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c 124 The Ontario Water Resources Commission Amendment Act, 1970

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CHAPTER 124

An Act to amend The Ontario Water Resources Commission Act

*Assented to November 13th, 1970
Session Prorogued November 13th, 1970*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *p* of section 1 of *The Ontario Water Resources Commission Act* is amended by adding at the end thereof "and such other matter or substance as is specified by regulations made under clause *ga* of subsection 1 of section 47", so that the clause shall read as follows:

R.S.O. 1960,
c. 281, s. 1,
cl. *p*,
amended

(*p*) "sewage" includes drainage, storm water, commercial wastes and industrial wastes and such other matter or substance as is specified by regulations made under clause *ga* of subsection 1 of section 47.

2.—(1) Subsection 1 of section 3 of *The Ontario Water Resources Commission Act* is amended by striking out "three" in the fifth line and inserting in lieu thereof "five" and by striking out "seven" in the fifth line and inserting in lieu thereof "eleven", so that the subsection shall read as follows:

R.S.O. 1960,
c. 281, s. 3
subs. 1,
amended

(1) The Ontario Water Resources Commission constituted a corporation without share capital on behalf of Her Majesty in right of Ontario by *The Ontario Water Resources Commission Act, 1956* is continued and shall be composed of not fewer than five and not more than eleven persons as the Lieutenant Governor in Council from time to time determines.

Commission
continued

1956, c. 62

(2) Subsections 2 and 3 of the said section 3 are repealed and the following substituted therefor:

R.S.O. 1960,
c. 281, s. 3,
subs. 2, 3,
re-enacted

(2) The Lieutenant Governor in Council shall appoint the members of the Commission and shall designate one member as chairman and one or more members as vice-chairmen.

Appoint-
ment

Acting
chairman

- (3) In the case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, a vice-chairman designated by the chairman or, failing such designation, a vice-chairman designated by the Commission shall act as and have all the powers of the chairman and, in the event of the absence of the chairman and vice-chairman from any meeting of the Commission, the members present shall appoint an acting chairman, who, for the purposes of the meeting shall act as and have all the powers of the chairman.

R.S.O. 1960,
c. 281, s. 4,
amended

3. Section 4 of *The Ontario Water Resources Commission Act* is amended by inserting after "minute" in the first line "of the Commission or of any direction, order, report, approval, notice, permit or licence made or issued by the Commission", so that the section shall read as follows:

Evidence

4. A copy of any by-law, resolution or minute of the Commission or of any direction, order, report, approval, notice, permit or licence made or issued by the Commission certified by the secretary or assistant secretary under the seal of the Commission to be a true copy shall be received as *prima facie* evidence in any court without further proof.

R.S.O. 1960,
c. 281, s. 8
(1965, c. 91,
s. 1),
subs. 1,
re-enacted

4.—(1) Subsection 1 of section 8 of *The Ontario Water Resources Commission Act*, as re-enacted by section 1 of *The Ontario Water Resources Commission Amendment Act, 1965*, is repealed and the following substituted therefor:

Quorum

- (1) Except as provided in subsection 2, three members of the Commission constitute a quorum.

R.S.O. 1960,
c. 281, s. 8
(1965, c. 91,
s. 1),
subs. 2,
cls. a-f,
repealed

- (2) Clauses *a, b, c, d, e* and *f* of subsection 2 of the said section 8 are repealed.

R.S.O. 1960,
c. 281,
amended

5. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section:

Delegation
of powers

- 8a. The Commission may by resolution authorize on such terms and conditions as it considers proper, any officer or officers of the Commission to exercise any of the powers conferred upon the Commission under,

- (a) subsections 2, 2a, 4 and 5 of section 28a;
- (b) subsections 1 and 3 of section 28b;
- (c) subsections 1 and 2 of section 28c;
- (d) subsections 1, 2 and 4 of section 29;

(e)

- (c) subsections 1 and 3 of section 30;
- (f) subsections 1 and 3 of section 31;
- (g) subsections 1, 4 and 10 of section 32 and subsections 1 and 3 of section 32a respecting the holding of a hearing and the giving of notice thereof; or
- (h) subsections 1 and 1a of section 43.

