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c 62 Conservation Authorities Act

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CHAPTER 62
The Conservation Authorities Act

1. In this Act,

(a) "administration costs" means salaries and travelling expenses of members and employees of the authority; office rent, maintenance and purchase of office equipment; purchase and maintenance of equipment for conservation work such as earth-moving machinery and tree-planting machines; expenses connected with exhibits, visual equipment, printed matter for educational purposes; assistance for farm planning, farm ponds, the investigation of reforestation lands and the securing of options, and other conservation projects; the preliminary investigations and engineering of proposed schemes; and all expenditures necessary for carrying out the conservation work of the authority other than capital expenses and maintenance of approved schemes;

(b) "advisory board" means an advisory board appointed by an authority;

(c) "authority" means a conservation authority established under this Act;

(d) "chief officer" means the chief officer of an authority;

(e) "executive committee" means the executive committee appointed by an authority;

(f) "land" includes buildings and any estate, term, easement, right or interest in, to, over or affecting land;

(g) "Minister" means the Minister of Planning and Development;

(h) "municipality" means a city, town, village or township;

(i) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest,
or a guardian, executor, administrator or trustee in whom land or any interest therein is vested;

(j) "participating municipality" means, subject to section 3, a municipality which,

(i) is either wholly or partly within a watershed,

(ii) may benefit by a scheme established therein, and

(iii) is declared by the Lieutenant Governor in Council to be a participating municipality for the purposes of such scheme;

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(k) "referee" means a referee appointed under The Municipal Drainage Act having jurisdiction over that part of Ontario in which the watershed is situate;

(l) "scheme" means a scheme undertaken by an authority for the purposes of the conservation, restoration and development of natural resources, other than gas, oil, coal and minerals, and the control of water in order to prevent floods and pollution, or for any of such purposes;

(m) "watershed" means an area drained by a river and its tributaries. R.S.O. 1950, c. 62, s. 1; 1952, c. 11, s. 1; 1954, c. 10, s. 1.

2.—(1) Where the councils of any two or more municipalities situate either wholly or partly within a watershed by resolution request the Minister to call a meeting for the establishment of a conservation authority for the watershed or any defined part thereof, the Minister shall fix a time and place for such a meeting and shall forthwith notify the council of every municipality either wholly or partly within the watershed or such part thereof. R.S.O. 1950, c. 62, s. 3 (1); 1954, c. 10, s. 3, cl. (a).

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers:

1. Where the population is 250,000 or more, five representatives.

2. Where the population is 100,000 or more but less than 250,000, four representatives.
3. Where the population is 50,000 or more but less than 100,000, three representatives.

4. Where the population is 10,000 or more but less than 50,000, two representatives.

5. Where the population is less than 10,000, one representative. R.S.O. 1950, c. 62, s. 3 (2), part; 1954, c. 10, s. 4.

(3) The representatives so appointed have authority to vote and generally act on behalf of their respective municipalities at such meeting. R.S.O. 1950, c. 62, s. 3 (2), part.

(4) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not less than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time. R.S.O. 1950, c. 62, s. 3 (3).

3.—(1) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under section 2 and at which a quorum was present, by not less than two-thirds of the representatives present thereat, requesting the establishment of an authority, the Lieutenant Governor in Council may establish a conservation authority and designate the municipalities that are the participating municipalities and the area over which the authority has jurisdiction. R.S.O. 1950, c. 62, s. 4 (1); 1954, c. 10, s. 3, cl. (b).

(2) Where a city, town or village is only partly within the watershed, the Lieutenant Governor in Council may include the whole or that part of the city, town or village in the area over which the authority has jurisdiction. 1952, c. 11, s. 2.

(3) The name of each authority shall be determined by the Lieutenant Governor in Council and shall conclude with the words “conservation authority”.

(4) Every authority is a body corporate. R.S.O. 1950, c. 62, s. 4 (2, 3).

(5) Every authority may, for its purposes, borrow on the promissory note of the authority, at such rate of interest as the Minister approves, such moneys as may be required until payment to the authority of any grants and of sums to be paid to the authority by the participating municipalities. R.S.O. 1950, c. 62, s. 4 (4); 1957, c. 13, s. 1.
4.—(1) In this section, "Metropolitan Conservation Authority" means The Metropolitan Toronto and Region Conservation Authority. 1956, c. 9, s. 1, *part.*

(2) The Metropolitan Toronto and Region Conservation Authority is continued. 1956, c. 9, s. 1, *part, amended.*

