CHAPTER 23

An Act to revise
several Acts related to Aggregate Resources

Assented to June 20th, 1989

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

Definitions

1.—(1) In this Act,

“aggregate” means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock other than metallic ores, or other prescribed material;

“Board” means the Ontario Municipal Board;

“Commissioner” means the Mining and Lands Commissioner;

“earth” does not include topsoil and peat;

“environment” means the air, land and water, or any combination or part thereof of the Province of Ontario;

“established pit or quarry” means a pit or quarry from which a substantial amount of aggregate has been excavated within the two-year period immediately before the part of Ontario in which the pit or quarry is located was designated under subsection 5 (2);
"excavate" includes the preparation of land for excavation and removal of hills, sand dunes, knolls, stones and rocks other than metallic ores from the general surface of the ground;

"final rehabilitation" means rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit performed after the excavation of aggregate and the progressive rehabilitation, if any, have been completed;

"highway" has the same meaning as in the Public Transportation and Highway Improvement Act and includes an unopened road allowance;

"inspector" means any employee of the Ministry designated in writing by the Minister as an inspector for the purposes of this Act;

"land under water" means the bed, bank, beach, shore, bar, flat or water of or in any lake, river, stream or other waterbody or adjoining any channel or entrance thereto but does not include a waterbody resulting from excavation of aggregate below the water table;

"licence" means a licence for a pit or quarry issued under this Act;

"licensee" means a person who holds a licence;

"management" means the provision for the identification, orderly development and protection of the aggregate resources of Ontario;

"Minister" means the Minister of Natural Resources;

"Ministry" means the Ministry of Natural Resources;

"operate", when used in relation to a pit or quarry, means "work" and includes all activities associated with a pit or quarry that are carried out on the site;

"permit" means an aggregate permit or a wayside permit issued under this Act;

"permittee" means a person who holds a permit;

"person" includes a public authority;
"pit" means land or land under water from which unconsolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

"prescribed" means prescribed by the regulations;

"progressive rehabilitation" means rehabilitation done sequentially, within a reasonable time, in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit during the period that aggregate is being excavated;

"public authority" means the Crown, a municipality, a local board as defined in the Municipal Affairs Act or a local roads board;

"quarry" means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site or in relation to which an order has been made under subsection (3);

"regional municipality" includes a district municipality and The Municipality of Metropolitan Toronto;

"regulations" means the regulations made under this Act;

"rehabilitate" means to treat land from which aggregate has been excavated so that the use or condition of the land,

(a) is restored to its former use or condition, or

(b) is changed to another use or condition that is or will be compatible with the use of adjacent land;

"road" has the same meaning as highway;

"site" means the land or land under water to which a licence or permit or an application therefor relates;

"Treasurer" means the Treasurer of Ontario and Minister of Economics;

"zoning by-law" means a by-law passed under section 34 or 37 of the Planning Act, 1983 or any predecessor thereof and includes an order made under clause 46 (1) (a) of the
Planning Act, 1983 or any predecessor thereof and a land use regulation made under subsection 4 (1) of the Parkway Belt Planning and Development Act or any predecessor thereof and includes zoning control by a development permit issued under the Niagara Escarpment Planning and Development Act. R.S.O. 1980, c. 378, s. 1, amended.

(2) The Minister may, in his or her absolute discretion, determine in cases where doubt exists, whether an excavation site is a pit or quarry.

(3) The Minister, if of the opinion that the primary purpose of an excavation is not for the production of aggregate, may in his or her absolute discretion by order declare that the land or land under water on which the excavation is situate is not a pit or quarry for the purposes of this Act.

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed order under subsection (3), including reasons therefor, upon the clerk of the local municipality in which the excavation is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment.

(5) The Minister may not issue the order until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. New.

PART I

GENERAL

2. The purposes of this Act are,

(a) to provide for the management of the aggregate resources of Ontario;

(b) to control and regulate aggregate operations on Crown and private lands;

(c) to require the rehabilitation of land from which aggregate has been excavated; and

(d) to minimize adverse impact on the environment in respect of aggregate operations. New.

3.—(1) The Minister is responsible for the administration of this Act and the regulations.
(2) In administering this Act, the Minister may,

(a) initiate research related to technical matters pertaining to,

(i) the aggregate industry, including the transportation of aggregate and the rehabilitation of pits and quarries,

(ii) underground mining of aggregate, and

(iii) aggregate excavation from beneath water;

(b) initiate studies of geological deposits that may yield aggregate of commercial qualities and quantities;

(c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;

(d) collect, analyze and publish statistics related to the aggregate industry;

(e) initiate studies related to the uses of aggregate and the economics and operations of the aggregate industry;

(f) advise ministries and municipalities on planning matters related to aggregate;

(g) initiate studies related to abandoned pits and quarries;

(h) initiate studies on environmental and social matters related to pits and quarries;

(i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;

(j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries;

(k) employ any person to perform work in connection with any matter mentioned in this Act; and

(l) consult with ministries, municipalities and agencies. New.
4.—(1) The Minister may designate in writing any employee of the Ministry as an inspector for the purposes of this Act.  R.S.O. 1980, c. 378, s. 1 (b), amended.

(2) An inspector, for the purpose of carrying out assigned duties,

(a) may enter, at any reasonable time, any land, vessel or business premises that is or appears to be used or has or appears to have been used in respect of a pit or quarry or any activity or use related to aggregate or rehabilitation;

(b) may require the production of a licence, a permit, any record or document respecting aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof;

(c) may, upon giving a receipt therefor, remove any licence, permit, record or document produced under clause (b) and make copies thereof; and

(d) may, alone or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material.  R.S.O. 1980, c. 378, s. 13 (1), amended.

(3) An inspector who makes a copy under clause (2) (c) shall do so with dispatch and shall promptly return the original licence, permit, record or document.

(4) Any copy made as provided in clause (2) (b) or (c) and certified to be a true copy by the inspector who carried out the inspection is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original licence, permit, record or document and its contents.  New.

5.—(1) This Act and the regulations apply to,

(a) all aggregate and topsoil that is the property of the Crown or that is on land the surface rights of which are the property of the Crown;

(b) private land in parts of Ontario that have been designated under the Pits and Quarries Control Act or a predecessor thereof;  R.S.O. 1980, c. 378
Designation of parts

(c) private land in parts of Ontario that are designated under subsection (2); and

(d) all land under water.  New.

(2) The Lieutenant Governor in Council may make regulations designating parts of Ontario for the purpose of clause (1) (c).  R.S.O. 1980, c. 378, s. 2, amended.

(3) The Lieutenant Governor in Council may make regulations redesignating the parts of Ontario that have been designated under the Pits and Quarries Control Act or a predecessor thereof.  New.

Act binds the Crown

6. This Act binds the Crown except where it specifically states otherwise.  New.

PART II

LICENCES

7.—(1) No person shall, in a part of Ontario designated under section 5, operate a pit or quarry on land that is not land under water and the surface rights of which are not the property of the Crown except under the authority of and in accordance with a licence.

(2) Any person may apply to the Minister, on a form provided by the Minister,

(a) for a Class A licence to excavate annually more than 20,000 tonnes of aggregate from a pit or quarry; or

(b) for a Class B licence to excavate annually 20,000 tonnes or less of aggregate from a pit or quarry.

(3) Every application for a licence must be accompanied by,

(a) ten copies of the site plan referred to in section 8;

(b) if the application is for a Class A licence, ten copies of the report referred to in section 9;

(c) the information referred to in section 10; and

(d) the prescribed application fee.  R.S.O. 1980, c. 378, s. 4, amended.
(4) The number of copies of a site plan or of a report that are required to be submitted under subsection (3) may be varied, in specific situations, by the Minister.

