1960

c 12 Air Pollution Control Act

Ontario
CHAPTER 12

The Air Pollution Control Act

1.—(1) In this Act,

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

(b) "air pollution" means the presence in the outdoor atmosphere of an air contaminant 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;

(c) "density" means the shade or opacity of an air contaminant at the point of emission to the outdoor atmosphere;

(d) "Minister" means the Minister of Health;

(e) "municipality" means a county, city, town, village or township, and includes The Municipality of Metropolitan Toronto, but does not include the area municipalities as defined in The Municipality of Metropolitan Toronto Act;

(f) "municipal officer" means an officer of a municipality who is appointed to administer and enforce any air pollution control by-law;

(g) "occupant" means the person in occupation or having the charge, management or control of any premises, whether on his own account or as the agent of any person;

(h) "owner" means the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person or who would so receive the same if such land or premises were let;
"provincial officer" means an officer of the Department of Health who is designated by the Minister as a provincial officer for the purposes of this Act. 1958, c. 2, s. 1 (1), cls. (a-f); 1959, c. 3, s. 1 (1).

(2) The density of an air contaminant that is approximately black shall be determined by means of a chart commonly known as the Ringelmann Chart, a Micro-Ringelmann Chart, or by a comparable chart having black dots or lines upon a white ground, or by a glass comparator, so as to produce:

No. 1 density—approximately 20% black with approximately 80% of the ground white.

No. 2 density—approximately 40% black with approximately 60% of the ground white.

No. 3 density—approximately 60% black with approximately 40% of the ground white.

No. 4 density—approximately 80% black with approximately 20% of the ground white.

No. 5 density—approximately 100% black. 1958, c. 2, s. 1 (2); 1959, c. 3, s. 1 (2).

(3) The density of an air contaminant to which subsection 2 does not apply shall be determined by its opacity by means of visual inspection thereof and shall be related to the density of an air contaminant under subsection 2 that has approximately the same degree of opacity. 1958, c. 2, s. 1 (3).

2. The Minister may,

(a) engage the services of consultants for the purposes of this Act;

(b) make grants to universities and other organizations for research in the field of air pollution or for the training of persons in that field;

(c) assist municipal officials in the preparation of air pollution control by-laws, in the development of an air pollution control programme and in the training of local staffs for this purpose;

(d) furnish advice in the field of air pollution;
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(e) investigate or make arrangements for the investigation of air pollution problems;

(f) recommend testing procedures for determining the amount of air contaminants. 1958, c. 2, s. 2.

3.—(1) The council of any municipality may pass by-laws for prohibiting or regulating the emission from any source of air contaminants or any type or class thereof. 1958, c. 2, s. 3 (1).

(2) Without limiting the generality of subsection 1, the council of any municipality may pass by-laws,

(a) subject to clauses c and d, for prohibiting the emission from any source of any air contaminant having a density greater than No. 2 density;

(b) subject to clauses c and d, for limiting to a period or periods totalling not more than four minutes in any one half-hour the emission from any source of any air contaminant that has a density greater than No. 1 density and not greater than No. 2 density;

(c) subject to clause d, for limiting to a period or periods totalling not more than three minutes in any one quarter-hour during the lighting of new fires in heating equipment the emission from any source of products of combustion that have a density greater than No. 1 density and not greater than No. 3 density;

(d) for permitting, in the event of a breakdown in equipment, the emission of air contaminants beyond the limits set forth in clause b or c for such period as may, in the opinion of a municipal officer, be required to repair the equipment;

(e) for prohibiting,

(i) any person to operate, or to cause or permit to be operated, an incinerator for the disposal of scrap, waste material, rubbish, garbage or any combination thereof in such a way as to cause air pollution,

(ii) any person to set, feed or maintain, or to cause to be set, fed or maintained, any open
fire for the disposal of any material in such a way as to cause air pollution,

(iii) any person to operate, or to cause or permit to be operated, an internal combustion engine in such a way as to cause air pollution; 1958, c. 2, s. 3 (2), cls. (a-e).

(f) for requiring any owner or occupant of premises to furnish such information as a municipal officer may require for the purposes of administering or enforcing the by-law; 1958, c. 2, s. 3 (2), cl. (f); 1959, c. 3, s. 2 (1).

(g) for regulating the erection, construction, reconstruction, installation, alteration, repair, maintenance, operation and use of any equipment, apparatus, device, mechanism or structure from which an air contaminant may be emitted;

(h) for requiring that plans and specifications for the erection, construction, reconstruction, installation, alteration or repair of any equipment, apparatus, device, mechanism or structure from which an air contaminant may be emitted and such information as a municipal officer may require with respect thereto be filed with a municipal officer, and for requiring approval of such plans and specifications by a municipal officer and that without such approval no such erection, construction, reconstruction, installation, alteration or repair shall be commenced, and for requiring that the work so approved be commenced and proceeded with within one year from the date of such approval and that otherwise such approval shall be void, and for inspecting the work when completed and for issuing a certificate that the work complies with the plans and specifications filed and with the by-law, and for providing that without such certificate no such equipment, apparatus, device, mechanism or structure shall be operated or used, and for charging fees for such approval of plans and specifications, and for such certificates; 1959, c. 3, s. 2 (2).

