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c 407 Trench Excavators' Protection Act

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CHAPTER 407

The Trench Excavators' Protection Act

1. In this Act,

(a) "inspector" means an inspector appointed under this Act or under a municipal by-law for the purpose of enforcing this Act;

(b) "regulations" means the regulations made under this Act; 1954, c. 99, s. 1, cls. (a, b).

(c) "trench" means any excavation in the ground where the vertical dimension from the highest point of the excavation to a point level with the lowest point of the excavation exceeds the least horizontal dimension of the excavation, such dimensions being taken in a vertical plane at right angles to the longitudinal centre line of the excavation. 1958, c. 118, s. 1.

2. This Act does not apply,

(a) to any part of a trench where the trench is four feet or less in depth;

(b) to a trench where the work therein is done only by the owner thereof in person;

(c) to a trench into which no person is required to enter for any purpose; 1954, c. 99, s. 2, cls. (a-c).

(d) to a part of a trench excavated for a pipe line or conduit if the trench is mechanically excavated, if the sections of the line or conduit are permanently assembled before being mechanically placed in the trench, and if the trench is mechanically back-filled; 1955, c. 89, s. 1.

(e) to a mine within the meaning of The Mining Act; R.S.O. 1960, c. 241

(f) to a cutting for the right of way of a highway or railroad;

(g) to an excavation that comes within the regulations made under section 10 of The Department of Labour Act; R.S.O. 1960, c. 97

(h) to an excavation made for the burial of a deceased person. 1958, c. 118, s. 2.
3.—(1) The council of every local municipality shall, by by-law, appoint one or more inspectors to enforce this Act in the municipality.

(2) The Lieutenant Governor in Council may appoint one or more inspectors to enforce this Act in territory without municipal organization. 1954, c. 99, s. 3.

4.—(1) An inspector may enter any land for the purpose of carrying out an inspection under this Act.

(2) No person shall obstruct an inspector in the performance of his duties or furnish him with false information. 1954 c. 99, s. 4.

5.—(1) Where an inspector finds that any provision of this Act or the regulations is being contravened, he may give such order in writing as he thinks necessary to secure compliance therewith and, until such order is carried out, the work upon that part of the trench in which the contravention occurs shall be suspended. 1954, c. 99, s. 5 (1); 1955, c. 89, s. 2.

(2) Every person to whom an order of an inspector is directed who contravenes or knowingly permits any person under his direction or control to contravene such order or to carry on work in contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $100 for every day upon which the contravention continues. 1954, c. 99, s. 5 (2).

6.—(1) The owner of land on which it is proposed to excavate a trench, or if a contractor is to excavate a trench, the contractor, shall before commencing work on the trench give notice in writing to an inspector appointed to enforce this Act in the jurisdiction in which the proposed trench is to be excavated stating,

(a) the name and address of the owner of the land on which the trench is to be excavated and of the contractor, if any;

(b) the location of the proposed trench;

(c) the particulars as to the depth and width of the proposed trench; 1954, c. 99, s. 6, cls. (a-c).

(d) the particulars, known to the owner or contractor, as to the type and condition of the soil, and the location of any pipes, conduits or prior excavations in or adjacent to the proposed trench; 1955, c. 89, s. 3 (1).
(e) the proposed date of commencing work on the trench; and

(f) the name and address of the person who will be in charge of the work in connection with the trench. 1954, c. 99, s. 6, cls. (d,e).

(2) Notwithstanding subsection 1, where it is necessary to excavate a trench immediately in order to permit the making of a repair or to take other action to prevent injury to persons or damage to property, work on the trench may be commenced without compliance with subsection 1 but in any such case the notice shall be given to the inspector as soon as practicable. 1955, c. 89, s. 3 (2).

7. It is the duty of the owner of the land in which a trench is being excavated or, if the work on the trench is being done by a contractor, it is the duty of the contractor,

(a) to ensure that this Act and the regulations are complied with;

(b) at least once in each eight-hour period that a person is working in or near a trench to cause to be inspected by a person well experienced in such work,

(i) the condition of the trench,

(ii) the shoring and timbering provided for the safety of any person in or near the trench,

(iii) the soil or rock piled and equipment stored or used in or near the trench, and

(iv) the fences, ladders and other things provided for the safety of any person in or near the trench,

and the person making such inspection shall forthwith take any remedial action that he deems necessary to protect the safety of any person in or near the trench. 1958, c. 118, s. 3.