(5) The Minister may require an applicant for a licence to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused. New.

8.—(1) The site plan accompanying an application for a Class A licence must show,

(a) a key map showing the location of the site;
(b) a general description of the site, including lot and concession lines, if any;
(c) the shape, dimensions and hectarage of the site;
(d) the use of the land and the location and the use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;
(e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
(f) the location of the excavation setback limits;
(g) the location and type of existing and proposed fences;
(h) the location of existing and proposed tree screens and the species, size and types of the trees;
(i) the location, dimensions and design of earth berms;
(j) any significant natural and man made features;
(k) the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden and the location and size of proposed aggregate stockpile areas;
(l) the topography of the site including existing and estimated final contours;
(m) every existing and proposed entrance to and exit from the site;

(n) all existing and proposed major roads on the site;

(o) the water table and any existing surface water on and surrounding the site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters;

(p) subject to available information, the location of water wells on and within 300 metres of the site;

(q) the maximum depth of excavation and whether it is intended to excavate below the water table;

(r) the sequence and direction of operation of the pit or quarry;

(s) the progressive rehabilitation and final rehabilitation plans; and

(t) any other necessary information respecting the site.

R.S.O. 1980, c. 378, s. 4 (2), amended.

(2) The information required under subsection (1) must be presented in at least three separate drawings under the headings,

(a) Existing Features;

(b) Operational Plan; and

(c) Progressive Rehabilitation and Final Rehabilitation Plans.

(3) For the purpose of subsection (2), the drawings must be at a scale of 1:2000, 1:5000 or, in any particular case, at such other scale as the Minister may approve.

(4) Every site plan accompanying an application for a Class A licence must be prepared under the direction of and certified by a professional engineer who is a member of the Association of Professional Engineers of Ontario, a land surveyor who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or any other qualified person approved in writing by the Minister. New.
(5) The site plan accompanying an application for a Class B licence must show,

(a) a key map showing the location of the site;

(b) a general description of the site, including lot and concession lines, if any;

(c) the shape, dimensions and hectarage of the site;

(d) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;

(e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;

(f) the location of the excavation setback limits;

(g) the location and type of existing and proposed fences;

(h) the location of existing and proposed tree screens and the species, size and types of the trees;

(i) the location, dimensions and design of earth berms;

(j) any significant natural and man made features;

(k) the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden and the location and size of proposed aggregate stockpile areas;

(l) the existing and estimated final elevations of the site;

(m) every existing and proposed entrance to and exit from the site;

(n) any existing surface water on and surrounding the site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface waters;

(o) subject to available information, the location of water wells on and within 300 metres of the site;
(p) the maximum depth of excavation and whether it is intended to excavate below the water table;

(q) the sequence and direction of operation of the pit or quarry;

(r) the progressive rehabilitation and final rehabilitation plans;

(s) the approximate scale; and

(t) any other necessary information respecting the site.


(6) Every site plan accompanying an application for a Class B licence must be in a style and manner acceptable to the Minister and must be signed by the applicant.

(7) Every site plan submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. New.

9.—(1) The report accompanying an application for a Class A licence must be signed by the author and must provide information for evaluation by the Minister,

(a) as to the suitability of the progressive rehabilitation and final rehabilitation plans having regard to the adjacent lands;

(b) describing the environment that may be expected to be affected by the pit or quarry operation and any proposed remedial measures that are considered necessary;

(c) describing the social and economic effects that may be expected as a result of the pit or quarry operation;

(d) respecting the quality and quantity of the aggregate on the site;

(e) as to the main haulage routes and proposed truck traffic to and from the site;

(f) supplementing clause 8 (1) (o);

(g) describing the location and size of existing and proposed stockpiles of topsoil, subsoil and overburden
and the location and size of proposed aggregate stockpile areas;

(h) respecting any planning and land use considerations;

(i) setting out the reasons for any conclusions in the report; and

(j) any other necessary information respecting the site.

(2) Every report submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued.  

10. An applicant for a licence must furnish information satisfactory to the Minister describing the zoning by-laws applicable to the site and adjacent lands.  

11.-(1) The Minister, upon being satisfied that an application for a licence and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information and comment.

(2) On the day that the Minister effects service under subsection (1), the Minister shall serve the applicant with notice that the applicant must cause notice of the application,

(a) to be published in the prescribed form in two successive issues of a newspaper or newspapers having general circulation in the locality in which the site is located; and

(b) to be given in signs placed in the prescribed manner on the site.

(3) The applicant shall notify the Minister when the publication of the notice and the placement of the signs have been completed.

(4) Any person may serve upon the Minister, within forty-five days after the second publication of the notice under clause (2) (a) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor.
(5) Upon receipt of a notice under subsection (4), the Minister shall provide the applicant with a copy thereof. New.

(6) Any person who has served notice under subsection (4) may, in addition, serve upon the Minister, within the period provided under subsection (4), a notice that the person requires a hearing of the matter before the Board.

(7) Upon receipt of a notice under subsection (6) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (3), amended.

(8) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), amended.

(9) The Board may consider an application for an amendment to any relevant planning matter referred to it under the Planning Act, 1983 and an application referred to it under subsection (7) or (8) at the same hearing. New.

12. The Minister in considering whether to issue or refuse a licence shall have regard to,

(a) the effect of the operation of the pit or quarry on the environment;
(b) the effect of the operation of the pit or quarry on nearby communities;
(c) any comments provided by the municipality in which the site is located;
(d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
(e) any possible effects on ground and surface water resources;
(f) any possible effects of the operation of the pit or quarry on agricultural resources;
(g) any planning and land use considerations;
(h) the main haulage routes and proposed truck traffic to and from the site;
(i) the quality and quantity of the aggregate on the site;

(j) the recommendation of the Board under section 21, if such a recommendation is made; and

(k) such other matters as are considered appropriate.

R.S.O. 1980, c. 378, s. 6 (1), amended.

13.—(1) The Minister may issue a licence, subject to such conditions as the Minister considers necessary. R.S.O. 1980, c. 378, s. 6 (4), amended.

(2) Subject to section 20, the Minister may, at any time, add a condition to a licence or rescind or vary a condition of a licence.

(3) A licensee and any municipality served with notice under clause 20 (4) (a) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed.

(4) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and if the licensee waives the right under subsection 20 (6) to require a hearing.

(5) The Minister may, subject to subsections 69 (3) and 70 (3), issue a licence only if the site complies with all relevant zoning by-laws.

(6) The Minister, if in doubt as to whether there is compliance with a zoning by-law, may require the applicant to refer the matter to the Divisional Court for a declaratory judgment on the matter.

(7) The Minister, on issuing a licence, shall serve a copy of it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. New.

14.—(1) Every licensee shall pay to the Treasurer an annual licence fee, at a time specified by the Minister, in an amount equal to the application fee paid for the licence or calculated by multiplying the number of tonnes of aggregate removed from the site during the previous year by the prescribed rate per tonne, whichever is greater.
Revocation

(2) If the required licence fee is not paid, the Minister may revoke the licence.

No notice or hearing

(3) Subsections 20 (3), (5) and (6) do not apply to a licence revoked under subsection (2).

Disbursal of annual licence fees

(4) The prescribed percentage of the total of the annual licence fees collected shall be disbursed to such municipalities and in such amounts, manner and for such purposes as are prescribed.

