

1937

c 367 School Attendance Act

Ontario

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CHAPTER 367.

The School Attendance Act.

1. In this Act,—

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| | Interpreta-
tion. |
| (a) "Guardian," in addition to having the meaning ascribed in law, shall mean and include any person who has received into his home another person's child under the age of fourteen years who is resident with him or in his care or legal custody; | "Guardian." |
| (b) "Inspector" shall mean inspector of public or separate schools; | "In-
spector." |
| (c) "Principal" shall mean head teacher of a public or separate school; | "Princi-
pal." |
| (d) "Regulations" shall mean regulations made under the authority of <i>The Department of Education Act</i> or of this Act; | "Regula-
tions." |
| | Rev. Stat.,
c. 356. |
| (e) "School" shall mean any school established under any statute, the administration and enforcement of which is vested in the Minister of Education. R.S.O. 1927, c. 332, s. 1; 1932, c. 42, s. 20. | "School." |

2. Except as provided in this Act, every child between eight and fourteen years of age shall in each year for the full term during which the school is open attend school in the school section or municipality in which he resides or other school which he is required or entitled by law to attend. 1932, c. 42, s. 21.

3. Except as provided by this Act, it shall be the duty of the parent or guardian of every child between eight and fourteen years of age to have such child attend school as required by this Act. 1932, c. 42, s. 22.

4.—(1) A parent, guardian or other person shall not be liable to any penalty imposed by this Act in respect of a child if,—

- (a) the child is under efficient instruction in reading, spelling, writing, grammar, geography and arithmetic;

When
attendance
excused.

- (b) the child is unable to attend school by reason of sickness or other unavoidable cause;
- (c) there is no public or separate school which the child has the right to attend within two miles measured by the nearest highway from such child's residence, if he is under ten years of age, or within three miles if he is over that age, and transportation is not provided by the school board for the children going to and from the public or separate school of the section or municipality;
- (d) there is not sufficient accommodation in the school which the child has the right to attend; R.S.O. 1927, c. 332, s. 4 (1), cls. (a-d).
- (e) the child has been excused by the school attendance officer as hereinafter provided; 1932, c. 42, s. 23.
- (f) the child has passed the university matriculation examination in Arts, or has completed the examination for admission to the normal schools or a course which gives him an equivalent standing;
- (g) the child is absent from school for the purpose of receiving instruction in music and the period of such absence does not exceed one half day in each week; R.S.O. 1927, c. 332, s. 4 (1), cls. (f, g).
- (h) the child is officially excluded from attendance at school under any provisions of the school laws or regulations. 1930, c. 63, s. 24 (1).

Child who
is blind
or deaf.

(2) The fact that a child is blind or deaf shall not be deemed an unavoidable cause within the meaning of clause *b* of subsection 1 if the child is a fit subject for admission to the Ontario School for the Blind or the Ontario School for the Deaf, and in case of need, his fitness shall be determined by a committee to be appointed by the Minister. R.S.O. 1927, c. 332, s. 4 (2); 1930, c. 63, s. 24 (2).

Inquiry by
provincial
officer.

(3) The provincial school attendance officer may inquire as to the instruction given to any child who is not attending school or as to any other reason or excuse for non-attendance of a child at school, and as to the general educational proficiency of such child, and the other circumstances of the case, and may by order in writing signed by him, determine whether or not the child shall be exempt from school attendance, and if he deems the instruction given to the child is inadequate, or that there is no valid reason why the child should not attend school, he may by such order direct that the child shall attend

school, and thereafter, and so long as such order remains in force, the child shall not be excused from school attendance under the provisions of subsection 1.

(4) Where a child over five years of age, but under eight, has been enrolled as a pupil in a public or separate school, the provisions of this Act shall apply during the school term for which the child is enrolled as if he was of an age between the ages of eight and fourteen. R.S.O. 1927, c. 332, s. 4 (3, 4).

Children attending school before eight years of age.

5.—(1) Except as provided by subsection 2, no child under the age of fourteen years shall be employed by any person during school hours, and any person who employs a child in contravention of this section shall incur a penalty not exceeding \$20. R.S.O. 1927, c. 332, s. 5 (1).

Employment of children during school hours.

(2) Where, in the opinion of the school attendance officer, the services of a child under the age of fourteen years are required in husbandry, or in urgent and necessary household duties, or for the necessary maintenance of such child or of some person dependent upon him, the school attendance officer may, by certificate setting forth the reasons therefor, relieve such child from attending school for any period not exceeding six weeks out of each school term so long as such child is required in any occupation stated in the certificate. 1930, c. 63, s. 25.

Certificate relieving from attendance.

6. The Lieutenant-Governor in Council may appoint an officer, to be known as the provincial school attendance officer, whose duty it shall be, under the direction of the Minister, and subject to the regulations, to superintend and direct the enforcement of this Act and in that behalf to perform such duties and exercise such powers as may be prescribed by this Act and the regulations. R.S.O. 1927, c. 332, s. 6.