(3) The Municipality of Metropolitan Toronto, the townships of Adjala, Albion, Caledon, Chinguacousy, King, Markham, Mono, Pickering, Toronto, Toronto Gore, Uxbridge, Vaughan and Whitchurch, the towns of Ajax and Brampton and the villages of Bolton, Markham, Pickering, Richmond Hill, Stouffville and Woodbridge are hereby designated as the participating municipalities in the Metropolitan Conservation Authority for the purposes of this Act. 1956, c. 9, s. 1, *part.*

(4) The Metropolitan Conservation Authority has jurisdiction in all matters provided for in this Act over an area composed of all areas formerly under the jurisdictions of the Etobicoke-Mimico Conservation Authority, the Humber Valley Conservation Authority, the Don Valley Conservation Authority, and the Rouge, Duffin, Highland, Petticoat Conservation Authority, together with all other areas lying between the westerly limit of the area formerly under the jurisdiction of the Etobicoke-Mimico Conservation Authority and the easterly limit of the area formerly under the jurisdiction of the Rouge, Duffin, Highland, Petticoat Conservation Authority and which front on Lake Ontario and together with the area within the watershed of Carruthers Creek and the area known as Toronto Island. 1956, c. 9, s. 1, *part;* 1959, c. 18, s. 1, *amended.*

(5) For the purposes of appointing members to the Metropolitan Conservation Authority, the townships of Adjala, Caledon and Mono shall be considered as one municipality.

(6) Notwithstanding section 10, the number of members appointed to the Metropolitan Conservation Authority by The Municipality of Metropolitan Toronto shall at all times be equal to the total number of members appointed by the other participating municipalities.

(7) The Minister may appoint one member to the Metropolitan Conservation Authority, but no appointment shall be made to the Metropolitan Conservation Authority under subsection 2 of section 10.
(8) At the first meeting of the Metropolitan Conservation Authority and thereafter at the first meeting held in each calendar year, the Metropolitan Conservation Authority, from among its members, shall appoint four advisory boards,

(a) one for the Etobicoke Creek, the Mimico Creek and the New Toronto Creek watersheds, consisting of not fewer than six members;

(b) one for the Humber River watershed, consisting of not fewer than eight members;

(c) one for the Don River watershed, consisting of not fewer than six members; and

(d) one for the Rouge River, Duffin Creek, Highland Creek and Petticoat Creek watersheds, consisting of not fewer than seven members.

(9) No person shall be a member of an advisory board appointed under subsection 8 unless he is resident in the watershed or watersheds for which such board is appointed. 1956, c. 9, s. 1, part.

5. Where the councils of any three municipalities situate either wholly or partly within two or more watersheds by resolution request the Minister to call a meeting for the establishment of a conservation authority for such watersheds or any defined parts thereof, the provisions of sections 2 and 3 apply mutatis mutandis. R.S.O. 1950, c. 62, s. 5; 1954, c. 10, s. 3, cl. (c).

6.—(1) Where,

(a) an authority has been established for one or more watersheds; and

(b) the councils of any two or more municipalities situate either wholly or partly within a watershed adjoining the watershed or watersheds for which the authority has been established, by resolution request the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such adjoining watershed,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within the adjoining watershed. R.S.O. 1950, c. 62, s. 6 (1); 1954, c. 10, s. 3, cl. (d).
Representatives from adjoining watershed

(2) With respect to each municipality so notified, subsection 2 of section 2 applies.

Enlargement of authority

(3) At any meeting called under this section, a quorum consists of the number of members of the existing authority required to constitute a quorum of the authority and two-thirds of the representatives that the municipalities notified are entitled to appoint, but where not less than two members of the authority and three municipal representatives are present at a meeting or an adjourned meeting they may adjourn the meeting or adjourned meeting from time to time. R.S.O. 1950, c. 62, s. 6 (2, 3).

Amalgamation of authorities

(4) Upon receipt by the Minister of a joint resolution passed at a meeting or adjourned meeting held under subsection 3 and at which a quorum was present, by not less than two-thirds of the members of the authority and not less than two-thirds of the municipal representatives thereat, requesting the enlargement of the area over which the authority has jurisdiction to include the adjoining watershed, the Lieutenant Governor in Council may enlarge the area accordingly and may designate the additional municipalities that are the participating municipalities and the area over which the enlarged authority has jurisdiction. R.S.O. 1950, c. 62, s. 6 (4); 1954, c. 10, s. 3, cl. (e).

7.—(1) Where,

(a) two or more authorities have been established for two or more adjoining watersheds or parts thereof; and

(b) one or more of such authorities by resolution requests the Minister to call a meeting to consider the establishment of one authority to have jurisdiction over the areas then under the separate jurisdictions of such authorities,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of each of the authorities concerned and the council of each municipality that is a participating municipality with respect to any of the authorities concerned.