Rehabilitation of abandoned pits and quarries

(5) The prescribed percentage of the total of the annual licence fees collected shall be set apart for the purposes mentioned in subsection 33 (2).

Unpaid licence fees

(6) Any unpaid annual licence fee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. New.

Duties of licensees

15. Every licensee shall operate the licensee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the licence. R.S.O. 1980, c. 378, s. 3, s.4 (4), part, amended.

Amendment of site plans

16.—(1) Subject to section 20, the Minister may at any time require a licensee to amend the site plan. New.

Idem

(2) A licensee may amend the site plan at any time with the approval in writing of the Minister. R.S.O. 1980, c. 378, s. 4 (4), part, amended.

Idem

(3) The Minister may require any amended site plan to be prepared under the direction of and certified by a person referred to in subsection 8 (4).

No action until 30 days elapsed after notice by Minister

(4) A licensee and any municipality served with notice under clause 20 (4) (b) or (c) may provide the Minister with comments within thirty days after service of the notice and the Minister shall take no action until the thirty days have elapsed.

Exception

(5) The Minister may take the proposed action before the thirty days have elapsed if comments have been received from all persons notified and, in the case of a proposal to require the amendment of a site plan, if the licensee waives the right under subsection 20 (6) to require a hearing. New.

Inspection and review

17.—(1) For the purpose of assessing the licensee's compliance with this Act, the regulations, the site plan and the con-
ditions of the relevant licence, the Minister, at least once a
year,

(a) shall cause each site to be inspected;

(b) shall cause a review of each site plan and the condi-
tions of each licence; and

(c) shall consider all comments provided by the munici-
palities in which the site is located concerning the
licensee's compliance with this Act, the regulations,
the site plan and the conditions of the relevant
licence. R.S.O. 1980, c. 378, s. 7 (1), amended.

(2) An inspector, upon completing an inspection of a site,
shall prepare a written report that shall include a descrip-
tion of any practice or procedure of the licensee or any matter
related to the site that, in the opinion of the inspector, is a
contravention of this Act, the regulations, the site plan or the
conditions of the relevant licence.

(3) Any person may, during normal office hours of the
Ministry, examine any report made under subsection (2) and,
upon a request therefor and payment of a reasonable fee,
such person shall be provided with a copy of the report or
extracts therefrom.

(4) For the purpose of each fourth review under subsection
(1), the Minister shall, where applicable, request in writing
that the council of the regional municipality or county, as the
case may be, and the council of the local municipality in which
each pit or quarry is located send to him or her, within forty-
five days after receiving the request, their comments on each
pit or quarry concerning the licensee's compliance with this
Act, the regulations, the site plan and the conditions of the
relevant licence.

(5) If a copy of a site plan is served upon the Minister
under subsection 69 (5), each fourth review shall be calculated
from the year in which service was made upon the Minister.

New.

18.—(1) Upon application therefor accompanied by the
prescribed transfer fee, the Minister may consent to the trans-

(2) Any municipality served with notice under clause
20 (4) (d) may provide the Minister with comments on compli-
ance with this Act, the regulations, the site plan and the con-
ditions of the licence within thirty days after service of the
notice and the Minister shall take no action until the thirty days have elapsed or comments have been received, whichever occurs first.

(3) When a licence is transferred, any sum in the rehabilitation security account of the transferor shall be transferred to an account in the name of the transferee and the right, title and interest in that sum vest in the transferee.

(4) When a licence is transferred, the Minister shall, where applicable, serve a copy of the licence in the name of the transferee upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

(5) On the death of an individual who holds a licence as a sole proprietor, the personal representative of the individual may continue to operate the pit or quarry for a period of one year as if the licence were issued to the personal representative.

(6) A personal representative who operates a pit or quarry under subsection (5) shall notify the Minister of the death of the licensee within one month thereafter. New.

19.—(1) Upon being satisfied that a licensee's annual licence fee and rehabilitation security, whenever payable, have been paid before the licensee applies to surrender a licence and that the rehabilitation has been performed in accordance with this Act, the regulations, the site plan and the conditions of the licence, the Minister may accept the surrender of the licence.

(2) Any sum remaining in a former licensee's rehabilitation security account when the Minister accepts surrender of the licence shall be paid by the Treasurer to the former licensee. New.

20.—(1) The Minister may refuse to issue or refuse to consent to the transfer of a licence. R.S.O. 1980, c. 378, s. 6 (1), part, amended.

(2) The Minister may revoke a licence for any contravention of this Act, the regulations, the site plan or the conditions of the licence. R.S.O. 1980, c. 378, s. 7 (2), amended.

(3) If the Minister,
(a) refuses to issue a licence and the application has not been referred to the Board for a hearing under section 11 or 60;

(b) attaches a condition to a licence issued under subsection 69 (3) that adds, rescinds or varies a condition of the licence it replaces;

(c) refuses to consent to the transfer of a licence; or

(d) revokes a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the applicant or licensee.

(4) If the Minister,

(a) proposes to add a condition to a licence after its issue or to rescind or vary a condition of a licence;

(b) proposes to require the amendment of a site plan;

(c) proposes to approve the amendment of a site plan; or

(d) proposes to consent to the transfer of a licence,

he or she shall serve forthwith notice thereof, including reasons therefor, upon the licensee and where, in the opinion of the Minister, the matter is of importance and it is appropriate to do so, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

(5) Any action of the Minister under clause (3) (a), (b), (c) or (d) is effective as soon as the required notice is served upon the applicant or licensee and, despite the fact that the applicant or licensee requires a hearing by the Board, remains effective until the Minister takes action under subsection 21 (4).

(6) An applicant or licensee who is served with a notice under subsection (3) or (4) is entitled to a hearing by the Board if the applicant or licensee, within thirty days after being served, serves the Minister with a notice that a hearing is required.

(7) The Minister, if served with a notice under subsection (6), shall, within thirty days after being served, refer the mat-
ter to the Board for a hearing. R.S.O. 1980, c. 378, s. 8, amended.

(8) If the Minister proposes an action referred to in clause (4) (a) or (b) and the applicant or licensee does not require a hearing under subsection (6), the Minister may carry out the proposal. New.

21.—(1) The Board shall hold a hearing on a matter referred to it under section 11, 20 or 60, and the applicant or licensee, the Minister and such other persons as the Board specifies shall be parties to the hearing.

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the Ontario Municipal Board Act, except that section 94 of that Act does not apply.

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister setting out its findings and its recommendations as to the issue involved and shall send a copy of its report to each party to the hearing.

(4) After considering the report of the Board, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision and the reasons therefor upon the other parties to the hearing and upon any municipality served under subsection 11 (1) or subsection 20 (4), as the case may be.

(5) The decision of the Minister is final. R.S.O. 1980, c. 378, s. 9, amended.

22.—(1) The Minister may suspend a licence for any period of time, not exceeding six months, for any contravention of this Act, the regulations, the site plan or the conditions of the licence, effective as soon as the notice mentioned in subsection (2) is served upon the licensee. R.S.O. 1980, c. 378, s. 8 (4), amended.

(2) Notice of suspension of a licence, including the reasons therefor, shall be served upon the licensee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

(3) The notice mentioned in subsection (2) shall inform the licensee of the period of the suspension, of the action the licensee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the
licensee has complied with the notice to the satisfaction of the Minister, and that, if the licensee does not comply with the notice within the period of the suspension, the Minister may revoke the licence.

(4) If a licensee whose licence has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the licence, in which case subsections 20 (3), (5) and (6) apply. New.

