

1914

c 199 Municipal Arbitrations Act

Ontario

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CHAPTER 199.

An Act respecting Municipal Arbitrations.

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

- Short title. 1. This Act may be cited as *The Municipal Arbitrations Act*. 3-4 Geo. V. c 49, s. 1.
- Appointment of Official Arbitrator. 2.—(1) All claims against the corporation of a city having a population of not less than 100,000 for compensation or damages for land expropriated or injuriously affected under *The Municipal Act*, and all other claims and questions arising under any lease or other contract to which the corporation is a party, and which by law or by the terms of the lease or contract are to be determined by arbitration, shall be heard and determined by an official referee appointed by the Lieutenant-Governor in Council and who shall be called the Official Arbitrator.
- Rev. Stat. c. 192.
- Powers, etc., of Official Arbitrator. Qualification. (2) The Official Arbitrator shall
- (a) be a barrister of at least ten years' standing at the bar of Ontario;
- (b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitration Act*;
- (c) be an officer of the Supreme Court;
- (d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;
- (e) have all the powers of a Judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties,
- Powers. Rev. Stat. c. 56. Rev. Stat. c. 192. Rev. Stat. c. 65.
- Status.
- Disability.
- Other powers.

including the power of awarding costs. 3-4 Geo. V. c. 49, s. 2.

3. If any person interested in any such claim or question desires that the same should be determined by the Official Arbitrator he shall give to the clerk of the municipality and to every other person interested seven clear days' notice that the same is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy; and upon such notice, with proof of the service of it, being filed with him the Official Arbitrator may proceed to hear and determine the matters so referred to him. 3-4 Geo. V. c. 49, s. 3.

Commencement of proceedings under Act.

4. Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Divisional Court to determine the weight which should be attached to it. 3-4 Geo. V. c. 49, s. 4.

When arbitrator to state reasons in writing.

5. The award of the Official Arbitrator, with his notes of evidence and exhibits and the reasons of his decision, shall be filed in the office of the registrar of the Appellate Division, and notice of the filing shall forthwith be given by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors; and upon the request of any of the parties interested in the inquiry the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. 3-4 Geo. V. c. 49, s. 5.

Filing award.

Extending notes of evidence.

6. The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. 3-4 Geo. V. c. 49, s. 6.

Fees to be paid before award made public.

7. The award may be appealed against to a Divisional Court in the same manner as the decision of a Judge of the Supreme Court sitting in Court is appealed from, and shall be binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. 3-4 Geo. V. c. 49, s. 7.

Appeal to Divisional Court.

8. The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. 3-4 Geo. V. c. 49, s. 8.

Vacation.

9. Where no appeal is taken within the prescribed time, or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. 3-4 Geo. V. c. 49, s. 9.

Giving out exhibits when no appeal.

Transferring
actions to
Arbitrator.

10. Where an action has been brought or is pending the Court or a Judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be deemed proper; and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may deem just and convenient, and, subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. 3-4 Geo. V. c. 49, s. 10.

How costs to
be taxed.

11. Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. 3-4 Geo. V. c. 49, s. 11.

Fees of Official
Arbitrator.

12.—(1) The Official Arbitrator shall be entitled to be paid for his services while sitting upon any arbitration at the rate of \$20 per day, or a proportionate part thereof where a sittings upon any one day occupies less than a whole day; and for a meeting, at which the reference is not proceeded with but a postponement is made at the request of any party, \$4.

By whom
payable.

(2) One-half of such fees shall be payable by each of the parties to the reference if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator shall have power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees shall be recoverable as any other costs of the arbitration.

Recovery
of fees.

(3) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof the fees and expenses of the Official Arbitrator shall be recoverable by action from any one or more of the parties to the arbitration.

Idem.

(4) Nothing herein shall prejudicially affect the right of the arbitrator to recover his fees or expenses in any way in which they may now be recovered. 3-4 Geo. V. c. 49, s. 12.

Appointment
of assessor.

13.—(1) The Lieutenant-Governor in Council may appoint for such municipality an assessor of sound judgment, experience and knowledge in and as to matters relating to real property within the municipality to sit with the Official Arbitrator.

In what
cases to be
called in.

(2) The assessor shall be called upon by the Official Arbitrator—

(a) upon the request of all the parties to an arbitration, and at any stage of the proceedings; or

(b) where the Official Arbitrator desires his advice and assistance, and no party to the proceedings objects thereto, at the time he is so called upon.

(3) The assessor shall not make or join in the award, but shall otherwise give the Official Arbitrator such assistance as he may require. Function of assessor.

(4) The assessor shall be entitled for his services while sitting on an arbitration to be paid at the rate of \$10 per day, or a proportionate part thereof where a sitting on any one day occupies less than a whole day; and for a meeting where the reference is not proceeded with but a postponement is made at the request of any party, \$2. Assessor's fee.

(5) The fees of the assessor shall be payable by the same parties and in the same proportion and manner and shall be recoverable in the same way as those of the arbitrator, and shall be treated in all respects in the same manner as the fees of the arbitrator as to the ultimate payment thereof and as to the manner of such payment. 3-4 Geo. V. c. 49, s. 13. How payable.

14.—(1) The Judges of the Supreme Court shall have the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as they have in respect to proceedings under *The Judicature Act*. Power to make rules and tariff. Rev. Stat. c. 56.

(2) Such rules and tariffs shall be published in the *Ontario Gazette* and shall thereupon have the force of law, and the same shall be laid before the Assembly forthwith after such publication if the Assembly is then in session, and if it is not then in session then within fifteen days after the opening of the next session. 3-4 Geo. V. c. 49, s. 14. Publication of rules and tariff.

15.—(1) This Act shall extend and apply to the County of York and to the Township of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality shall be brought within the provisions of this Act; and in that case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. Application Act.

(2) Where the council of any such municipality has by by-law so declared, or shall hereafter so declare, an Official Arbitrator may be appointed for such municipality by the Lieutenant-Governor in Council; and he shall have and may exercise within such municipality all the powers conferred upon the Official Arbitrator by this Act. Appointment in such cases.

(3) The council of a municipality which has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law; and upon such repeal this Act shall cease to apply or be in force in such municipality. 3-4 Geo. V. c. 49, s. 15. Repeal of by-law bringing Act into force.