,
(a) deposited a sum of money; or
(b) furnished a surety bond; or
(c) furnished personal sureties,
in such amount and upon such conditions as the regulations prescribe to assure satisfactory maintenance of the waste management system or the waste disposal site or the removal of waste from the site if the Minister considers such removal necessary. 1970, c. 44, s. 15.

16. No certificate of approval for a waste disposal site shall be issued to an applicant other than a municipality unless the applicant has furnished a certificate from the municipality in which the waste disposal site is situated that the waste disposal site does not contravene any of the by-laws of the municipality. 1970, c. 44, s. 16.
17. The deposit mentioned in clause a of section 15 may be returned to the depositor upon such terms and conditions as the regulations prescribe. 1970, c. 44, s. 17.

18. An applicant for a certificate of approval for a waste management system or waste disposal site that is proposed to establish, alter, enlarge or extend shall publish notice of his application in a newspaper having general circulation in the locality where the system or site is or is to be located, once a week for three successive weeks, and no certificate of approval shall be issued until the expiration of three weeks from the date of the last publication. 1970, c. 44, s. 18.

19. An applicant for a certificate of approval shall submit to the Director plans and specifications of the work to be undertaken together with such other information as the Director may require. 1970, c. 44, s. 19.

20.—(1) The Director, after considering an application for a certificate of approval, may recommend to the Minister that a certificate of approval or provisional certificate of approval be issued.

(2) The Director may recommend to the Minister that the issue or renewal of a certificate of approval or a provisional certificate of approval be refused, or that a certificate of approval or a provisional certificate of approval previously issued be suspended or revoked, where,

(a) the application does not comply with this Act and the regulations;

(b) the waste management system or the waste disposal site does not comply with this Act and the regulations; or

(c) the operation of the waste management system or the waste disposal site may create a nuisance or is not in the public interest or, in the opinion of the medical officer of health, may result in a hazard to public health. 1970, c. 44, s. 20.

21. Subject to section 11, no person or municipality shall deposit waste upon any land or land covered by water or in any building that is not a waste disposal site for which a certificate of approval or a provisional certificate of approval has been issued and except in accordance with the terms and conditions of such certificate. 1970, c. 44, s. 21.

22. Subject to section 11, no person or municipality shall use any facilities or equipment for the storage, handling, treatment, collection, transportation, processing or disposal of waste that is not part of a waste management system for which a certificate of
approval or a provisional certificate of approval has been issued and except in accordance with the terms and conditions of such certificate. 1970, c. 44, s. 22.

23. (1) Where the Director reports that waste has been deposited upon any land or land covered by water or in any building that has not been approved as a waste disposal site, the Minister may, subject to sections 11 and 26, order the occupant or the person having charge and control of such land or building to remove the waste and to restore the site to a condition satisfactory to the Minister.

(2) Where a person to whom an order is directed under subsection 1 fails to comply with the order, the Minister may cause the necessary work to be done and charge such person with the cost thereof, which may be recovered with costs in any court of competent jurisdiction. 1970, c. 44, s. 23.

24. Where the Director reports to the Minister that a waste management system or a waste disposal site is not in conformity with this Act or the regulations, the Minister may, subject to section 26, order the owner to take such action as he may require to bring the system or the site into conformity with this Act or the regulations within the time specified in the order. 1970, c. 44, s. 24.

25. Where an owner fails to comply with an order under section 24, the Minister may cause the necessary work to be done and charge the owner with the cost thereof which, in the case of an owner other than a municipality, may be deducted from the deposit mentioned in section 15, or may be recovered with costs in any court of competent jurisdiction. 1970, c. 44, s. 25.

26. (1) Where the Minister,

(a) intends to refuse to issue or renew or intends to suspend or revoke a certificate of approval or provisional certificate of approval; or

(b) intends to make an order under section 23 or 24,

he shall cause the Director to give notice of his intention, together with the reasons therefor, and a notice stating the right to a hearing before the Advisory Board, to the owner or the person to whom the order would be directed, as the case may be, and the owner or such person may by written notice given to the Director and the Advisory Board within fifteen days after receipt of notice from the Director, receive a hearing by the Advisory Board.