PART III
WAYSIDE PERMITS

23.—(1) Any public authority, or any person who has a contract with a public authority, that requires aggregate for a temporary project from a source in a part of Ontario designated under section 5 that is not under licence or permit may apply to the Minister, on a form provided by the Minister, for a wayside permit to operate a pit or quarry.

(2) Subsection 7 (1) does not apply to a person who has a wayside permit.

(3) An application under subsection (1) shall not be considered unless, in the Minister's opinion,

(a) the aggregate is required,

(i) for a project of road construction or road maintenance, from outside the limits of the right of way of the highway, or

(ii) for an urgent project for which no alternative source of aggregate under licence or permit is readily available in the vicinity;

(b) the aggregate is necessary for the purposes of a contract or project; and

(c) adequate provision can be made as conditions of the permit to ensure a method of operation and rehabilitation so as to cause only a temporary inconvenience to the public.

(4) Every application for a wayside permit shall be accompanied by five copies of the site plan referred to in section 25.

(5) The Minister may require an applicant for a wayside permit to furnish additional information in such form and
manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused.

(6) The Minister, upon being satisfied that an application for a wayside permit and the documents accompanying it comply with this Act and the regulations, shall, where applicable, serve a copy of the application and accompanying documents upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. New.

24.—(1) Every applicant for a wayside permit shall, before the permit is issued, pay to the Treasurer a prescribed permit fee or a permit fee as calculated by multiplying the maximum number of tonnes that the permit authorizes by the prescribed rate per tonne of aggregate, whichever is the greater.

(2) If a wayside permit expires or is revoked, the permittee is entitled to a refund of any remaining balance of the permit fee calculated by multiplying the number of tonnes that the permit authorized that were not removed from the site by the prescribed rate per tonne of aggregate applicable at the date the permit was issued.

(3) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be disbursed to such municipalities and in such amounts, manner and for such purposes as are prescribed.

(4) Subject to subsection (2), the prescribed percentage of the total of the wayside permit fees collected shall be set apart for the purposes mentioned in subsection 33 (2).

(5) Despite subsection (2), the prescribed permit fee is not refundable. New.

25.—(1) The site plan accompanying an application for a wayside permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.

(2) The site plan accompanying an application for a wayside permit must show,

(a) a key map showing the location of the site;

(b) a general description of the site, including lot and concession lines, if any;
(c) the public authority that is a party to the contract and the number of the project;

(d) the location of the project;

(e) the name and address of the owner of the site;

(f) the shape, dimensions and hectarage of the site and the area to be excavated;

(g) the existing and estimated final elevations of the site;

(h) the use of the land and the location and use of the buildings and other structures within 150 metres of the site of the pit or within 500 metres of the site of the quarry;

(i) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;

(j) any significant natural and man made features;

(k) every entrance to and exit from the site;

(l) any existing and proposed drainage facilities on the site and points of discharge to surface waters;

(m) subject to available information, the location of water wells on and within 300 metres of the site;

(n) the maximum depth of excavation and whether it is intended to excavate below the water table;

(o) the sequence and direction of operation of the pit or quarry;

(p) the final rehabilitation plan;

(q) the approximate scale; and

(r) any other necessary information respecting the site.

(3) Every site plan submitted with an application under this section becomes the property of the Crown upon the permit applied for being issued. New.

26. The Minister in considering whether to issue or refuse a wayside permit shall have regard to,
(a) any comments provided by the municipalities in which the site is located;

(b) the effect of the operation of the pit or quarry on the environment and nearby communities;

(c) the amount of aggregate estimated to be removed from the site;

(d) the estimated cost of the aggregate for the project as compared with that from any alternative source of supply;

(e) the proper management of the aggregate resources of the area;

(f) any previous wayside permits for the site and adjacent lands;

(g) the rehabilitation of the site and its compatibility with adjacent land;

(h) any possible effects on ground and surface water resources;

(i) any proposed aesthetic improvements to the landscape;

(j) the main haulage routes and proposed truck traffic to and from the site; and

(k) such other matters as are considered appropriate.  

R.S.O. 1980, c. 378, s. 12 (2), amended.

27.—(1) The Minister may in his or her discretion issue a wayside permit whether or not the location of the site complies with all relevant zoning by-laws.  


(2) No wayside permit shall be issued if the issuance will result in more than one wayside permit for one site at any time.

(3) Despite subsection (1), no wayside permit shall be issued for a site in the Niagara Escarpment Planning Area, as defined in the Niagara Escarpment Planning and Development Act, unless the location of the site complies with a development permit issued under that Act.
(4) Despite subsection (1), no wayside permit shall be issued for a site zoned and developed for residential use or zoned as an area having particular environmental sensitivity.

(5) The Lieutenant Governor in Council may make regulations governing and limiting the issuance of wayside permits. New.

28. The Minister, on issuing a wayside permit, shall, where applicable, serve a copy of the wayside permit upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. New.

29. Every wayside permittee shall operate the permittee’s pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the permit. R.S.O. 1980, c. 378, s. 3, s. 4 (4), part, amended.

30.—(1) The Minister may in his or her discretion issue a wayside permit subject to such conditions as are considered necessary, including conditions that set out the maximum amount of aggregate that may be removed, the maximum area that may be excavated and, subject to section 31, the duration of the permit.

(2) The Minister may, at any time, add a condition to a wayside permit or rescind or vary any condition of a wayside permit.

(3) The Minister, after taking any action under subsection (2), shall serve notice thereof, including reasons therefor, upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. New.

31. A wayside permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. R.S.O. 1980, c. 378, s. 12 (4), amended.

32.—(1) The Minister may, at any time, suspend or revoke a wayside permit for any contravention of this Act, the regulations, the site plan or the conditions of the permit, effective as soon as the notice mentioned in subsection (2) is served upon the permittee. R.S.O. 1980, c. 378, s. 12 (5), amended.
Notice to municipalities

(2) Notice of suspension or revocation of a permit, including reasons therefor, shall be served upon the permittee and, where applicable, upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information.

Suspension—duration

(3) The Minister may suspend a wayside permit for any period of time not exceeding six months.

Suspension—further particulars of notice

(4) The notice mentioned in subsection (2) shall inform the permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit.

Suspension—consequence of no remedial action

(5) If a permittee whose permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the permit. New.

PART IV

ABANDONED PITS AND QUARRIES

33.—(1) The Minister may declare any pit or quarry for which a licence or wayside permit is not in force to be abandoned,

(a) after receiving the consent of the person assessed for the land on which the pit or quarry is located; and

(b) where applicable, after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located.

Disbursal for rehabilitation

(2) The Minister may disburse any portion of the fees set apart under subsections 14 (5) and 24 (4) for,

(a) pre-program surveys or studies respecting the location, condition and rehabilitation of pits and quarries, for which a licence or wayside permit is not in force; and

(b) the rehabilitation of abandoned pits and quarries. New.
PART V
AGGREGATE PERMITS

34.—(1) No person shall, except under the authority of and in accordance with an aggregate permit, operate a pit or quarry,

(a) to excavate aggregate or topsoil that is on land the surface rights of which are the property of the Crown;

(b) to excavate aggregate or topsoil that is the property of the Crown from land under water;

(c) to excavate aggregate or topsoil that is the property of the Crown in a part of Ontario that is not designated under section 5; or

(d) to excavate aggregate that is not the property of the Crown from land under water.

(2) The excavation of aggregate or topsoil resulting from non-aggregate mineral extraction from a placer deposit is considered to be the operation of a pit for the purpose of subsection (1).