(i) for appointing one or more municipal officers to administer and enforce any air pollution control by-law and for authorizing any such officer to enter in or upon any premises at any reasonable time and make such examinations, tests and inquiries as he
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deems necessary or advisable for the purposes of the by-law, and for requiring any owner or occupant of premises, his employees and agents to furnish all means in his or their power that may be required by the officer under this clause, and for authorizing any such officer to require such installations of or alterations in any equipment, apparatus, device, mechanism or structure or such changes in the manner of operating them as may be necessary to prevent or lessen the emission of an air contaminant within such time as he requires; 1959, c. 3, s. 2 (3).

(j) for authorizing a municipal officer to permit deviations from the requirements of any air pollution control by-law;

(k) for imposing fines recoverable under The Summary R.S.O. 1960, Convictions Act, for a first offence, of not more than $100, and for a second or subsequent offence, of not more than $300, upon every person who contravenes or fails to comply with any by-law passed under this section or any order of a municipal officer, and for providing that each day that a person contravenes or fails to comply with any such by-law or order constitutes a separate offence. 1958, c. 2, s. 3 (2), cls. (i, j).

(3) A proposed by-law under subsection 1 or 2 shall be submitted to the Minister for his review and advice and shall not be passed until thirty days have elapsed after it has been so submitted. 1958, c. 2, s. 3 (3).

(4) Subsection 1, with respect to products of combustion, and clauses a, b, c, d, g and h of subsection 2 do not apply to heating equipment used or intended to be used for the heating of a one-, two- or three-family dwelling or for the heating of less than 35,000 cubic feet of space in a commercial establishment.

(5) Clause h of subsection 2 does not apply to internal combustion engines or to routine maintenance work, minor alterations or emergency repairs that do not increase the emission of air contaminants. 1959, c. 3, s. 2 (4).

(6) No by-law passed under subsection 1 or 2 applies to products of combustion until ninety days after it or a synopsis of it has been published in a newspaper having general circulation in the municipality.
(7) No by-law passed under subsection 1 or 2 applies to air contaminants, other than products of combustion, until two years after it or a synopsis of it has been published in a newspaper having general circulation in the municipality.

(8) As soon as an air pollution control by-law of a county becomes operative, all such by-laws of the local municipalities forming part of the county for municipal purposes become inoperative and remain inoperative so long as the county by-law remains operative.

(9) No by-law passed or regulation made under this Act applies to sulphur fumes arising from the operations designated in *The Damage by Fumes Arbitration Act*. 1958, c. 2, s. 3 (6-9).

4. — (1) Where a municipality passes an air pollution control by-law and appoints a municipal officer with power to exercise the powers mentioned in clause i of subsection 2 of section 3, the council shall by by-law establish an appeal board composed of not fewer than three and not more than five members, a majority of whom shall not be members of a municipal council, to hear and determine appeals from orders of municipal officers and provide for such appeals, prescribe the time within which such appeals may be made and the procedure on such appeals.

(2) Any person who deems himself aggrieved by a decision of an appeal board may appeal to a judge of the county or district court of the county or district in which the municipality is situate within thirty days after the receipt of a copy of the decision by the owner or occupant of the premises with respect to which the decision was made and such appeal shall be a hearing *de novo* and the judge may allow or dismiss the appeal or vary the decision of the appeal board and the decision of the judge is final and not subject to any further appeal. 1959, c. 3, s. 3.

5. Any two or more municipalities may enter into agreement to provide for joint administration and enforcement of their respective air pollution control by-laws and to provide for the sharing of the cost thereof. 1958, c. 2, s. 5.

6. — (1) The Minister may, with the approval of the Lieutenant Governor in Council, make regulations applicable in territory without municipal organization with respect to any of the matters mentioned in section 3.

(2) Any such regulation may be general in its application or may be restricted in its application to any designated area or class of premises. 1958, c. 2, s. 6.
7.—(1) A provincial officer may enter in or upon any premises in a municipality or in territory without municipal organization at any reasonable time and make such examinations, tests and inquiries as may be necessary or advisable for the purposes of this Act or of the regulations made under this Act.

(2) Every owner or occupant of premises shall furnish such information as a provincial officer requires for the purposes of this Act or of the regulations made under this Act. 1959, c. 3, s. 4 (1).

(3) A provincial officer may in territory without municipal organization require such installations of or alterations in any equipment, apparatus, device, mechanism or structure or such changes in the manner of operating them as may be necessary to prevent or lessen the emission of an air contaminant.

(4) The owner or occupant of any premises, his employees and agents shall furnish all means in his or their power that may be required by a provincial officer to carry out his duties under this section. 1958, c. 2, s. 7 (2, 3).

(5) Any person who deems himself aggrieved by an order of a provincial officer may appeal to a judge of the district court of the district in which the premises to which the order relates are located within thirty days after the receipt of a copy of the order by the owner or occupant of the premises with respect to which the order was made and the judge may allow or dismiss the appeal or vary the order and the decision of the judge is final and not subject to any further appeal. 1959, c. 3, s. 4 (2), amended.

8. Where a person complains that it is not technically feasible to comply with an order of a municipal or provincial officer or with a decision of an appeal board within the time required by the order or decision, he may appeal to the Minister who may reject the appeal or extend the time for compliance with such order or decision. 1958, c. 2, s. 8.

9.—(1) Every person who contravenes or fails to comply with any provision of this Act or any regulation made under this Act or any order made by a provincial officer is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than $100 and, for a second or subsequent offence, to a fine of not more than $300.
(2) Each day that a person contravenes or fails to comply with a provision of this Act or a regulation or an order made by a provincial officer constitutes a separate offence. 1958, c. 2, s. 9.