(2) The chairman of the Advisory Board shall fix a time, date and place for the hearing and shall serve notice on the parties at least ten days before the day fixed.
(3) The notice of hearing shall contain,

(a) a statement of the time, date and place of the hearing;
(b) a reference to the rules of procedure applicable to the hearing; and
(c) a statement that, if a party who has been duly notified does not attend at the hearing, the Advisory Board may proceed in his absence and he is not entitled to notice of any further proceedings.

(4) The Director, any person who receives a notice from the Director under subsection 1, and any other person specified by the Advisory Board, are parties to the hearing. 1970, c. 44, s. 26.

27.—(1) If a person who has been duly notified of a hearing does not attend, the Advisory Board may proceed in his absence and he is not entitled to notice of any further proceedings.

(2) A hearing may be adjourned from time to time by the Advisory Board on reasonable grounds,

(a) on its own motion; or
(b) on the motion of any party to the hearing.

(3) The Advisory Board may command the attendance before it of any person as a witness.

(4) The Advisory Board may require any person,

(a) to give evidence on oath or affirmation at a hearing; and
(b) to produce such documents and things as the Advisory Board requires.

(5) The Advisory Board may admit evidence not given on oath or by affirmation. 1970, c. 44, s. 27.

28.—(1) At a hearing before the Advisory Board,

(a) except where otherwise provided in this subsection, the common law and statutory rules of evidence apply;
(b) evidence not admissible under clause a may be admitted by the Advisory Board in its discretion if to do so may expedite the hearing and will not prejudice any party; and
(c) the Advisory Board may admit evidence in the form of a copy or an excerpt of a document if the document itself is not readily available.

(2) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Advisory Board within a reasonable time after the matter in issue has been finally determined. 1970, c. 44, s. 28.
29.—(1) Any person who, without lawful excuse,

(a) on being duly summoned as a witness before the Advisory Board, makes default in attending; or

(b) being in attendance as a witness before the Advisory Board, refuses to take an oath legally required by the Advisory Board to be taken, or to produce any documents or things in his power or control legally required by the Advisory Board to be produced by him, or to answer any question to which the Advisory Board may legally require an answer; or

(c) does any other thing that would, if the Advisory Board had been a court of law having power to commit for contempt have been contempt of that court,

is guilty of an offence.

(2) The Advisory Board may certify an offence under subsection 1 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of that court. 1970, c. 44, s. 29.

30.—(1) Any party may be represented before the Advisory Board by counsel or agent.

(2) Any witness may be represented before the Advisory Board by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

(3) Where a hearing is in camera, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1970, c. 44, s. 30.

31.—(1) Any party who is present at a hearing before the Advisory Board may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions.

(2) All hearings shall be open to the public except where the Advisory Board finds that,

(a) public security may be involved; or

(b) intimate financial or personal circumstances of any person or any secret manufacturing or trade process may be disclosed,

in which case the Advisory Board shall hold the hearing as to any such matters in camera.
(3) Notwithstanding the exceptions mentioned in clauses a Idem and b of subsection 2, the Advisory Board may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1970, c. 44, s. 31.

32.—(1) The Advisory Board shall, after the hearing, submit to the Minister in writing its recommendations, including the reasons therefor, and shall furnish the Minister with a copy of the evidence submitted at the hearing.

(2) The reasons for the Advisory Board’s recommendations shall contain,

(a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
(b) any agreed findings of fact; and
(c) any conclusions of law based on the findings mentioned in clauses a and b.

(3) The Advisory Board shall serve each party with a copy of its recommendations together with the reasons therefor. 1970, c. 44, s. 32.

33.—(1) Upon receipt of the recommendations of the Advisory Board, the Minister may issue or renew, or refuse to issue or renew, or suspend or revoke a certificate of approval, or a provisional certificate of approval, or may make such order under section 23 or 24, as the case may be, as he considers necessary.