(3) The removal from the site of stockpiled aggregate or topsoil that is the property of the Crown and was excavated under an aggregate permit is considered to be the operation of a pit for the purpose of subsection (1).

(4) Any person may apply to the Minister, on a form provided by the Minister, for an aggregate permit to operate a pit or quarry.

(5) A person who, except for this subsection, would apply for an aggregate permit shall apply for a licence if,

(a) the site is in a part of Ontario designated under section 5;

(b) the site is partly on land the surface rights of which are the property of the Crown and partly on land the surface rights of which are not the property of the Crown; and

(c) the Minister directs the person in writing to apply for a licence. New.
35.—(1) A commercial aggregate permit authorizes the excavation of aggregate and topsoil to be used for resale or commercial purposes or in conjunction with a commercial undertaking.

(2) A public authority aggregate permit authorizes a public authority to excavate aggregate and topsoil for use by the public authority but not for resale or commercial purposes.

(3) A public authority aggregate permit authorizes a person who has a contract with a public authority to excavate aggregate and topsoil for use by that person in a project of the public authority but not for resale or commercial purposes.

(4) A personal aggregate permit authorizes an individual or a group of individuals to excavate aggregate and topsoil for use by the individual or group of individuals but not for resale or commercial purposes. New.

36.—(1) Every application for an aggregate permit must be accompanied by,

(a) a site plan;

(b) where applicable, information on any aquatic biological resources that may be affected by the operation of the pit or quarry and measures proposed to minimize impacts on and to restore aquatic biological habitat on the site; and

(c) such additional information in such form and manner as the Minister considers necessary.

(2) Until the information mentioned in subsection (1) is furnished to the Minister’s satisfaction, further consideration of the application may be refused.

(3) The Minister may waive the requirement for a site plan for an application for a personal aggregate permit.

(4) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry that is entirely on dry land must show,

(a) the location of the site;

(b) existing conditions, including the shape, dimensions and area to be excavated, topography and land use on the site and within 150 metres of the site;
(c) location, dimensions and use of any buildings or other structures existing or proposed to be erected on the site or existing within 150 metres of the site;

(d) method and phasing of the operation;

(e) estimated final elevations;

(f) proposed progressive rehabilitation and final rehabilitation plans;

(g) existing and proposed drainage and points of discharge to surface water;

(h) location and size of existing and proposed stockpiles of overburden and soil and location and size of proposed aggregate stockpile areas;

(i) location and type of fences;

(j) all existing and proposed entrances to and exits from the site;

(k) location of the excavation setback limits; and

(l) the approximate scale.

(5) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located entirely on land covered by water must show,

(a) the location of the proposed operation and distance from the nearest shore and existing shoreline land uses that may be affected by the operation;

(b) as nearly as possible the extent and nature of the aggregate deposit to be excavated;

(c) the depth of the water covering the deposit; and

(d) the proposed method of operation.

(6) The site plan accompanying an application for an aggregate permit in respect of a pit or quarry located partly on dry land and partly on land covered by water must show the information required in subsection (4) in respect of the dry land and the information required in subsection (5) in respect of the land covered by water.
(7) Every site plan accompanying an application for an aggregate permit must be in a style and manner acceptable to the Minister and must be signed by the applicant.

(8) The Minister may require additional information or may waive, vary or reduce the information required under subsection (4), (5) or (6).

(9) Every site plan submitted with an application under this section becomes the property of the Crown upon the aggregate permit applied for being issued.  

37.—(1) The Minister may issue an aggregate permit for a fixed period of not more than five years, subject to such conditions as are considered necessary.

(2) The Minister, on being satisfied that an applicant for an aggregate permit requires the use of aggregate in conjunction with the operation of a producing mine and that use will likely extend beyond five years, may issue the permit for a term exceeding five years.

(3) Every applicant for an aggregate permit shall, before the permit is issued, pay to the Treasurer a permit fee as prescribed.

(4) No aggregate permit shall be issued for sand and gravel where the sand and gravel has been included in a mining claim as a placer deposit under the Mining Act until the non-aggregate mineral has been removed from the placer deposit.

(5) An aggregate permit issued in respect of a pit or quarry located entirely or partly on land covered by water that is not the result of excavation below the water table shall contain such conditions as are considered necessary to minimize adverse impacts on or to restore aquatic biological habitat on the site.

(6) The Minister may at any time add a condition to an aggregate permit or rescind or vary any condition of such a permit.

(7) Subject to sections 43 and 44, the Minister may at any time require an aggregate permittee to amend the site plan.

(8) An aggregate permittee may amend the site plan at any time with the approval in writing of the Minister.  

38. The Minister, if of the opinion that it is in the public interest, may authorize a public authority with a project that
requires aggregate or topsoil or any person who has a contract with a public authority for such a project to excavate and remove undisturbed aggregate or topsoil in the ground that is the property of the Crown from a site that is subject to an aggregate permit.  

39.—(1) Any person who holds a commercial or public authority aggregate permit may, before the expiry of the permit, apply to the Minister for another aggregate permit for the same site to come into effect upon the expiry of the previous permit.

(2) If another aggregate permit is issued for the same site, the new permit may cover a smaller area than the previous permit covered and contain different conditions than did the previous permit and the Minister may require an amendment to the site plan that accompanied the previous permit.  

40. Every aggregate permittee shall carry on the operation in accordance with this Act, the regulations, the site plan, if any, and the conditions of the permit.  

41.—(1) Upon application therefor accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a commercial aggregate permit.

(2) A personal or public authority aggregate permit is not transferable.  

42. The Minister may,

(a) refuse to issue an aggregate permit under section 37 or 39;

(b) refuse to consent to the transfer of an aggregate permit; or

(c) revoke an aggregate permit,

if,

(d) the Minister considers the issuance, transfer or continuation of the permit to be contrary to the public interest;

(e) in the opinion of the Minister, a substantial amount of aggregate or topsoil has not been removed from the site under the permit during the previous twelve months; or
(f) the permittee has contravened any provision of this Act, the regulations, a site plan or any of the conditions to which the permit is subject.  

43.—(1) If the Minister,

(a) refuses to issue an aggregate permit to excavate aggregate or topsoil that is not the property of the Crown;

(b) revokes an aggregate permit;

(c) refuses to issue another aggregate permit;

(d) proposes to issue another aggregate permit for a smaller area or with different conditions or site plan from the previous permit;

(e) proposes to add, rescind or vary a condition of an aggregate permit;

(f) attaches a condition to an aggregate permit issued under subsection 69 (12) that adds, rescinds or varies a condition of the permit or licence it replaces; or

(g) proposes to require the amendment of a site plan,

the Minister shall serve forthwith notice thereof including the reasons therefor upon the applicant or permittee.  


(2) Any action of the Minister under clause (1) (a), (b), (c) or (f) is effective as soon as the notice is served upon the applicant or permittee and, despite the fact that the applicant or permittee requires a hearing by the Commissioner, remains effective until the Minister takes action under subsection 44 (5).

(3) The Minister shall take no action proposed under clause (1) (d), (e), (f) or (g) until the thirty days referred to in subsection 44 (1) have elapsed.

(4) The Minister may carry out a proposal under clause (1) (d), (e), (f) or (g) if the proposal is not referred to the Commissioner.  

New.

44.—(1) An applicant or aggregate permittee who is served with a notice mentioned in subsection 43 (1) is entitled to a hearing by the Commissioner if the applicant or permit-
tee, within thirty days after being served, serves the Minister with a notice that a hearing is required.