6. Subsection 2 of section 10 of *The Ontario Water Resources Commission Act*, as re-enacted by section 1 of *The Ontario Water Resources Commission Amendment Act, 1962-63*, is amended by inserting after "permanent" in the second line "and full-time probationary", so that the subsection shall read as follows:

R.S.O. 1960,
c. 281, s. 10,
subs. 2
(1962-63,
c. 99, s. 1),
amended

- (2) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Commission, except members of the staff who are members of the Ontario Municipal Employees Retirement System, as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Employees'
superannua-
tion benefits
R.S.O. 1960,
c. 332

7. Section 18 of *The Ontario Water Resources Commission Act*, as amended by section 2 of *The Ontario Water Resources Commission Amendment Act, 1964* and section 1 of *The Ontario Water Resources Commission Amendment Act, 1966*, is further amended by adding thereto the following subsection:

R.S.O. 1960,
c. 281, s. 18,
amended

- (4) Every person who hinders or obstructs any employee or agent of the Commission in the exercise of his powers or the performance of his duties under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 for every day upon which the offence is committed or continues.

Offence

8. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section:

R.S.O. 1960,
c. 281,
amended

- 25a. Under sections 26, 27, 27b and 28 the quality of water shall be deemed to be impaired if, notwithstanding that the quality of the water is not or may not become impaired, the material deposited or discharged or caused or permitted to be deposited or discharged or any derivative of such material causes or may cause injury to any person, animal, bird or other living thing as a result of the use or

Where
quality of
water
deemed to
be impaired

consumption of any plant, fish or other living matter or thing in the water or in the soil in contact with the water.

R.S.O. 1960,
c. 281, s. 26,
subs. 1,
re-enacted

9. Subsection 1 of section 26 of *The Ontario Water Resources Commission Act* is repealed and the following substituted therefor:

Supervision
of waters

- (1) For the purposes of this Act, the Commission has the supervision of all surface waters and ground waters in Ontario.

R.S.O. 1960,
c. 281, s. 27,
subs. 1,
(1961-62,
c. 99, s. 5),
amended

10.—(1) Subsection 1 of section 27 of *The Ontario Water Resources Commission Act*, as re-enacted by section 5 of *The Ontario Water Resources Commission Amendment Act, 1961-62*, is amended by striking out "to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both" in the tenth, eleventh and twelfth lines and inserting in lieu thereof "on first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment", so that the subsection shall read as follows:

Discharge
of
polluting
material
prohibited

- (1) Every municipality or person that discharges or deposits or causes or permits the discharge or deposit of any material of any kind into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse or on any shore or bank thereof or into or in any place that may impair the quality of the water of any well, lake, river, pond, spring, stream, reservoir or other water or watercourse is guilty of an offence and on summary conviction is liable on first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

R.S.O. 1960,
c. 281, s. 27,
amended

(2) The said section 27 is amended by adding thereto the following subsections:

Separate
offences

- (1a) Each day that a municipality or person contravenes subsection 1 constitutes a separate offence.

Commission
to be
notified
when
polluting
material is
discharged,
deposited or
escapes

- (1b) Every municipality or person that discharges or deposits or causes or permits the discharge or deposit of any material of any kind, and such discharge or deposit is not in the normal course of events, or from whose control material of any kind escapes

into

into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse or on any shore or bank thereof or into or in any place that may impair the quality of the water of any well, lake, river, pond, spring, stream, reservoir or other water or watercourse, shall forthwith notify the Commission of the discharge, deposit or escape, as the case may be.

- (1c) Every municipality or person that fails to notify the Commission as provided in subsection 1b is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000.