(2) A notice of the decision of the Minister and a notice stating the right, if any, to apply for compensation under section 34 shall be served on each party either personally or by registered mail addressed to the party at his latest known address. 1970, c. 44, s. 33.

34.—(1) Within thirty days after the receipt of notice of the decision that the Minister has refused to renew or has suspended or revoked a certificate of approval, any owner who has suffered pecuniary loss as a result of such decision affecting his waste disposal site or waste management system may apply to the Minister for compensation for such loss where such owner,

(a) has received a certificate of approval for the waste disposal site or waste management system affected by the Minister’s decision; and
(b) since receiving such certificate of approval, has strictly complied with this Act and the regulations.

(2) A notice of the decision of the Minister in disposing of the application and a notice stating the right to an appeal under this section shall be served on the owner either personally or by registered mail addressed to the owner at his latest known address.
(3) Within fifteen days after receipt of the notices referred to in
subsection 2, the owner may appeal the amount of compensation,
if any, to the Appeal Board, and such appeal shall be a hearing de
novo and the Appeal Board may dismiss the appeal or alter the
decision of the Minister establishing the amount of the compensa­
tion, if any, and the decision of the Appeal Board is final.

(4) Subsections 2, 3 and 4 of section 26 and sections 27, 28, 29,
30 and 31 apply mutatis mutandis to a hearing before the Appeal
Board.

(5) The Appeal Board shall, after the hearing, submit to the
Minister and the appellant its decision in writing and shall furnish
the Minister with a copy of the evidence submitted at the hearing.

(6) The reasons for the Appeal Board’s decision shall contain,
(a) the findings of fact on the evidence and any information
or knowledge used in reaching the decision;
(b) any agreed findings of fact; and
(c) any conclusions of law based on the findings mentioned
in clauses a and b.

(7) The Appeal Board shall serve each party with a copy of its
decision together with the reasons therefor.

(8) After receipt of the decision of the Appeal Board, the
Minister shall do what is necessary to give effect thereto. 1970,
c. 44, s. 34.

35. No use shall be made of land or land covered by water
which has been used for the disposal of waste within a period of
twenty-five years from the year in which such land ceased to be so
used unless the approval of the Minister for the proposed use has
been given. 1970, c. 44, s. 35.

36. Every person or municipality that contravenes any of the
provisions of this Act or the regulations or fails to comply with an
order made under section 23 or 24 is guilty of an offence and on
summary conviction is liable to a fine of not less than $100 and not
more than $2,000 for every day or part thereof upon which such
offence occurs or continues. 1970, c. 44, s. 36.

37. The Lieutenant Governor in Council may make regulations,
(a) designating wastes in addition to those specified in
clause l of section 1, and exempting any wastes from this
Act and the regulations or any provision thereof, and
prescribing terms and conditions for such exemption;
(b) classifying waste management systems and waste dis­
posal sites, and exempting any class thereof from this
Act or the regulations or any provision thereof, and prescribing terms and conditions for such exemption;

(c) providing for the issue of certificates of approval and provisional certificates of approval for waste management systems or waste disposal sites, or any class thereof, prescribing terms and conditions upon which such certificates may be issued, and providing for determining the terms and conditions that may be attached thereto;

(d) governing and regulating the management of waste and prescribing standards for waste management systems and for the location, maintenance and operation of waste disposal sites, or any class thereof;

(e) governing the location of waste disposal sites and designating parts of Ontario in which no waste disposal sites, or any class thereof, shall be established or operated;

(f) prescribing the amounts and conditions of deposits and bonds and sureties for the purpose of section 15, and prescribing the terms and conditions upon which deposits may be returned under section 17;

(g) prescribing the records that shall be kept by operators of waste management systems and waste disposal sites and the reports that shall be made by such operators;

(h) prescribing the amounts and terms and conditions of grants payable to universities and other organizations under clause (e) of section 3;

(i) prescribing the form of application and the procedure to be followed in applying for any compensation under this Act;

(j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act or the regulations. 1970, c. 44, s. 37.