(2) The Minister, if served with a notice under subsection (1), shall, within thirty days after being served, refer the matter to the Commissioner for a hearing.

(3) The Commissioner shall hold a hearing on a matter referred under subsection (2) and, after the hearing, make a recommendation to the Minister.

(4) The Commissioner shall specify the parties to the hearing. R.S.O. 1980, c. 268, s. 119 (2, 4), *amended*.

(5) After considering the recommendation of the Commissioner, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision on the parties to the hearing.

(6) The decision of the Minister is final. *New.*

45.—(1) The Minister may suspend an aggregate permit for any period of time not exceeding six months,

(a) for any contravention of this Act, the regulations, the site plan or the conditions of the permit; or

(b) if, in the opinion of the Minister, the continuation of the operation under the permit will likely cause damage to property or is contrary to the public interest. R.S.O. 1980, c. 39, s. 4 (7), *part, amended.*

(2) The suspension shall be effective as soon as the required notice is served upon the permittee. *New.*

(3) Notice of a suspension of an aggregate permit, including the reasons therefor, shall be served upon the permittee. R.S.O. 1980, c. 39, s. 4 (7), *part, amended.*

(4) The notice of suspension shall inform the aggregate permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit.
Revocation

(5) If a permittee whose aggregate permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the aggregate permit, in which case sections 43 and 44 apply.  New.

Royalties

46.—(1) The Minister shall determine the royalty per tonne that each aggregate permittee removing from the site aggregate or topsoil that is property of the Crown must pay, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the aggregate or topsoil and its intended use.

Returns and payment

(2) Every aggregate permittee shall make a return, when required by the Minister, showing the quantity of material removed from the site and, at the same time, enclose the required royalty payment payable to the Treasurer.

Security or deposit

(3) The Minister may require an aggregate permittee to give, in an amount determined by the Minister, security of the prescribed kind or a deposit for the payment of any royalty that is due or that may become due under subsection (1).

Recovery of royalties in default

(4) The amount of a default in the payment of a royalty under this section may be recovered by the Crown from any security given under subsection (3) or as a debt due to the Crown in any court of competent jurisdiction.

Exemption from royalty payment

(5) No royalty is payable by an aggregate permittee,

(a) who is exempted from payment by the Minister; or

(b) who belongs to a class of permittees exempted from payment by the regulations.

Licensee removing Crown aggregate or topsoil pays royalties

(6) Subsections (1) to (5) apply to a licensee who removes from the site aggregate or topsoil that is the property of the Crown as if the references to “aggregate permittee” were references to “licensee”.  New.

PART VI

REHABILITATION

47. This Part does not apply to a pit or quarry or part thereof that is covered by water that is not the result of excavation of aggregate below the water table.  New.
48.—(1) Every licensee and every permittee shall perform progressive rehabilitation and final rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister.

(2) The Minister, upon being satisfied that a licensee, a permittee or former permittee has not performed adequate progressive rehabilitation on the site, may order the licensee, permittee or former permittee, as the case may be, to perform within a specified period of time such progressive rehabilitation as the Minister considers necessary and the licensee, permittee or former permittee shall comply with the order. New.

49. The Minister may waive or reduce the rehabilitation requirements, in respect of excavation of aggregate that is the property of the Crown, if, in the opinion of the Minister, to do so is not contrary to the public interest. New.

50.—(1) Every licensee shall pay to the Treasurer security for the rehabilitation of the site at the prescribed time and in the prescribed amount and manner. R.S.O. 1980, c. 378, s. 11 (1), amended.

(2) Any security for the rehabilitation of the site not paid by a licensee or former licensee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. New.

51.—(1) Every person who applies for a permit must, before the permit is issued, pay to the Treasurer security for the rehabilitation of the site in the prescribed amount and manner.

(2) Despite subsection (1), the Minister may, in the case of an aggregate permit, waive the payment, in advance, of the security in which event security shall be paid at the prescribed time.

(3) The Minister may waive any security required under this section if the Minister does not consider it to be necessary or in the public interest.

(4) Any security for the rehabilitation of a site not paid by a permittee or former permittee is a debt due to the Crown and may be recovered by the Crown in any court of competent jurisdiction. New.
52.—(1) Sums paid by a licensee or permittee under section 50 or 51 shall be held in an account in that person’s name and shall be paid out in accordance with the regulations.

(2) Sums paid by a licensee or permittee under section 50 or 51 earn interest at the prescribed rate.

(3) Interest earned under subsection (2) is part of the rehabilitation security.  New.

53. Every licensee or permittee who submits proof, satisfactory to the Minister, of progressive rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund out of the rehabilitation security account in accordance with the regulations.  New.

54. Every licensee, permittee, former licensee or former permittee who has submitted proof, satisfactory to the Minister, of final rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit is entitled to a refund of the total sum to that person’s credit in the rehabilitation security account.  New.

55.—(1) A licensee, permittee, former licensee or former permittee who does not, without this subsection, have the right to enter upon a site not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit may enter upon the site and perform such rehabilitation as the Minister considers necessary.

(2) Rehabilitation performed under subsection (1) is final rehabilitation for the purpose of section 54.  New.

56.—(1) The Minister or a person authorized in writing by the Minister may enter upon a site in respect of which a licence or permit was revoked or expired and not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister and may perform such rehabilitation as the Minister considers necessary.

(2) The cost of rehabilitation performed under subsection (1) is a debt due to the Crown by the former licensee or former permittee and shall be paid by the Treasurer out of the former licensee’s or former permittee’s rehabilitation security account.  R.S.O. 1980, c. 378, s. 11, amended.

(3) Any sum remaining to the credit of the former licensee or former permittee in that person’s rehabilitation security
account after the cost of rehabilitation performed under subsection (1) has been paid out shall be paid by the Treasurer to that person:

(4) If a sum to the credit of a former licensee or former permittee in the rehabilitation security account is insufficient to defray the cost of rehabilitation, the amount of the deficiency is a debt due to the Crown by the former licensee or former permittee and is recoverable by the Crown in any court of competent jurisdiction. \textit{New.}

\section*{PART VII
OFFENCES AND PENALTIES

\textbf{57.}—(1) Every person who operates a pit or quarry except under the authority of a licence or permit is guilty of an offence. \textit{R.S.O. 1980, c. 378, s. 4 (1), amended.}

(2) Every person who contravenes or permits the contravention of the site plan or a condition of the licence or permit is guilty of an offence.

(3) Every person who contravenes any provision of this Act or the regulations is guilty of an offence. \textit{R.S.O. 1980, c. 378, s. 18 (1), part, amended.}

(4) Every person who hinders or obstructs an inspector in the performance of the inspector's duties or furnishes the inspector with false information or refuses to furnish the inspector with information is guilty of an offence. \textit{R.S.O. 1980, c. 378, s. 13 (2), amended.}

\textbf{58.}—(1) Every person who commits an offence under section 57 is liable on conviction to a fine of not less than $500 and not more than $30,000 for each day on which the offence occurs or continues. \textit{R.S.O. 1980, c. 378, s. 18 (1), amended.}

(2) The maximum fine provided under subsection (1) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the convicted person as a result of the commission of the offence. \textit{New.}

\textbf{59.} In any prosecution under this Act, the court may, in addition to imposing a fine under section 58, make such order as the court considers proper to obtain compliance with this Act, the regulations, the site plan or any condition of a licence or permit. \textit{New.}
PART VIII

TERRITORY WITHOUT MUNICIPAL ORGANIZATION

60.—(1) The Minister, upon being satisfied that an application for a licence for a pit or quarry located in territory without municipal organization and the documents accompanying it comply with this Act and the regulations, shall serve the applicant with notice that the applicant must cause notice of the application in the prescribed form to be published in two successive issues of a newspaper having general circulation in the locality in which the site is located and to be given in signs placed in the prescribed manner on the site.