Representatives

(2) With respect to each municipality so notified, subsection 2 of section 2 applies.

Quorum

(3) At any meeting called under this section a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not less
than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time.

(4) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under subsection 3 and at which a quorum was present, by not less than two-thirds of the representatives present thereat, requesting the establishment of one authority for the watersheds or parts of watersheds concerned, the Lieutenant Governor in Council may establish an authority accordingly, dissolve the existing authorities, and designate the municipalities that are the participating municipalities and the area over which the new authority has jurisdiction.

(5) Upon the establishment of a new authority and the dissolution of the existing authorities under subsection 4, all the assets and liabilities of the dissolved authorities vest in and become assets and liabilities of the new authority. 1954, c. 10, s. 5.

8. Where,

(a) an authority has been established and has under its jurisdiction part of a watershed; and

(b) the councils of two or more municipalities, situate either wholly or partly within any defined part of the watershed not under the jurisdiction of the authority, by resolution request the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such defined part,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within such defined part, and the provisions of subsections 2, 3 and 4 of section 6 apply *mutatis mutandis*. R.S.O. 1950, c. 62, s. 7; 1954, c. 10, s. 3, cl. (f).

9. Where a new municipality is erected within or partly within the area over which an authority has jurisdiction, the Lieutenant Governor in Council may designate the municipality as a participating municipality. 1952, c. 11, s. 3.

10.—(1) Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers prescribed by subsection 2 of section 2 for the
appointment of representatives and shall hold office during the pleasure of the respective councils, and each member shall hold office until the first meeting of the authority after his appointment is terminated. R.S.O. 1950, c. 62, s. 8 (1); 1952, c. 11, s. 4.

(2) Where part only of a township is situated in an area over which an authority has jurisdiction, the number of members appointed for the township shall be based on the population of that part only of the township and such population shall be deemed to be the same proportion of the total population of the whole township as the number of acres in that part of the township is of the total acreage of the township. 1959, c. 18, s. 2 (1).

(3) Where the Lieutenant Governor in Council makes a grant to an authority, he may appoint not more than three members of the authority. R.S.O. 1950, c. 62, s. 8 (2); 1960, c. 11, s. 1.

(4) The first meeting of an authority shall be held at such time and place as is determined by the Minister. R.S.O. 1950, c. 62, s. 8 (3); 1954, c. 10, s. 3, cl. (g).

11.—(1) Each member of an authority is entitled to one vote and in the event of a tie vote, the chairman has a second or deciding vote.

(2) At any meeting of an authority a quorum consists of one-third of the number of members that the participating municipalities are entitled to appoint, except where there are fewer than six members, in which case two members constitute a quorum.

(3) A majority vote of the members present at any meeting is required upon all matters coming before the meeting. R.S.O. 1950, c. 62, s. 9.

12.—(1) At the first meeting of an authority and thereafter at the first meeting held in each calendar year, the authority shall elect a chairman and a vice-chairman from among themselves, but, where the Lieutenant Governor in Council makes a grant to an authority, he may appoint the chairman.

(2) Subject to subsection 1, upon the death of the chairman or vice-chairman, or upon either of them ceasing to be a member of the authority, the remaining members may elect a chairman or vice-chairman to fill such vacancy.
(3) In the event of the absence of the chairman and vice-chairman from any meeting of an authority, the members present shall elect an acting chairman who, for the purposes of such meeting, has all the powers and shall perform all the duties of the chairman. R.S.O. 1950, c. 62, s. 10.

13.—(1) An authority may appoint a chief officer, secretary-treasurer and such other employees as it deems necessary who shall hold office during the pleasure of the authority and shall receive such salary or other remuneration as the authority determines, payable out of the funds of the authority.

(2) An authority may appoint one or more advisory boards. R.S.O. 1950, c. 62, s. 11.

14.—(1) The authority may elect or appoint an executive committee from among themselves.

(2) The chief officer is ex officio a member of the executive committee. R.S.O. 1950, c. 62, s. 12 (1, 2).

(3) Where the Lieutenant Governor in Council makes a grant to an authority, he may appoint not more than three members to the executive committee and may also appoint the chairman, in which case he may appoint only two other members. 1960, c. 11, s. 2.

15. The objects of an authority are to undertake and effect such scheme or schemes in respect of the watershed or part thereof for which it is established as the authority determines. R.S.O. 1950, c. 62, s. 13.