8.—(1) The sides of all trenches exceeding four feet in depth shall be securely shored and timbered with good quality material in accordance with the regulations and the shoring and timbering shall extend at least one foot above the top of the trench, except that where the inspector gives permission in writing to the person in charge of the work in connection with the trench, the shoring and timbering need not extend above the top of the trench. 1954, c. 99, s. 8 (1); 1955, c. 89, s. 4 (1).
(2) Subsection 1 does not apply where the trench is cut in solid rock or where the trench is excavated in hard and solid soil and does not exceed six feet in depth or where the sides of the trench are sloped to within four feet of the bottom of the trench so that the sloped sides of the trench do not have more than one foot of vertical rise to each foot of horizontal run. 1954, c. 99, s. 8 (2); 1955, c. 89, s. 4 (2).

(3) Where the sides of a trench are sloped as described in subsection 2 but not to within four feet of the bottom of the trench, the vertical walls of the trench shall be shored and timbered with good quality material in accordance with the regulations and the shoring and timbering shall extend at least one foot above the vertical walls and be fitted with toe-boards to prevent material rolling down the slope and falling into the part of the trench with vertical walls.

(4) Drawings and specifications for the shoring and timbering of all trenches to exceed thirty feet in depth and all trenches to exceed twelve feet in width shall be submitted in duplicate to the inspector appointed to enforce this Act in the jurisdiction in which the trench is to be excavated and the trench shall not be commenced until the drawings and specifications have been approved by the inspector and the shoring and timbering shall conform to such approved plans.

(5) Shoring and timbering shall be carried along with the excavating of a trench but when conditions permit may be done before the excavating commences. 1954, c. 99, s. 8 (3-5).

(6) Where the shoring and timbering is to be removed on completion of the other work in a trench, such removal shall be done by or under the personal supervision of a person experienced in removing shoring and timbering. 1955, c. 89, s. 4 (3).

9. Ladders or other means of escape satisfactory to an inspector shall be provided in every trench and such ladders or other means of escape shall be spaced at intervals of not more than fifty feet in each trench and shall extend above the top of the trench. 1954, c. 99, s. 9.

10.—(1) Where staging or scaffolding for handling by hand in relays materials excavated from the trench is erected independently of the shoring or timbering on the sides of the trench, it shall be structurally adequate to protect persons working thereon or in the trench from collapse of the staging or scaffolding or from falling objects.

(2) Where the staging or scaffolding is attached to the shoring and timbering on the sides of the trench, the shoring
and timbering shall be sufficiently reinforced to withstand the additional load thereby imposed on the shoring and timbering. 1954, c. 99, s. 10.

11.—(1) The person in charge of work in connection with a trench shall not allow or designate any person inexperienced in handling dynamite or other high explosives to handle, transport, prepare or use dynamite or other high explosives in connection with such work unless the inexperienced person works under the personal supervision of a person having experience in such work. 1954, c. 99, s. 11 (1); 1955, c. 89, s. 5.

(2) The person in charge of work in connection with a trench shall post up in the field office and at the magazines the names of all persons designated to handle, transport, prepare or use dynamite or other high explosives.

(3) The person in charge of work in connection with a trench shall designate one person to be in charge of blasting operations in each section of the trench affected by the blasting operations and such designated person shall enforce his orders and directions and supervise the fixing of all charges and all other blasting operations.

(4) Every firing circuit in connection with blasting operations shall be broken outside the trench at a point and in a manner satisfactory to an inspector.

(5) No greater quantity of dynamite or other high explosives than is required for immediate use in a trench shall be taken into a trench. 1954, c. 99, s. 11 (2-5).

12.—(1) The person in charge of the work in connection with a trench shall take precautions to ensure that no harmful gases or fumes are present in the trench to such a degree as may endanger the health and safety of persons working therein.