Appointment and duties of provincial officer.

7. Where it appears to the Minister that in any territory without municipal organization or in unsurveyed territory school trustees are not providing accommodation for the children entitled to attend school, or have neglected or failed to raise the necessary funds for the establishment and maintenance of a school, or have in other respects failed to comply with *The Public Schools Act* and the regulations, or that the election of trustees has been neglected and no regular board of trustees is in existence, the Minister may by commission under his hand authorize and direct the provincial school attendance officer to do all things, and exercise all powers which may be necessary for the establishment and maintenance of a school, the erection of school buildings and providing accommodations, the opening

Provincial officer acting as trustee.

Rev. Stat., c. 357.

and conducting of a school, the assessing and levying of all sums of money required for school purposes, and generally whatever may be required for the purpose of establishing, maintaining and conducting a school in accordance with *The Public Schools Act* and the regulations, and thereupon the provincial school attendance officer shall have and may exercise and perform with regard to all matters set forth in the commission, all the authority, powers and duties vested in, and to be performed by a board of school trustees under *The Public Schools Act* and the regulations. R.S.O. 1927, c. 332, s. 7.

Appoint-
ment of
attendance
officers.

8.—(1) The board of education or public school board, high school board and separate school board in every urban municipality shall appoint a school attendance officer or two or more school attendance officers for the enforcement of this Act, but two or more of the said school corporations may appoint the same attendance officer or officers, if, in the judgment of the Minister, the interests of economy and efficiency may be better served thereby. R.S.O. 1927, c. 332, s. 8 (1); 1930, c. 63, s. 26 (1), *part*.

Time of
appoint-
ment.

(2) The appointment or re-appointment of a school attendance officer shall be made by the appointing body not later than the last meeting for the year, and any vacancy created by resignation or otherwise shall be filled by the said body at the earliest possible time after the vacancy occurs. 1930, c. 63, s. 26 (1), *part*.

Powers as a
peace officer.

(3) A school attendance officer shall, for the purposes of this Act, be vested with the powers of a peace officer and shall have authority to enter factories, workshops, stores, shops and all other places where children may be employed or congregated, or at the request of the parent or guardian, shall have authority to apprehend and deliver to the school from which he is absent or to his parent or guardian, without warrant, such child found illegally absent from school, and shall perform such services as may be necessary for the enforcement of this Act.

Appoint-
ment of
attendance
officers in
townships.

(4) The council of every township shall appoint a school attendance officer or school attendance officers who shall have the same powers and perform the same duties as school attendance officers in an urban municipality, but the appointment of a school attendance officer by the council of a township shall not affect the powers and duties of a school attendance officer heretofore or hereafter appointed as provided in subsection 5. R.S.O. 1927, c. 332, s. 8 (2, 3).

In un-
surveyed
or unor-
ganized
territory.

(5) A board of public school trustees or a board of separate school trustees may appoint a school attendance officer or school attendance officers,—

- (a) for any school or schools over which they have charge in unsurveyed territory or in territory without municipal organization;
- (b) for any public or separate school in the Province in which not fewer than five teachers are employed. 1930, c. 63, s. 26 (2).
- (6) The municipality or school corporation appointing a school attendance officer may make rules not inconsistent with the provisions of this Act or the regulations for the direction of such officer. R.S.O. 1927, c. 332, s. 8 (6). Rules.
- (7) Notice of every appointment made under this section shall be given in writing by the appointing body to the provincial school attendance officer and to the inspector, and in case of an appointment by the council of the township, to every public and separate school board of the township, and to the public and separate school inspectors. R.S.O. 1927, c. 332, s. 8 (7); 1930, c. 63, s. 26 (3). Notice of appointment.
- (8) A woman shall be eligible for appointment as a school attendance officer. Women may be appointed.
- (9) Every school attendance officer shall report monthly to the body appointing him and annually to the provincial school attendance officer, according to the form provided by the regulations. Monthly report.
- (10) A school attendance officer shall perform his duties under the direction of the inspector, and shall at all times carry out the instructions and directions of the provincial school attendance officer. R.S.O. 1927, c. 332, s. 8 (8-10). To act under inspector and provincial officer.
- 9.** The clerk of the municipality shall furnish to the secretary of every public and separate school board in the municipality the particulars recorded in the book prepared by the assessor under subsection 1 of section 33 of *The Assessment Act* as to children whose parents or guardians are supporters of the schools under the control of the board, but a board of education or board of school trustees shall have authority to make a complete census of all children resident in the municipality or school section who are not of the age of twenty-one years. R.S.O. 1927, c. 332, s. 9. Clerk to furnish secretary of board with list prepared under Rev. Stat., c. 272. Census of children by board.
- 10.** Every school attendance officer shall examine into every case of non-compliance with this Act within his own knowledge or when requested so to do by the inspector, or by a principal of a school, a teacher, or a ratepayer, and shall warn the parent or guardian of children not attending school in compliance with this Act, in writing, of the consequences of such non-com- Inquiries as to non-attendance and notice to parents, etc.

pliance, and shall also give notice in writing to the parents, guardian or other person having the authority or control of a child between the ages of eight and fourteen years who is not attending school as required by this Act, to cause the child to attend school forthwith. R.S.O. 1927, c. 332, s. 10.