16. Before proceeding with a scheme that is to be financed by funds raised and spent by the authority during the current year, the authority shall file plans and a description thereof with and obtain the approval in writing of the Minister, and, where any portion of the cost of a scheme is to be raised in a subsequent year or years, shall also obtain the approval of the Ontario Municipal Board. 1955, c. 7, s. 1.

17. For the purposes of carrying out a scheme, an authority has power,

(a) to study and investigate the watershed by itself or by its engineers or other employees or representatives, and to determine a scheme whereby the natural resources of the watershed may be conserved, restored
and developed and the waters controlled in order to prevent floods and pollution or any of such matters;

(b) subject to The Lakes and Rivers Improvement Act, to erect works and structures and create reservoirs by the construction of dams or otherwise;

(c) to purchase or acquire and without the consent of the owner enter upon, take and expropriate any land that it may require and sell or otherwise deal with such land or other property;

(d) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;

(e) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any scheme;

(f) to enter into agreements with owners of private lands to facilitate the due carrying out of any scheme or conservation project;

(g) to determine the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them;

(h) to use lands that are owned or controlled by the authority for such purposes, not inconsistent with its objects, as it deems proper;

(i) to acquire lands, with the approval of the Minister, and to use lands acquired in connection with a scheme, for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;

(j) to collaborate with departments and agencies of government, municipal councils and local boards and other organizations;

(k) to plant and produce trees on public lands with the consent of the Minister of Lands and Forests, and on private lands with the consent of the owner, for any purpose;

(l) to cause research to be done;
(m) generally to do all such acts as are necessary for the due carrying out of any scheme. R.S.O. 1950, c. 62, s. 15; 1954, c. 10, s. 6; 1960, c. 11, s. 3.

18.—(1) A conservation authority and any municipality may enter into agreement for the construction or maintenance of a road or the reconstruction or maintenance of an existing road under the jurisdiction of the municipality for the purpose of providing access to lands of the conservation authority used or to be used for park or recreational purposes.

(2) A road constructed, reconstructed or maintained under an agreement made under subsection 1 remains under the jurisdiction of the municipality. 1960, c. 11, s. 4.

19.—(1) When an authority has determined the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by registered mail. R.S.O. 1950, c. 62, s. 16 (1).

(2) Any municipal council that is dissatisfied with any such apportionment may, within one month after it receives notice of the apportionment, notify the secretary of the Ontario Municipal Board and the authority in writing by registered mail that it applies for a review of the apportionment by the Ontario Municipal Board. 1954, c. 10, s. 7.

(3) Upon such application the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing.

(4) The Ontario Municipal Board has authority to take evidence, to confirm or vary the apportionment of the authority and to fix and award costs, and its decision is final and conclusive and is not open to appeal.

(5) In the event of the authority varying any apportionment made by it, the provisions of this section apply mutatis mutandis. R.S.O. 1950, c. 62, s. 16 (3-5).

20.—(1) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

(a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, swamps
and natural or artificially-constructed depressions in rivers or streams;

(b) regulating the location of ponds used as a source of water for irrigation;

(c) providing for the appointment of officers to enforce any regulation made under this section;

(d) prohibiting or regulating the placing or dumping of fill of any kind in any area below the high water mark of any river, creek or stream. 1956, c. 9, s. 1, part; 1959, c. 18, s. 3.

Exceptions

(2) No regulation made under this section,

(a) shall limit the use of water for domestic or livestock purposes;

(b) shall interfere with any rights or powers conferred upon a municipality;

(c) shall interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any board or commission that is performing its functions for or on behalf of the Government of Ontario;

(d) shall interfere with any rights or powers under The Lakes and Rivers Improvement Act; or

(e) shall interfere with any rights or powers under The Public Utilities Act.

Offence

(3) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to a term of imprisonment of not more than three months. 1956, c. 9, s. 1, part.

Regulations

21. Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations,

(a) providing for the calling of meetings of the authority and prescribing the procedure at such meetings;

(b) prescribing the powers and duties of the chief officer and secretary-treasurer;
(c) delegating all or any of its powers to the executive committee except,

(i) the termination of the services of the chief officer and secretary-treasurer,

(ii) the power to raise money, and

(iii) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the erection of works approved by the authority. R.S.O. 1950, c. 62, s. 18.

22.—(1) An authority may, itself or by its chief officer, employees or agents for any purpose necessary to any scheme under consideration or undertaken by the authority, enter into and upon any land to whomsoever belonging and survey and take levels of it and make such borings or sink such trial pits as the authority deems necessary, and, subject to the approval of the Minister, for the purposes of any scheme may,

(a) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street, or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority; and

(b) divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole. R.S.O. 1950, c. 62, s. 19 (1); 1954, c. 10, s. 3, cl. (h).