11. *The Ontario Water Resources Commission Act* is amended by adding thereto the following sections: R.S.O. 1960,
c. 281,
amended

27a.—(1) With the approval of the Minister, the Commission may by order prohibit or regulate the discharge or deposit by any municipality or person of any sewage into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse, and any such order may, with the approval of the Minister, be amended, varied or revoked by the Commission as it considers desirable. Prohibiting
or
regulating
discharge of
sewage

- (2) Every municipality or person that contravenes an order made under subsection 1 is guilty of an offence and on summary conviction is liable on first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000. Offence

- (3) Each day that a municipality or person contravenes an order made under subsection 1 constitutes a separate offence. Separate
offences

27b.—(1) Where, in the opinion of the Commission it is in the public interest to do so, the Commission may by order require any municipality or industrial or commercial enterprise to have on hand and available at all times such equipment, chemicals and other materials as the order specifies to alleviate the effects of any impairment of the quality of water that may be caused by the municipality or industrial or commercial enterprise. Equipment,
etc., to
alleviate
effects of
impairment
of quality
of water

- (2) Every municipality or industrial or commercial enterprise that contravenes an order of the Commission made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for every day the contravention continues. Offence

Before
making
order
Commission
to hold
hearing

27*c*. Before making an order under section 27*a*, 27*b*, subsection 2*a* of section 28*a* or section 50, the Commission shall afford a reasonable opportunity to be heard to the municipality or person to whom the order is proposed to be directed.

R.S.O. 1960,
c. 281, s. 30,
subs. 2,
amended

12. Subsection 2 of section 30 of *The Ontario Water Resources Commission Act* is amended by inserting after "person" in the fifth line and in the eleventh line "or his successor or assignee", so that the subsection shall read as follows:

Powers of
Commission
where water
works
undertaken
without
approval

(2) Where any person undertakes or proceeds with the establishment of any water works, or the extension of or change in any existing water works, without having first obtained the approval of the Commission, the Commission may order the person or his successor or assignee to afford at his own expense such facilities as the Commission may deem necessary for the investigation of the works and the source of water supply and may direct such changes to be made in the source of water supply and in the works as the Commission may deem necessary, and any changes directed by the Commission to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

R.S.O. 1960,
c. 281, s. 31,
subs. 2,
amended

13. Subsection 2 of section 31 of *The Ontario Water Resources Commission Act* is amended by inserting after "person" in the fifth line and in the twelfth line "or his successor or assignee", so that the subsection shall read as follows:

Powers of
Commission
where
sewage
works
undertaken
without
approval

(2) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained the approval of the Commission, the Commission may order the person or his successor or assignee to afford at his own expense such facilities as the Commission may deem necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Commission may deem necessary, and any changes directed by the Commission to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

R.S.O. 1960,
c. 281, s. 32
(1966,
c. 108, s. 5),
subs. 1,
amended

14.—(1) Subsection 1 of section 32 of *The Ontario Water Resources Commission Act*, as re-enacted by section 5 of

The Ontario Water Resources Commission Amendment Act, 1966, is amended by striking out "each other municipality concerned" in the seventh line and inserting in lieu thereof "the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities", so that the subsection shall read as follows:

- (1) Where any municipality contemplates establishing or extending its sewage works in or into another municipality or territory without municipal organization, the Commission shall, before giving its approval under section 31, hold a public hearing and give at least ten days notice of the hearing to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Commission may direct.

Establishment or extension of sewage works in or into another municipality, etc.

- (2) Subsection 5 of the said section 32 is amended by striking out "each other municipality concerned" in the thirty-first and thirty-second lines and inserting in lieu thereof "the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities", so that the last four lines of the subsection shall read as follows:

R.S.O. 1960, c. 281, s. 32 (1966, c. 108, s. 5), subs. 5, amended

and notice of the application shall be given to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Board may direct.

- (3) The said section 32 is amended by adding thereto the following subsections:

R.S.O. 1960, c. 281, s. 32 (1966, c. 108, s. 5), amended

- (11) Where the Commission has given its approval under section 31 to an extension by a person of his sewage works from one municipality into another municipality or into territory without municipal organization the Board may, on application made by the person undertaking the extension, order the amendment of any by-law passed under paragraph 112 of subsection 1 of section 379 of *The Municipal Act* or any by-law passed under section 30 of *The Planning Act* or any official plan to permit the use of the land for the extension.

Application to Board

R.S.O. 1960, cc. 249, 296

Powers of
Board

- (12) The Board, as a condition of making an order under subsection 11, may impose such restrictions, limitations and conditions respecting the use of land for the extension of the sewage works, not inconsistent with the terms and conditions of the approval of the Commission given under section 31, as to the Board may appear necessary or expedient.