Liability of parents.

11.—(1) A parent, or guardian or other person having the charge or control of any child between the ages of eight and fourteen years, who neglects or refuses to cause such child to attend school unless such child is excused from attendance as provided by this Act, shall incur a penalty of not less than \$5 nor more than \$20.

Requiring bond for attendance.

(2) The court may, instead of imposing a penalty, require a person convicted of an offence under this section to give a bond in the penal sum of \$100, with one or more sureties to be approved by the court, conditioned that the person convicted shall, after the expiration of five days, cause the child to attend school as required by this Act. R.S.O. 1927, c. 332, s. 11.

Proceedings to be taken by officers.

12. Proceedings against a parent, guardian or other person having the charge or control of a child, or against any other person violating any of the provisions of this Act shall be instituted by the school attendance officer. R.S.O. 1927, c. 332, s. 12.

Report of teacher on non-attendance.

13.—(1) The teacher or principal of every public, separate, high or vocational school shall report to the school attendance officer in charge of the school at such times and in such manner as is required by the regulations in that behalf, the names, ages, and residences of all pupils of school age who have not attended school as required by this Act, together with such other information as the school attendance officer may require for the enforcement of this Act. 1930, c. 63, s. 27.

Report on expulsion.

(2) The teacher or principal, as the case may be, shall forthwith report to the school attendance officer every case of expulsion.

Where there is no school attendance officer.

(3) Where there is no school attendance officer and a child has failed to attend school or has attended so irregularly as in the opinion of the inspector to necessitate special action, the inspector shall notify the parents or guardian of the child of the provisions of this Act.

How non-attendance or irregular attendance ascertained.

(4) The non-attendance or irregular attendance of the child shall be ascertained by the teacher of the school which the child should attend by reference to the school register and to the particulars from the list prepared under subsection 1 of

section 33 of *The Assessment Act* transmitted by the clerk of the municipality to the secretary of the board, and the teacher shall report such non-attendance or irregular attendance to the inspector and to the school attendance officer. Rev. Stat., c. 272.

(5) It shall be the duty of the inspector, when inspecting every school in his inspectorate, to see that the duties of the school attendance officer are properly performed and that the provisions of subsections 3 and 4 are complied with and to report any breach thereof to the Department of Education. Duty of inspector.
R.S.O. 1927, c. 332, s. 13 (2-5).

14. Where any of the provisions of this Act are violated by a corporation, proceedings may be had against every officer or agent of the corporation who is a party to such violation, and such officer or agent shall be subject to the same penalties as any other person similarly offending. Violations of Act by corporations.
R.S.O. 1927, c. 332, s. 14.

15. Every person and officer charged with the duty of enforcing any provision of this Act who neglects to perform the duty imposed upon him shall incur a penalty not exceeding \$10 for each offence. Penalty for neglecting to enforce Act.
R.S.O. 1927, c. 332, s. 15.

16. The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act* and the moneys accruing from such penalties shall be handed to the board of education or the board of trustees of the school of which the person penalized is a supporter, to be applied to school purposes. Penalties, recovery and application of. Rev. Stat., c. 136.
1930, c. 63, s. 28.

17. A conviction or order made in any matter arising under this Act shall not be removed either at the instance of the Crown or of any private person into the Supreme Court. Convictions not to be removed.
R.S.O. 1927, c. 332, s. 17.

18. Where a person is charged with an offence under this Act in respect to a child who is alleged to be within the ages of eight and fourteen years and the child appears to the court to be within such ages the child shall, for the purposes of this Act, be deemed to be within such ages unless the contrary is proved. Onus of proof of age of child.
R.S.O. 1927, c. 332, s. 18.

19.—(1) Nothing herein shall be held to require the child of a Roman Catholic who is a separate school supporter to attend a public school or to require the child of a public school supporter to attend a Roman Catholic separate school. Children of separate school supporters.

Absence on
holy days
excused.

(2) No penalty shall be imposed in respect to the absence of a child from school on a day regarded as a holy day by the church or religious denomination to which such child belongs. R.S.O. 1927, c. 332, s. 19.

Regula-
tions.
Rev. Stat.,
c. 356.

20. Regulations may be made in the manner provided by *The Department of Education Act*—

Qualifica-
tions and
duties of
officers.

(a) prescribing the duties and qualifications of the provincial school attendance officer and of school attendance officers, inspectors, and other officers acting under this Act;

Notices and
returns.

(b) respecting the notices to be given and the returns to be made under this Act and the time and manner of giving or making the same;

Forms.

(c) prescribing the forms to be used under this Act;

General.

(d) generally for the better carrying out of the provisions of this Act. R.S.O. 1927, c. 332, s. 20.