(2) The cost of any work undertaken by an authority under this section shall be borne by the authority and compensation for any damage occasioned thereby may be claimed in accordance with section 28. R.S.O. 1950, c. 62, s. 19 (2).

23. If the chairman of an authority is of opinion that it can obtain the whole or any part of land of which any part may be expropriated by it at a more reasonable price or to greater advantage than by acquiring such part only, it may expropriate the whole of such lot or parcel and may afterwards sell and convey any part thereof as it deems expedient. R.S.O. 1950, c. 62, s. 20.
24.-(1) Where an authority desires to expropriate land, it shall cause a plan and description of the land, prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman and by the chief officer, to be deposited in the proper registry or land titles office, and the land is thereupon vested in the authority.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and, by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, becomes and is vested in the authority.

(3) In case of an omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect.

(4) In all cases, when any such plan and description, purporting to be signed by the chairman or vice-chairman and the chief officer, are so deposited, they shall be deemed to have been deposited by the direction of the authority and as indicating that the land is required for the carrying out of a scheme, and the plan and description shall not be called in question except by the authority. R.S.O. 1950, c. 62, s. 21.

25.—(1) Where land is expropriated, the authority shall within one month of the deposit of the plan and description in the registry or land titles office send a notice by registered mail to every owner of land included in the plan and description and cause a similar notice to be published once a week for at least three weeks in a newspaper having a general circulation in the locality where the land is located.

(2) Such notice shall state,

(a) that the land has been expropriated by the authority;

(b) the purpose for which the land is to be used;

(c) that the owner of any of the land is required to file a statement of any claim for compensation in respect of the expropriation of the land in the office of the authority not later than one month after the mailing or third publication of the notice, whichever is the later date. R.S.O. 1950, c. 62, s. 22 (1, 2).
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(3) Upon the expiration of the time indicated in the notice, an advisory board shall consider and determine the amount of compensation that in its opinion should be paid.

(4) The advisory board shall make such inquiries and inspection and secure such advice as it thinks desirable and shall file with the authority a statement of the amount of compensation it considers should be paid, together with written reasons for its finding, and the statement and reasons shall be signed by each member of the advisory board.

(5) Within one month of the filing of the statement and reasons, the authority shall cause a copy thereof to be sent by registered mail to the person claiming compensation.

(6) If within one month of the mailing of the copy under subsection 5 the claimant does not serve the authority and the Ontario Municipal Board with a notice of dissatisfaction in accordance with subsection 7, the authority may pay to the claimant the amount recommended by the advisory board, and thereafter no further claim shall be made against the authority in respect of the expropriation of the land.

(7) Any person who is dissatisfied with the amount of compensation recommended by the advisory board may, within one month of the mailing of the copy of the statement and reasons, notify the authority and the secretary of the Ontario Municipal Board in writing by registered mail that he is dissatisfied and desires that the compensation payable be determined by the Ontario Municipal Board.

(8) Upon receipt of a notice of dissatisfaction, the authority shall forward to the secretary of the Ontario Municipal Board a true copy of the statement and written reasons of the advisory board and a copy of the plan and description certified by the chief officer.

(9) Upon receipt of a notice of dissatisfaction under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for the determination of the compensation and shall send notice thereof by registered mail to the authority and to the claimant at least fourteen days before the hearing.

(10) The Ontario Municipal Board has authority to determine the amount of compensation payable and its decision is final and is not open to appeal, except that an appeal lies to the Court of Appeal upon a question of jurisdiction or upon a
question of law in the manner and under the conditions set out in section 95 of *The Ontario Municipal Board Act*, and that section applies *mutatis mutandis*. 1952, c. 11, s. 7.

26. The compensation agreed upon or determined by the advisory board or the Ontario Municipal Board for any land or property acquired by expropriation or otherwise under this Act stands in the stead of the land or property, and any claim to or encumbrance thereon, with respect to the authority, is converted into a claim to or upon the compensation and no longer affects the land or property so acquired. R.S.O. 1950, c. 62, s. 23.

27.—(1) Where, at any time before the compensation has been actually ascertained or determined, land expropriated, or any part thereof, is found not to be required, or if it is found that a more limited estate or interest therein only is required, the authority may register in the proper registry office a notice to the effect that the land or such part thereof is not required and is abandoned by the authority, or that it is intended to retain only such limited estate or interest as is mentioned in the notice, and thereupon,

(a) the land declared to be abandoned revests in the person from whom it was expropriated or in those entitled to claim under him; or

(b) in the event of a limited estate or interest therein being retained by the authority, the land so revests subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment and the damage, if any, sustained in consequence of that which is abandoned having been taken and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation.