R.S.O. 1960,
c. 281,
s. 32a (1966,
c. 108, s. 6),
amended

15. Section 32a of *The Ontario Water Resources Commission Act*, as enacted by section 6 of *The Ontario Water Resources Commission Amendment Act, 1966*, is amended by adding thereto the following subsections:

Application
to Board

- (4) Where the Commission has given its approval under section 31 to an establishment or extension by a person of sewage treatment works within a municipality the Board may, on application by the person undertaking the establishment or extension, order the amendment of any by-law passed under paragraph 112 of subsection 1 of section 379 of *The Municipal Act* or any by-law passed under section 30 of *The Planning Act* or any official plan to permit the use of land for the establishment or extension.

R.S.O. 1960,
cc. 249, 296

Powers of
Board

- (5) The Board, as a condition of making an order under subsection 4, may impose such restrictions, limitations and conditions respecting the use of land for the establishment or extension of the sewage treatment works not inconsistent with the terms and conditions of the approval of the Commission given under section 31, as to the Board may appear necessary or expedient.

R.S.O. 1960,
c. 281,
amended

16. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section:

Application
of s. 32,
subss. 11, 12,
and s. 32a,
subss. 4, 5
to municipi-
ality

- 32b. Subsections 11 and 12 of section 32 and subsections 4 and 5 of section 32a apply *mutatis mutandis* to a municipality that has obtained the approval of the Commission to the establishment or extension of its sewage works or to the establishment or extension of sewage treatment works.

R.S.O. 1960,
c. 281, s. 40,
subs. 1,
par. 2,
amended

17. Paragraph 2 of subsection 1 of section 40 of *The Ontario Water Resources Commission Act* is amended by striking out "the rate of 3¼ per cent per annum" in the sixth and seventh lines and inserting in lieu thereof "such rate as is prescribed by regulation by the Commission", so that the paragraph shall read as follows:

2. In each calendar year for such period of years as may be prescribed by such agreement, commencing not later than the fifth calendar year next following the date of completion of such project, such sum as would be necessary with interest compounded annually thereon at such rate as is prescribed by regulation by the Commission to form at the expiry of such period of years a fund equal to the cost of such project.

18. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 281,
amended

- 41a. Where an agreement is made with a municipality for the provision of sewers under clause *d* of subsection 1 of section 16 or under section 39, the municipality may charge the owner of the premises for which a service drain is constructed the cost of construction of the service drain from the sewer to the line of the highway, together with interest thereon at a rate to be determined by the municipality, over such period of years as the municipality determines. Cost of
construction
of service
drains

19. Subsection 5 of section 42 of *The Ontario Water Resources Commission Act* is repealed. R.S.O. 1960,
c. 281, s. 42,
subs. 5,
repealed

20. Section 43 of *The Ontario Water Resources Commission Act*, as amended by section 12 of *The Ontario Water Resources Commission Amendment Act, 1961-62* and section 6 of *The Ontario Water Resources Commission Amendment Act, 1965*, is further amended by adding thereto the following subsection: R.S.O. 1960,
c. 281,
s. 43,
amended

- (1a) Notwithstanding subsection 1, where a reserve account has been established in respect of a project, the Commission may, in respect of any other project for the same municipality, expend, use, apply, utilize and appropriate therefrom such amounts as in the opinion of the Commission may be sufficient therefor for any of the purposes mentioned in clauses *a*, *b* and *c* of subsection 1. When
moneys
may be
expended
in respect of
another
project

21.—(1) Subsection 1 of section 47 of *The Ontario Water Resources Commission Act*, as amended by section 14 of *The Ontario Water Resources Commission Amendment Act, 1961-62*, subsection 1 of section 7 of *The Ontario Water Resources Commission Amendment Act, 1962-63*, subsection 1 of section 10 of *The Ontario Water Resources Commission Amendment Act, 1964* and section 11 of *The Ontario Water Resources Commission Amendment Act, 1966*, is further amended by adding thereto the following clauses: R.S.O. 1960,
c. 281, s. 47,
subs. 1,
amended

(da) prescribing the rate of interest for the purpose of paragraph 2 of subsection 1 of section 40;

.

