1970

c 16 Air Pollution Control Act

Ontario
CHAPTER 16

The Air Pollution Control Act

1. In this Act,

(a) "air contaminant" means a solid, liquid, gas, odour, or combination of any of them, that contributes to air pollution;

(b) "air pollution" means the presence in the outdoor atmosphere of any air contaminant or contaminants in quantities that may cause discomfort to or endanger the health or safety of persons, or that may cause injury or damage to property or to plant or animal life or that may interfere with visibility or the normal conduct of transport or business;

(c) "Board" means The Air Pollution Control Advisory Board;

(d) "construct" includes the erection, reconstruction, installation, alteration or modification of a stationary source of air pollution and the replacement of any part thereof, but does not include routine maintenance;

(e) "Department" means the Department of Energy and Resources Management;

(f) "Minister" means the Minister of Energy and Resources Management;

(g) "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a highway;

(h) "operator" means the person in occupation or having the charge, management or control of any land or premises on or in which a source of air pollution is located, whether on his own account or as the agent of any other person;

(i) "owner" includes the person for the time being receiving the rent of the land or premises on or in which a source of air pollution is located, whether on his own account or as agent or trustee of any other person;

(j) "provincial officer" means a person who is designated by the Minister as a provincial officer for the purposes of this Act and the regulations;

(k) "regulations" means the regulations made under this Act;
(l) "stationary source of air pollution" means any equipment, apparatus, device, mechanism or structure, except a motor vehicle, that may be a source of air pollution. 1967, c. 2, s. 1; 1968-69, c. 2, s. 1.

### 2. The Minister

The Minister, for the purposes of the administration and enforcement of this Act and the regulations, may,

(a) investigate air pollution problems;

(b) conduct research in the field of air pollution;

(c) conduct air quality and meteorological studies and monitoring programs;

(d) convene conferences, conduct seminars and educational programs in the field of air pollution;

(e) publish and disseminate information on air pollution;

(f) make grants,

(i) to universities and other organizations for research and training of persons in the field of air pollution, and

(ii) to municipalities to assist in the administration and enforcement of air pollution by-laws, in such amounts and upon such terms and conditions as the regulations may prescribe;

(g) appoint committees to perform such advisory functions as the Minister considers desirable. 1967, c. 2, s. 2.

### 3. The Minister

The Minister may authorize any officer or officers of the Department to exercise and discharge in his place any of the powers conferred or duties imposed upon him under this Act, except sections 6 and 10, or under the regulations. 1967, c. 2, s. 3.

### 4. (1)

A board to be known as "The Air Pollution Control Advisory Board" shall be established consisting of not more than twelve members appointed by the Lieutenant Governor in Council as the regulations prescribe, one of whom may be designated as chairman and one as secretary.

(2) The composition of the Board shall be such as to provide for competent and knowledgeable persons in the engineering, medical, urban planning, industry, agricultural and labour fields and members at large.

(3) No member, servant or employee of the Board may serve until he takes and subscribes before the Minister an oath of office and secrecy in the following form:
I, .................................................., do swear that
I will faithfully discharge my duties as a member of The Air Pollution
Control Advisory Board and, except as I may be legally authorized or
required, I will not disclose or give to any person any information or
document that comes to my knowledge or possession by reason of my
duties as a member of The Air Pollution Control Advisory Board.

So help me God.

(4) Vacancies in the membership of the Board may be filled by
the Lieutenant Governor in Council.

(5) The Board shall review and report upon the recommenda-
tions of a provincial officer and perform such other duties and
functions as the Minister may direct. 1967, c. 2, s. 4.

5.—(1) The Minister may designate officers of the Depart-
ment as provincial officers for the purposes of this Act and the
regulations.

(2) A provincial officer may enter in or upon any land or
premises at any reasonable time and make or require to be made
such examinations, tests and inquiries as may be necessary or
advisable for the purposes of this Act or the regulations.

(3) Every operator and owner shall furnish such information
as a provincial officer requires for the purposes of this Act or the
regulations. 1967, c. 2, s. 5.

(4) No person shall obstruct a provincial officer in the exercise
of his powers under this section. 1968-69, c. 2, s. 2.

6.—(1) Any person who complains that it is not feasible or
practicable to comply with a certificate of approval or order
issued or made under this Act may request the Minister to review
the certificate or order, and the Minister may review, rescind or
alter any such certificate or order.

(2) If after a review by the Minister any person complains that
it is still not feasible or practicable to comply with the certificate
of approval or order, he may, within fifteen days after receipt of
the decision of the Minister, appeal to a judge of the county or
district court of the county or district in which the source of air
pollution in respect of which the certificate or order was issued or
made is located, and such appeal shall be a hearing de novo, and
the judge may dismiss the appeal or rescind or alter any such
certificate or order and his decision is final. 1967, c. 2, s. 6.