(3) Where the whole of the land taken is abandoned, the person from whom it was taken is entitled to compensation for the damage sustained and costs incurred by him in consequence of the taking and abandonment, and the amount of such compensation shall be determined in the same manner, *mutatis mutandis*, as is provided by section 25, but, if the amount of compensation for the expropriation of the land is being determined by the advisory board or the Ontario Municipal Board at the time of the abandonment, the advisory board or the Ontario Municipal Board, as the case may be,
shall proceed forthwith to determine the compensation payable in consequence of the taking and abandonment. R.S.O. 1950, c. 62, s. 24.

28.—(1) Where the carrying out or completion of any scheme injuriously affects any land, the owner of the land may apply in writing to the authority in question for compensation and the application shall contain a statement of the nature of the plaintiff’s claim and the amount of compensation claimed.

(2) Upon receipt of an application for compensation under section 2, the authority shall direct an advisory board of engineers to investigate the claim and the board shall make such inquiries and inspection and secure such advice as it thinks desirable, and, upon the completion of its investigation, the advisory board shall report to the authority in writing, signed by each member of the board, whether in its opinion the land of the applicant has been injuriously affected by reason of the carrying out or completion of the scheme, and, if damage has been so occasioned, what amount of money the board deems to be reasonable compensation therefor, and the authority shall cause a true copy of the report to be sent to the applicant by registered mail.

(3) In determining what amount of money is fair compensation for damage occasioned, the advisory board and the Ontario Municipal Board shall include in such amount reasonable compensation for such damage as may reasonably be expected to be suffered by the land by reason of the carrying out or completion of the scheme.

(4) If within one month of the mailing of the copy of the report under subsection 2 the applicant does not serve the authority and the Ontario Municipal Board with a notice of dissatisfaction in accordance with subsection 5, the authority may pay to the applicant the amount deemed by the advisory board to be reasonable compensation, and thereafter no further claim shall be made against the authority in respect of the land.

(5) Any applicant who is dissatisfied with the report of the advisory board may, within one month of the mailing of the copy of the report, notify the authority and the secretary of the Ontario Municipal Board in writing by registered mail that he is dissatisfied with the report and desires that the question as to whether the land has been injuriously affected, and, if so, the compensation payable therefor, be determined by the Ontario Municipal Board.
(6) Upon receipt of a notice of dissatisfaction, the authority shall forward to the secretary of the Ontario Municipal Board a copy of the report of the advisory board.

(7) Upon receipt of a notice of dissatisfaction under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for the determination of the matters and shall send notice thereof by registered mail to the authority and the applicant at least fourteen days before the hearing.

(8) The Ontario Municipal Board has authority to determine whether the land has been injuriously affected and, if so, to determine the amount of compensation payable therefor, and its decision is final and is not open to appeal, except that an appeal lies to the Court of Appeal upon a question of jurisdiction or upon a question of law in the manner and under the conditions set out in section 95 of The Ontario Municipal Board Act, and that section applies mutatis mutandis.

R.S.O. 1960, c. 274
1952, c. 11, s. 8.

29.-(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives or other persons, seized, possessed or interested in any land or other property, may contract and agree with an authority for the sale of the whole or any part thereof, and may convey the same to the authority, and may also contract and agree with the authority as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under this Act.

(2) Where there is no guardian or other person to represent a person under disability, the judge of the county court of the county in which the land or other property is situate may, after due notice to the persons interested, appoint a guardian or person to represent the person under disability for any of the purposes mentioned in subsection 1. R.S.O. 1950, c. 62, s. 26.

30. If the compensation agreed upon, or found payable, does not exceed $100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as
to the compensation, saving always the rights of any other person to such compensation as against the person receiving it. R.S.O. 1950, c. 62, s. 27.

31.—(1) In the cases provided for in section 29, the author-

ity shall, and in all other cases, if for any reason the authority deems it advisable, may, pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at the rate of 5 per cent per annum for six months.

(2) A notice in such form and for such time as a judge of the High Court may direct shall be published in such newspaper as the judge orders, stating that the land is purchased, acquired or taken by the authority under this Act, and calling upon all persons claiming compensation in respect of the purchase, acquisition or taking of the land or any part thereof to file their claims, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of the compensation and for securing the rights of all parties interested as to right and justice and to law appertains.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into court, the judge may direct a proportionate part of the interest to be returned to the authority, and, if it is not obtained until after six months have expired, the judge may order the authority to pay interest for such further period as is deemed just.