(2) The applicant shall notify the Minister when the publication of the notice has been completed. New.

(3) Any person may serve the Minister, within forty-five days after the second publication under subsection (1) or within such further period as the Minister may allow, a notice of objection to the issue of the licence applied for and the reasons therefor.

(4) Upon receipt of a notice under subsection (3), the Minister shall provide the applicant with a copy thereof.

(5) Any person serving a notice under subsection (3) may, in addition, serve the Minister within the period provided under subsection (3) a notice that the person requires a hearing of the matter before the Board.

(6) Upon receipt of a notice under subsection (5) that, in the opinion of the Minister, discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, the Minister shall refer the application and the objections to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (1, 3), amended.

(7) The Minister may, on his or her own motion, refer an application and objections, if any, to the Board for a hearing. R.S.O. 1980, c. 378, s. 5 (4), amended.

(8) The Board may consider an application referred to it under section 34 of the Planning Act, 1983, and an application referred to it under this section at the same hearing. New.

61.—(1) The Minister shall, in addition to any notice that is required to be served, publish notice of a proposed action under subsection 13 (2), subsection 16 (1) or (2) or subsection 68 (1) or (2) in respect of a site located in territory without
municipal organization in two successive issues of a newspaper having general circulation in the locality in which the site is located.

(2) The Minister may dispense with publication of the notice under subsection (1) if the Minister does not consider the proposal to be a significant matter.

(3) Any person may provide the Minister with comments at any time up to thirty days after the second publication under subsection (1) and the Minister may take no action until the thirty days have elapsed.

(4) Any notice required to be given by the Minister to a municipality for the purpose of information only may, in respect of a site located in territory without municipal organization, be given to such persons and in such manner as the Minister, in his or her discretion, directs. New.

PART IX
MISCELLANEOUS

62.—(1) Every licensee or permittee shall keep, for a period of seven years, detailed records of the operation for which the licence or permit has been issued, including copies of all documents relating to sales and shipments.

(2) Every licensee or permittee shall make available for inspection by any person authorized for the purpose of this Act all the records required to be kept under subsection (1). R.S.O. 1980, c. 268, s. 121, amended.

63.—(1) If it appears to the Minister that any person is not complying or does not intend to comply with this Act or the regulations or a site plan or a condition of a licence or permit, despite the imposition of any penalty for non-compliance, the Minister may apply to a judge of the High Court for an order directing the person to comply.

(2) Upon an application under subsection (1), the judge may make such order as he or she considers proper.

(3) An appeal lies to the Divisional Court from an order made under subsection (2). R.S.O. 1980, c. 378, s. 15, amended.

64.—(1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom
service is to be made at the last address for service appearing on the records of the Ministry.

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, and for cause beyond that person's control, receive the notice until a later date. R.S.O. 1980, c. 378, s. 16, amended.

65. This Act and the regulations are in addition to and not in substitution for Regulation 694 of Revised Regulations of Ontario, 1980, made under the Occupational Health and Safety Act or any provisions substituted therefor at any time. New.

66. (1) In the event that this Act and the regulations and a municipal by-law, official plan or development agreement treat the same subject-matter in different ways, this Act and the regulations prevail and the by-law, official plan or development agreement is inoperative to the extent that it differs from this Act and the regulations. R.S.O. 1980, c. 378, s. 17 (2), amended.

(2) Subsection (1) applies whether the by-law, official plan or development agreement comes into force before or after this Act.

(3) Every municipal by-law passed under the Municipal Act, except a by-law passed under paragraph 137 of section 210, that purports to prohibit the carrying on or operating of a pit or quarry or wayside pit or quarry is inoperative to the extent that it differs from this Act and the regulations.

(4) Subsection (3) applies to by-laws passed before or after this Act comes into force. New.

67. The Lieutenant Governor in Council may make regulations,

(a) respecting the management of the aggregate resources of Ontario;

(b) prescribing material as aggregate;

(c) prescribing duties of inspectors;

(d) prescribing or providing for the calculation of fees and providing for the payment thereof;
(e) prescribing a rate per tonne of aggregate for the purpose of calculating fees;

(f) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that shall be disbursed to municipalities, prescribing the amounts, manner and purposes of such disbursements and prescribing the municipalities to which such disbursements shall be made;

(g) requiring and providing for the records and information that must be kept and returns that must be filed by municipalities to which fees are disbursed;

(h) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that may be set apart and disbursed for the purposes mentioned in subsection 33 (2);

(i) respecting the control and operation of pits and quarries;

(j) prescribing the minimum royalty for aggregate that is the property of the Crown and providing for the payment thereof;

(k) exempting a class or classes of aggregate permittees from the payment of royalties;

(l) prescribing kinds of security for the purposes of subsection 46 (3);

(m) governing the rehabilitation of pits and quarries;

(n) respecting the form, terms and conditions and time of payment of rehabilitation security, prescribing a rate per tonne of aggregate for the purpose of calculating rehabilitation security, prescribing maximum and minimum amounts per hectare of rehabilitation security for aggregate operations, prescribing the rate of interest payable thereon and providing for refunds from rehabilitation security accounts and royalty accounts;

(o) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;

(p) prescribing forms for the purposes of this Act and providing for their use;
(q) prescribing the size and content of signs required under subsections 11 (2) and 60 (1) and governing the placement thereof;

(r) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act.
R.S.O. 1980, c. 378, s. 19 (1), amended.

68.—(1) The Minister, if of the opinion that it is not contrary to the public interest, may, in writing, relieve any licensee or permittee from compliance in whole or in part with the regulations.

(2) The relief granted under subsection (1) is subject to such conditions as are set out in the instrument giving it.
R.S.O. 1980, c. 378, s. 19 (2), amended.

(3) The Minister may at any time rescind or vary any relief granted under subsection (1) upon written notice thereof to the licensee or permittee.

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed relief under subsection (1), including reasons therefor, upon the clerk of the local municipality in which the site is located and, where applicable, upon the clerk of the regional municipality or county, as the case may be, for their information and comment.

(5) The Minister may not grant relief until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. New.

69.—(1) Despite section 77, the Pits and Quarries Control Act and the regulations thereunder continue to apply to,

(a) every pit or quarry for which an operator is licensed under that Act for six months after this Act comes into force except where the licence expires under subsection (2) or (3); and

(b) every pit or quarry for which a wayside permit exists under that Act for the remaining term of the permit.

(2) During the first three months after this Act comes into force an application for replacing a licence for the identical site under this Act accompanied by the prescribed fee may be made by a licensee under the Pits and Quarries Control Act in respect of that licensee’s pit or quarry and, if an application is
not so made, the licence under the *Pits and Quarries Control Act* expires at the end of the three-month period.

(3) Within the six-month period mentioned in subsection (1), if the applicant has paid fees and deposited rehabilitation security as required under the *Pits and Quarries Control Act*, the Minister shall issue a licence under this Act in respect of every application under subsection (2) even if the requirements of section 8 have not been met and whether or not all relevant zoning by-laws are complied with.

(4) As soon as a licence is issued under this Act for a pit or quarry to which this section applies, the licence under the *Pits and Quarries Control Act* expires and that Act and the regulations thereunder cease to apply, but the site plan under that Act continues in effect until superseded by a site plan under this Act.