(fa) classifying persons who operate sewage works and requiring and providing for the licensing of sewage work operators or any class or classes thereof, and prescribing the qualifications of persons to whom licences may be issued, and prescribing and charging fees for such licences, and providing for the revocation and suspension of licences;

.

(ga) specifying any matter or substance as sewage for the purposes of any section or sections of this Act or of any regulation made thereunder.

R.S.O. 1960,
c. 281, s. 47,
subs. 3,
re-enacted

(2) Subsection 3 of the said section 47 is repealed and the following substituted therefor:

Offence

(3) Every municipality or 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 less than \$25 and not more than \$1,000.

R.S.O. 1960,
c. 281,
s. 47b
(1961-62,
c. 99, s. 15),
subs. 2,
amended

22. Subsection 2 of section 47b of *The Ontario Water Resources Commission Act*, as enacted by section 15 of *The Ontario Water Resources Commission Amendment Act, 1961-62*, is amended by inserting at the commencement thereof "Subject to section 52", so that the subsection shall read as follows:

Penalties
R.S.O. 1960,
c. 249

(2) Subject to section 52, Part XXI of *The Municipal Act* applies *mutatis mutandis* to by-laws passed under this section.

R.S.O. 1960,
c. 281, s. 61
(1960-61,
c. 71, s. 7),
amended

23. Section 51 of *The Ontario Water Resources Commission Act*, as enacted by section 7 of *The Ontario Water Resources Commission Amendment Act, 1960-61*, is amended by adding thereto the following subsection:

Application
to certain
sewage
works

(2) Subsection 1 does not apply in respect of any of such sewage works constructed under an agreement entered into after the 1st day of September, 1964.

R.S.O. 1960,
c. 281, s. 52
(1964, c. 86,
s. 11),
amended

24. Section 52 of *The Ontario Water Resources Commission Act*, as enacted by section 11 of *The Ontario Water Resources Commission Amendment Act, 1964*, is amended by inserting

after

after "Act" in the second line "or of any by-law passed under clause *c* or *d* of subsection 1 of section 47*b*", so that the section shall read as follows:

52. Proceedings to enforce any provision of this Act or of any regulation made under this Act or of any by-law passed under clause *c* or *d* of subsection 1 of section 47*b* may be instituted within one year after the time when the subject-matter of the proceedings arose.
- Proceedings to enforce provisions of Act, regulations or by-laws

25. Section 53 of *The Ontario Water Resources Commission Act*, as enacted by section 11 of *The Ontario Water Resources Commission Amendment Act, 1964*, is amended by inserting after "Commission" in the first line "or an officer to whom power has been delegated by the Commission under section 8*a*" and by inserting after "Commission" in the second and third lines "or such officer", so that the section shall read as follows:

R.S.O. 1960, c. 281, s. 53 (1964, c. 86, s. 11), amended

53. Where the Commission or an officer to whom power has been delegated by the Commission under section 8*a* has authority to direct or require that any matter or thing be done, the Commission or such officer may direct that, in default of its being done by the municipality or person directed or required to do it, such matter or thing shall be done at the expense of such municipality or person, and the Commission may recover the expense incurred in doing it, with costs, by action in a court of competent jurisdiction as a debt due to the Commission by such municipality or person.
- Enforcing performance of things required to be done by Commission

26. *The Ontario Water Resources Commission Act* is amended by adding thereto the following section:

R.S.O. 1960, c. 281, amended

58. Any amount due and payable by a municipality or a person to the Commission under any agreement or otherwise, together with all interest and expenses of debt service, if any, payable by the Commission to the Treasurer of Ontario with respect to such amount may be recovered with costs in a court of competent jurisdiction as a debt due to the Commission by the municipality or person.
- Recovery of moneys owing to Commission

27. This Act comes into force on the day it receives Royal Assent.

Commencement

28. This Act may be cited as *The Ontario Water Resources Commission Amendment Act, 1970*.

Short title