(4) Where unborn issue or an unascertained person or class of persons are interested in the compensation, the judge may appoint such person as is deemed proper to represent or act for them, and any order made is binding on them. R.S.O. 1950, c. 62, s. 28.

32. Every person who has had any estate or interest in any land expropriated or who represents any such person shall, upon demand made therefor by or on behalf of the authority that expropriated the land, furnish a true statement showing the particulars of such estate or interest and of every charge, lien or encumbrance to which it is subject and of the claim made by such person in respect of such estate or interest. R.S.O. 1950, c. 62, s. 29.

33.—(1) If any resistance or opposition is made by any person to an authority or to any person acting for it when entering upon and taking possession of land or exercising any power in respect thereof, the judge of the county court of the county in which the land is situated may, on proof of
the execution of a conveyance to the authority or agreement therefor, or of the depositing of a plan and description in the proper registry or land titles office as provided by section 24 and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county directing him to put down such resistance or opposition and to put the authority, or some person acting for it, in possession thereof, or take such steps as may be necessary to enable it to exercise such power.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the authority, or some person acting for it, in possession, and shall forthwith make return to the judge of such warrant and of the manner in which he executed it. R.S.O. 1950, c. 62, s. 30.

34.—(1) Where any land required for the carrying out of a scheme or part thereof is Crown land, a plan and description of the land prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman and the chief officer shall be deposited with the Minister of Lands and Forests, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Lands and Forests.

(2) Where a scheme or a part thereof may interfere with a public work of Ontario or of The Hydro-Electric Power Commission of Ontario, the authority shall file with the Minister of Public Works or with the Commission, as the case may be, a plan and description of the scheme or part thereof together with a statement of the interference with the public work that may occur and a statement of the manner in which the authority proposes to remedy the interference, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Public Works or of the Commission, as the case may be.

(3) Where a scheme or a part thereof will interfere with a public road or highway, the authority shall file with the Minister of Highways a plan and description of the scheme or part thereof together with a statement of the interference with the public road or highway that will occur and a statement of the manner in which the authority proposes to remedy the interference, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Highways.
(4) The cost of rebuilding any road, highway, bridge, public work or work of The Hydro-Electric Power Commission of Ontario or any part thereof and the cost of any other work that any of the Ministers of the Crown or the Commission may require to be done under this section shall be borne by the authority, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario or the Commission, as the case may be. R.S.O. 1950, c. 62, s. 31.

35.—(1) Land that is acquired by an authority by expro- priation or otherwise may be assessed for municipal purposes at an amount not in excess of its assessed value immediately prior to the acquisition.

(2) Works erected by an authority for the purposes of a scheme are exempt from municipal taxation. R.S.O. 1950, c. 62, s. 32.

36.—(1) Where the carrying out of a scheme will require the use of a cemetery or other place of interment of human remains, the authority shall acquire other suitable lands for the interment of the bodies contained in the cemetery or other place of interment.

(2) The authority shall forward a notice to the owner of each lot in the cemetery or other place of interment, but, if the owner or his whereabouts is unknown, the notice shall, wherever possible, be forwarded to some other person having an interest in the plot through relationship or otherwise to a deceased person buried therein.

(3) The authority shall also cause a notice to be published once a week for at least three weeks in a newspaper having general circulation in the locality where the cemetery or other place of interment is located, which notice shall state,

(a) that the cemetery or other place of interment has been acquired for the purposes of the authority;

(b) that other land, describing it, has been acquired by the authority for the purpose of re-interring the bodies;

(c) that the authority will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for re-interment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and
(d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the authority, may cause any body interred in the cemetery or other place of interment to be removed to any other place of interment at his own expense if he obtains permission from the authority and effects the removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the authority determines.

(4) The authority has full power to cause the removal of any body from any such cemetery or place of interment to any lands acquired under subsection 1 notwithstanding any other Act and to authorize the removal by any other person of any such body for reinterment in any other cemetery or place of interment.

(5) Where a body is removed and re-interred, any headstone or other stone shall be removed and re-erected at the place of re-interment.

(6) The authority shall render land, including fences and re-interment buildings, acquired for the re-interment of bodies, in a fit and proper condition and shall convey the land to the owner of the cemetery or other place of interment from which the bodies were removed. R.S.O. 1950, c. 62, s. 33.