7.—(1) No person shall construct a stationary source of air
pollution unless he has obtained from the Minister a certificate of
approval to the method and devices to be employed to control the
emission of any air contaminant into the outdoor atmosphere
from the source and to prevent air pollution.
(2) An applicant for a certificate of approval shall submit to the Minister such plans, specifications and other information with respect to the source of air pollution as the Minister may require.

(3) The Minister may issue a certificate of approval subject to such terms and conditions respecting the method and devices to be employed for the control of the emission of any air contaminant into the outdoor atmosphere from the source of air pollution, and for the prevention of air pollution as the Minister considers necessary. 1967, c. 2, s. 7.

(4) No person shall construct a stationary source of air pollution except in accordance with the plans, specifications, methods and devices in respect of which the certificate of approval was issued.

(5) A certificate of approval expires one year after it is issued unless the construction in respect of which it was issued has commenced before that time. 1968-69, c. 2, s. 3.

8.—(1) A provincial officer may survey from time to time any source of air pollution and after completing such survey shall report thereon with his recommendations,

(a) respecting the stationary source of air pollution and such method of operation and devices as may be necessary to prevent or lessen the emission of any air contaminant into the outdoor atmosphere;

(b) respecting the source of air pollution where no equipment, apparatus, device, mechanism or structure is involved and such method of operation as may be necessary to prevent or lessen the emission of any air contaminant into the outdoor atmosphere; or

(c) respecting the air pollution caused by the concentration of motor vehicles at passenger, repair or storage depots or other places where motor vehicles are marshalled, housed or parked and such methods of operation and devices as may be necessary to prevent or lessen the emission of air contaminants. 1967, c. 2, s. 8 (1); 1968, c. 3, s. 1.

(2) The provincial officer shall file his report and recommendations with the Department and shall serve upon the operator or owner of the source of air pollution a copy thereof.

(3) Upon receipt of a request in writing of the operator or owner filed with the secretary of the Board not later than fourteen days after the operator or owner received a copy of the report and
recommendations, the Board shall review the report and recommendations of the provincial officer and, before it reports thereon with its recommendations, the Board shall provide the Minister and the operator or owner with an opportunity of appearing before it at a hearing to be held not earlier than fourteen days after notice has been served on the Minister and the operator or owner stating the time and place of the hearing.

(4) Upon a hearing, the parties are entitled to be present and to be represented by counsel and make such representations as they desire.

(5) The Board shall send its report and recommendations to the Minister and shall forthwith serve a copy thereof upon the operator or owner. 1967, c. 2, s. 8 (2–5).

9.—(1) Upon receipt of the report and recommendations of a provincial officer or, if such a report and recommendations are reviewed by the Board, upon receipt of the report and recommendations of the Board, the Minister may make such order as he considers necessary for prohibiting the operation of the source of air pollution or requiring changes respecting the source of air pollution or the method of operation or devices employed to prevent or lessen the emission of any air contaminant or to reduce or control air pollution.

(2) No order in respect of a source of air pollution shall be made under subsection 1 until fourteen days have elapsed after the report and recommendations of a provincial officer have been received by the operator or owner of the source of air pollution. 1967, c. 2, s. 9.

10.—(1) Whenever the Minister, after investigation, is of the opinion that any person is emitting or causing to be emitted into the outdoor atmosphere any air contaminant that constitutes a serious danger to the health of any persons and that it would be prejudicial to the interests of such persons to delay action to complete a survey under section 8, he shall notify the person by a written order that he must immediately discontinue the emission of such contaminant into the outdoor atmosphere, including reasons therefor, whereupon such person shall immediately discontinue such emission.

(2) The Minister shall, as soon as possible thereafter and in any event not later than seven days after giving such notice, provide the person with an opportunity to be heard and to present any evidence that such emission does not constitute a serious danger to the health of any persons. 1967, c. 2, s. 10.
Where air pollution causes damage to crops or live stock

11.—(1) Where a person complains that air pollution is causing or has caused injury or damage to live stock or to crops, trees or other vegetation that may result in economic loss to such person, he may, within fourteen days after the injury or damage becomes apparent, request the Minister to conduct an investigation.

(2) Upon receipt of a request, the Minister may cause an investigation to be made and a report prepared of the findings of the investigation.

(3) A copy of the report shall be given to the claimant and to the operator or owner of the source of air pollution alleged to be the cause of the injury or damage.

(4) The claimant shall permit the operator or owner of such source of air pollution or his agent to view the injury or damage and to remove samples and conduct tests and examinations as may be reasonably necessary to establish the cause of the injury or damage.

(5) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

(6) Any two members of the Board of negotiation constitute a quorum and are sufficient to perform all the functions of the board on behalf of the board.

(7) The board of negotiation may sit at any place in Ontario.