(2) Where gases and fumes are likely to be present in a trench, or tests show their presence therein, sufficient mechanical ventilation to protect the health and safety of persons working therein shall be provided. 1954, c. 99, s. 12.

(3) Where mechanical ventilation may not adequately supply uncontaminated air for a person in a trench, such person shall be provided with and shall use respiratory protective equipment furnishing air from an uncontaminated source. 1955, c. 89, s. 6.

13. No internal combustion engine shall be operated in a trench unless adequate provisions are made to ensure that exhaust gases and fumes are discharged to a point sufficiently far from the trench.
remote from the trench to prevent their return to or accumulation in the trench. 1954, c. 99, s. 13.

14. Where rock-drilling operations are carried on in a trench, the person in charge of the work in connection with the trench shall ensure that an adequate supply of water is provided at the drill hole to control the dissemination of dust into the breathing zone of the drill operator or other persons working in the trench. 1954, c. 99, s. 14.

15.—(1) No tool, machinery, timber or other object shall be placed in or kept adjacent to a trench in a manner that may endanger the safety of a person in the trench.

(2) No excavated material shall be placed or kept within two feet of the edge of a trench. 1955, c. 89, s. 7.

16. The person in charge of the work in connection with a trench shall ensure that no vehicle, machinery or horse is driven or operated or located so close to the edge of a trench in which persons are working as to endanger the stability of the walls of the trench by vibration or otherwise. 1954, c. 99, s. 16.

17.—(1) Such fences, guards or barricades as will prevent persons from falling into a trench shall be provided at or near the sides of all trenches and shall be kept in place at all times except when such fences, guards or barricades will interfere with the excavation or other work being done.

(2) When operations are suspended and during darkness such fences, guards or barricades as will prevent persons from falling into a trench shall be provided at or near the sides of all trenches and all piles of excavated material or other material, tools and machinery shall be marked by lighted lanterns or flares where necessary to prevent accidents. 1954, c. 99, s. 17.

(3) This section applies only to a trench in or adjacent to a public or private way. 1955, c. 89, s. 8.

18. The person in charge of work in connection with a trench shall not allow any person to enter or to remain in the trench if the provisions of this Act and the regulations with respect to such trench are not complied with. 1954, c. 99, s. 18; 1955, c. 89, s. 9.

19. No person shall move, alter or destroy any shoring or timbering or any fence, guard or barricade that is required by this Act and the regulations to be provided in connection with a trench for the protection of persons without the per-
mission of the owner of the land on which the trench is excavated or, if the work on the trench is being done by a contractor, without the permission of the contractor. 1954, c. 99, s. 19.

20. No person shall work in a trench exceeding six feet in depth unless he is wearing a hat manufactured for the purpose of protecting persons from falling objects while working in a trench. 1954, c. 99, s. 20.

21. No person shall be allowed to work alone in a trench exceeding twenty feet in depth unless another person is on duty outside the trench in close proximity to the part of the trench in which the other person is working. 1954, c. 99, s. 21; 1955, c. 89, s. 10.

22. No person under sixteen years of age shall be allowed to enter or work in a trench. 1954, c. 99, s. 22.

23. Nothing in this Act affects the authority of a municipality to pass by-laws relating to matters mentioned in this Act or affects any such by-law in so far as it imposes additional or more stringent requirements than those imposed by this Act and the regulations. 1954, c. 99, s. 23.

24. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for such offence is not otherwise provided, is liable to a fine of not more than $500. 1954, c. 99, s. 24.

25. Every fine collected for an offence under this Act committed in a local municipality shall be paid to the treasurer of the local municipality in which the offence was committed, and every fine collected for an offence under this Act committed in territory without municipal organization shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1954, c. 99, s. 25.

26. The Lieutenant Governor in Council may make regulations,

(a) regulating the methods of shoring and timbering and the size, composition and arrangement of materials that shall be used therefor;

(b) providing for fees to be paid for the inspection of trenches in territory without municipal organization and for the payment of the expenses of inspectors and prescribing the amounts of such fees and expenses to be paid;
(c) providing for fees to be paid for the examination of drawings and specifications of shoring and timbering for trenches in territory without municipal organization required to be submitted to an inspector for approval, and prescribing the amounts of such fees;

(d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.