37.—(1) Subject to the right of an authority to use any water power created upon lands vested in it for its own uses, which does not include the marketing or sale of power, The Hydro-Electric Power Commission of Ontario has the sole right to use such water power, but The Hydro-Electric Power Commission of Ontario may consent to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the authority.

(2) The Hydro-Electric Power Commission of Ontario shall pay to the authority an annual, reasonable compensation for the use of any such water power used by the Commission.

(3) Where the authority and The Hydro-Electric Power Commission of Ontario are unable to agree upon the amount of compensation payable, the amount shall be determined by a committee of three members comprising the chief officer of the authority, the chief engineer of the Commission and an engineer to be agreed upon by both of them, or, in the event that they are unable to agree, appointed by the Lieutenant Governor in Council, and the engineer so agreed upon or
appointed shall act as chairman of the committee, and there is no appeal from the committee, but, after ten annual payments of compensation, the amount of compensation shall be redetermined by a like committee at the request of either the authority or the Commission.

(4) Subject to review by The Hydro-Electric Power Commission of Ontario, an authority shall charge persons who at the time of the establishment of the authority are, or thereafter become, users of power derived by them from the use of the waters of the watershed for any additional power, generated from increased head or flow due to the works undertaken by the authority.

(5) This section does not apply to water power reserved to the Crown under The Public Lands Act. R.S.O. 1950, c. 62, s. 34.

38.—(1) An authority may from time to time determine what moneys will be required for capital expenditure in connection with any scheme.

(2) The portion of the moneys so required that each participating municipality shall raise shall be in the same proportion as the benefit derived by each such municipality bears to the total benefit derived by all participating municipalities.

(3) Upon notice in writing of the amount required to be raised, signed by the chairman and secretary-treasurer of the authority, each participating municipality shall raise by the issue of debentures or otherwise such moneys as may be required by the authority for capital expenditure, subject only to such conditions as the Ontario Municipal Board may impose as to the time and manner of the raising of such moneys. R.S.O. 1950, c. 62, s. 35 (1-3).

(4) Subject to subsection 3, an authority may enforce payment against any participating municipality of the portion of the capital cost required to be raised by the municipality as a debt due by the municipality to the authority. 1952, c. 11, s. 9.

(5) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the portion of the moneys required to be raised by that municipality for capital expenditure shall be charged against the rateable property in that part of the municipality.
Limited benefit

Where the council of a participating municipality is of opinion that the major part of the benefit to be derived from a specific work accrues to a limited area of the municipality, the council, with the approval of the chief officer, may by by-law provide that a specified portion of the moneys required to be raised by that municipality for capital expenditure in connection with that work shall be defrayed by a special rate upon the rateable property in that area, which area shall be defined in the by-law, and that the balance of such moneys shall be defrayed by a special rate upon the rateable property in the remaining portion of the municipality within the area over which the authority has jurisdiction. R.S.O. 1950, c. 62, s. 35 (4, 5).

Assessment for administration costs and maintenance

39.—(1) For the purposes of paying administration costs and the costs of maintenance of the works included in any scheme, a sum may be levied annually by an authority against each of the participating municipalities.

Apportionment of cost

(2) After determining the approximate total cost of administration costs and maintenance for the succeeding calendar year, the authority shall apportion such cost to the participating municipalities according to the benefit derived or to be derived by each such municipality, and the amount apportioned to each municipality shall be levied against each such municipality, and the secretary-treasurer of the authority shall forthwith certify to the clerk of each participating municipality the total amount that has been so levied, and the clerk of the municipality shall calculate and insert the same in the collector's roll for the current year, and such amount shall be collected in the same manner as municipal taxes for general purposes and paid over to the authority. 1952, c. 11, s. 10.

Where only part of municipality in area

(3) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the amount apportioned to that municipality shall be calculated and inserted in the collectors' roll for the current year against the rateable property in that part of the municipality and shall be collected and paid in the manner provided in subsection 2.

Enforcement of payment

(4) An authority may enforce payment against any participating municipality of any portion of the cost of maintenance apportioned and assessed to such municipality as a debt due by such municipality to the authority. R.S.O. 1950, c. 62, s. 36 (3, 4).
40. Where by this Act any power is conferred or duty imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the assent of the electors. R.S.O. 1950, c. 62, s. 37.

41. All moneys required by this Act to be raised for the purposes of an authority shall be paid to the authority and the authority may spend such moneys as it deems proper, except that no salary, expenses or allowances of any kind shall be paid to any of the members of the authority without the approval of the Ontario Municipal Board. R.S.O. 1950, c. 62, s. 38.

42. The Lieutenant Governor in Council may make a grant to any authority out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 62, s. 39.