(5) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.

(6) Clauses 7 (3) (a), (b) and (c) and sections 9, 10, 11, 12 and 60 do not apply to applications made under subsection (2) of this section.

(7) Despite section 77,

(a) the *Mining Act* and the regulations thereunder continue to apply to every pit and quarry for which a permit exists under that Act; and

(b) the *Beach Protection Act* and the regulations thereunder continue to apply to every pit or quarry for which an operator is licensed under that Act,

for the remaining term of the permit or licence, as the case may be, or for twelve months after this Act comes into force, whichever occurs first.

(8) Every permit or licence issued under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act* subsisting on the day that this Act comes into force shall be deemed to be a permit or licence, as the case may be, issued under this Act.

(9) Every licence issued under the *Pits and Quarries Con-
trol Act by the Minister to reflect a change in operator and not revoked before the day this Act comes into force shall be deemed to be subsisting for the purpose of subsection (8) despite the decision of any court.

(10) Every permit or licence referred to in subsection (7) that, on its terms, does not expire within twelve months after this Act comes into force expires with the twelfth month after this Act comes into force.

(11) If a quarry permit under the Mining Act or a licence under the Beach Protection Act expires because of the application of subsection (10), the permittee or licensee may apply for a replacing aggregate permit, for the identical site, under this Act by an application accompanied by the prescribed fee submitted not later than ten months after this Act comes into force.

(12) The Minister shall issue an aggregate permit in respect of every application under subsection (11) if the applicant has paid all fees, royalties and security required by this Act under which the permit or licence was issued.

(13) Subject to sections 20 and 43, the Minister may attach such conditions as the Minister considers advisable to any licence issued under subsection (3) or any permit issued under subsection (12).

(14) The site plan accompanying an application under subsection (12) may be a duplicate of the site plan that accompanied the original application unless the Minister directs otherwise.

(15) All fees, royalties, security and interest on deposit or payable under the Pits and Quarries Control Act, the Mining Act or the Beach Protection Act in respect of a licence or aggregate permit replaced under this section shall be deemed to be on deposit or payable as provided under this Act.

(16) Any rehabilitation that has been carried out in respect of a pit or quarry under a permit or licence under an Act referred to in this section and for which the permittee or licensee has not received credit under that Act before this Act comes into force shall be deemed to be rehabilitation performed for the purpose of this Act. New.

70.—(1) Section 10, subsections 11 (2) to (9) and section 60 do not apply to an application for a licence in respect of a site for which a licence under the Pits and Quarries Control Act expired under subsection 69 (2) if the application is made
after the three-month period mentioned in subsection 69 (2) but within the two-year period after this Act comes into force.

(2) The Minister may waive the requirement for a report under section 9 for any application under subsection (1).

(3) The Minister may issue a licence in respect of an application under subsection (1) whether or not all relevant zoning by-laws are complied with. New.

71.—(1) This Act and the regulations apply to every established pit and quarry in a part of Ontario designated under subsection 5 (2).

(2) The Minister may, in his or her absolute discretion, determine, in cases where doubt exists, whether a pit or quarry is an established pit or quarry.

(3) Despite subsection 57 (1), a person with an established pit or quarry in a part of Ontario designated under subsection 5 (2) may continue to operate the pit or quarry without a licence or permit until the six-month period next following the date of the designation expires.

(4) Despite subsection 57 (1), a person who applies for a licence during the six-month period next following the day of the designation under subsection 5 (2), and,

(a) who is not required by the Minister to refer a matter to the Divisional Court under subsection 13 (6) may operate an established pit or quarry without a licence subsequent to such six-month period until the licence is either issued or refused or the twelve-month period next following the day of the designation expires, whichever occurs first; or

(b) who is required by the Minister to refer a matter to the Divisional Court under subsection 13 (6) may operate an established pit or quarry until the licence is either issued or refused.

(5) The Minister, if satisfied that the application under subsection (4) is in respect of an established pit or quarry and that the location of the land on which the pit or quarry is situated complies with all relevant zoning by-laws, shall issue a licence under this Act to the applicant even if the requirements of section 8 have not been met.
(6) Ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or within four years after this Act comes into force, whichever occurs first.

(7) Despite subsection (1), clauses 7 (3) (a), (b) and (c), section 9, subsections 11 (2) to (9), sections 12 and 60 do not apply to applications made under subsection (4).

(8) Despite subsection (1), subsections 11 (2) to (9) and section 60 do not apply to an application for an established pit or quarry made during the two-year period next following the day of the designation.

(9) The Minister may waive the requirement for a report under section 9 for any application under subsection (8).

(10) For the purposes of this Act and the regulations, every person who has been issued a licence for an established pit or quarry in a part of Ontario that is designated under subsection 5 (2) shall be deemed to be a licensee from the date of the designation. New.

72.—(1) If an application for a licence or permit to operate a pit or quarry has been made under and complies with the Pits and Quarries Control Act, the Mining Act or the Beach Protection Act or a predecessor thereof but no licence or permit has been issued or refused by the Minister under one of those Acts before this Act comes into force, the application shall be deemed to be an application made under this Act.

(2) The applicant under an application referred to in subsection (1) shall comply under this Act with the requirements of,

(a) section 7 within six months after this Act comes into force;

(b) subsections 23 (3), (4) and (5) and subsection 24 (1) within six months after this Act comes into force; or

(c) section 36 within ten months after this Act comes into force.

(3) If, in the opinion of the Minister, the applicant fails to comply with the requirements of subsection (2), the Minister may refuse further consideration of the application.
(4) If an applicant complies with the requirements of subsection (2), a hearing pending before the Board or Commissioner or in respect of which the Board or Commissioner has not reported to the Minister respecting a matter referred to the Board or Commissioner under the *Pits and Quarries Control Act*, the *Mining Act* or the *Beach Protection Act*, as the case may be, shall be deemed to be a hearing for the purposes of this Act.  *New.*

73.—(1) Subject to subsection (2), despite the fact that a licence or permit has been issued, no person shall operate a quarry nearer to the natural edge of the Niagara escarpment than 200 metres measured horizontally.

(2) No person holding a licence for a quarry under the *Pits and Quarries Control Act* when this Act comes into force and who is issued a licence for the quarry under this Act shall operate the quarry nearer to the natural edge of the Niagara escarpment than ninety metres measured horizontally.

(3) For the purposes of subsection (1) or (2), the natural edge of the Niagara escarpment is the natural edge determined by the Minister.  *New.*

74. For the purposes of section 27 and subsection 69 (3), if the location of a pit or quarry for which a licence or wayside permit has been issued contravenes a zoning by-law, the licence or permit prevails and the by-law does not apply to the site.  *New.*

75. For the purposes of this Act, aggregate that is not removed from the site as aggregate but is used on the site,

(a) in the manufacture of cement, concrete blocks, concrete pipes, bricks, asphalt, concrete mix or any other product; or

(b) in the construction or maintenance of a structure or road, other than a road constructed primarily for the operation of a pit or quarry,

shall be deemed to have been removed from the site.  *New.*

76.—(1) Every quarry permit issued under Part VII of the *Mining Act* and every licence issued under the *Beach Protection Act* that is subsisting when this Act comes into force continues in force until its expiry date or for a further twelve months, whichever occurs first.
(2) For the purpose of section 34, the holder of a permit or licence referred to in subsection (1) shall be deemed to be an aggregate permittee.  New.


78. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

79. The short title of this Act is the *Aggregate Resources Act, 1989*. 