(8) If a complainant who has requested an investigation under subsection 1 desires to have his claim for injury or damage negotiated by the board of negotiation, he shall notify the Minister and the operator or owner of the source of air pollution alleged to be the cause of the injury or damage of the amount of his claim within a reasonable time after the amount can be determined.

(9) If the claimant and the operator or owner are not able to settle the claim within thirty days after notice of the claim is given to the Minister under subsection 8, the claimant or the operator or owner may serve notice of negotiation upon the other of them and upon the board of negotiation stating that he requires a settlement of the claim to be negotiated by the board of negotiation.

(10) Upon receipt of a notice of negotiation, the board of negotiation shall assess the injury or damage in respect of which the claim is made and, upon reasonable notice to the claimant and to the operator or owner, shall meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the claim.

1967, c. 2, s. 11 (1-10).
12.—(1) No person shall sell, offer or expose for sale a new motor vehicle or new motor vehicle engine of a class or type that is required by the regulations to have installed on or incorporated in it any system or device to prevent or lessen the emission into the outdoor atmosphere of any air contaminant or contaminants unless such motor vehicle complies with the regulations.

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not less than $50 and not more than $500. 1967, c. 2, s. 12.

13.—(1) No person shall operate a motor vehicle of a class or type that is required by the regulations to have installed on or incorporated in it any system or device to prevent or lessen the emission into the outdoor atmosphere of any air contaminant or contaminants unless such motor vehicle has installed on or incorporated in it such system or device and makes effective use of such system or device.

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than $100. 1967, c. 2, s. 13.

14.—(1) The Lieutenant Governor in Council may make regulations,

(a) classifying sources of air pollution and exempting any class or classes from the provisions of this Act and the regulations;

(b) classifying motor vehicles and motor vehicle engines for the purpose of any regulation and exempting any class or type of motor vehicle or motor vehicle engine from any regulation;

(c) requiring motor vehicles or any class or type thereof and motor vehicle engines or any class or type thereof to have installed thereon or incorporated therein one or more systems or devices to prevent or lessen the emission into the outdoor atmosphere of any air contaminant or contaminants, prescribing the standards and specifications of any such system or device, prescribing the standards of emission into the outdoor atmosphere of any air contaminant or contaminants to which any such system or device shall comply and providing for the testing and inspection of any such system or device;

(d) providing for the issuance by the Minister of certificates of approval of systems or devices proposed to be installed on or incorporated in motor vehicles to prevent or lessen emission into the outdoor atmosphere of air contaminant or contaminants;
(e) defining and designating new motor vehicles and new motor vehicle engines for the purpose of any regulation;

(f) prohibiting or regulating and controlling the emission of any air contaminant or contaminants into the outdoor atmosphere from any source of air pollution or any class thereof;

(g) regulating the quality of fuels that may be used for heating, generating steam or electricity or for industrial processes;

(h) designating the areas in Ontario to which this Act and the regulations are applicable and designating the date on which this Act and the regulations become effective in any area;

(i) prescribing the composition, quorum and practice and procedure of the Board and the terms of office and remuneration of its members;

(j) prescribing the amounts of grants payable to universities and municipalities, and the terms and conditions of such grants;

(k) prescribing the ambient air quality criteria to be used in controlling, regulating or prohibiting the emission of any air contaminant or contaminants into the outdoor atmosphere and the standards thereof;

(l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1967, c. 2, s. 14 (I); 1968-69, c. 2, s. 4.

(2) Any regulation may be general or particular in its application and may be limited as to time or place or both. 1967, c. 2, s. 14 (2).

15. Notwithstanding any general or special Act, this Act and the regulations apply in such areas in Ontario as are designated by the regulations. 1967, c. 2, s. 15.

16.—(1) Every person who contravenes any provision of this Act, except section 12 or 13, or of the regulations or any order of the Minister made under this Act or the regulations, is guilty of an offence and on summary conviction is liable, if an individual, to a fine of not more than $2,000 and, if a corporation, on first conviction to a fine of not more than $5,000 and on each subsequent conviction to a fine of not more than $10,000.

(2) Each day that a person contravenes a provision of this Act or the regulations or an order made by the Minister constitutes a separate offence. 1967, c. 2, s. 16.
17. Any report, order or notice served under this Act shall be deemed to be sufficiently served if it or a copy thereof is delivered to the operator of the source of air pollution in respect of which the report, order or notice is served, or is delivered,

(a) in the case of a municipality, including a metropolitan municipality, to the head or clerk of the municipality;

(b) in the case of any other corporation, to the president, vice-president, manager, treasurer, secretary, clerk or agent of the corporation or of any branch or agency thereof in Ontario;

(c) in the case of a firm or partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or, at the office or place of business of the firm or partnership, to a clerk employed therein; or

(d) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk employed therein. 1967, c. 2, s. 17.