1980

c 1 The Drainage Amendment Act, 1980

Ontario
CHAPTER 1

An Act to amend
The Drainage Act, 1975

Assented to May 1st, 1980

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

1. Clauses b and c of subsection 1 of section 4 of The Drainage Act, 1975, being chapter 79, are repealed and the following substituted therefor:

   (b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;

   (c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, notwithstanding subsection 5 of section 61; or

2. Clause a of subsection 1 of section 8 of the said Act is repealed and the following substituted therefor:

   (a) plans, profiles and specifications of the drainage works, including a description of the area requiring drainage.

3. Section 29 of the said Act is amended by adding at the end thereof “and shall include such sums in his estimates of the cost of the construction, improvement, repair or maintenance of the drainage works”.

4. Section 31 of the said Act is repealed and the following substituted therefor:

   31. Where an existing drain that was not constructed on requisition or petition under this Act or any predecessor of this Act is incorporated in whole or in part in a drainage works, the engineer in his report shall estimate and allow in money to the owner of such drain or part the value to the drainage works of such drain or part and shall include such sum in his estimates of the cost.
of the construction, improvement, repair or maintenance of the drainage works.

5. Section 33 of the said Act is repealed and the following substituted therefor:

33. Where the engineer thinks it expedient to make an allowance for loss of access to an owner instead of providing for the construction or the replacement, enlargement or other improvement of a bridge, he shall in his report provide for payment to the owner of such amount as appears just by way of allowance for loss of access and shall include such sums in his estimates of the cost of the construction, improvement, repair or maintenance of the drainage works.

6. Section 41 of the said Act is amended by adding thereto the following subsection:

(2a) Notwithstanding subsections 1 and 2, where a block assessment is made, the notice to the owners of the lands so assessed need not be accompanied by a copy of the report.

7. Subsection 2 of section 46 of the said Act is repealed and the following substituted therefor:

(2) The council of the initiating municipality and of every local municipality to whom a copy of the provisional by-law is sent under subsection 1 shall, within thirty days after the adoption of the report, send a copy of the provisional by-law, exclusive of the engineer’s report, and a notice of the time and place of the sitting of the court of revision by prepaid mail to each person or body entitled to notice under section 41 and the notice shall inform each owner that he may appeal his assessment to the court of revision by a notice given to the clerk of the initiating municipality not later than ten days prior to the first sitting of the court of revision.

8. Subsection 1 of section 47 of the said Act is amended by striking out “section 41” in the ninth line and inserting in lieu thereof “section 40 or subsection 2 of section 46, as the case may be”.

9. Subsection 1 of section 48 of the said Act is amended by striking out “41” in the sixteenth line and inserting in lieu thereof “subsection 2 of section 46, as the case may be”.

10. Section 49 of the said Act is amended by striking out “section 41” in the ninth line and inserting in lieu thereof “subsection 2 of section 46”.

11. Subsection 1 of section 50 of the said Act is repealed and the following substituted therefor:
12. Subsection 1 of section 51 of the said Act is amended by striking out "and" in the fifth line and inserting in lieu thereof "or".

13. Subsection 5 of section 58 of the said Act is amended by inserting after "a" in the third line "requisitioner or a".

14. Section 60 of the said Act is amended by striking out "a reasonable time" in the fifth line and inserting in lieu thereof "sixty days".

15. Subsection 1 of section 61 of the said Act is repealed and the following substituted therefor:

(1) The council of each local municipality that is required to raise the whole or any part of the cost of the drainage works shall by by-law impose upon the land assessed for the drainage works the assessment with which it is chargeable, and the amount so imposed is payable in such instalments as the council may prescribe.

16. Subsection 5 of section 65 of the said Act is amended by striking out "$200" in the second line and inserting in lieu thereof "$500".

17.—(1) Subsection 1 of section 66 of the said Act is amended by striking out "a report" in the seventh line and inserting in lieu thereof "an inspection".

(2) The said section 66 is amended by adding thereto the following subsection:

(1a) The clerk of the initiating municipality shall forthwith send a copy of the assessment to the owners of land assessed under subsection 1, and any owner who is so assessed for a sum greater than $500 and is dissatisfied with the assessment may appeal to the Tribunal within forty days after the date the notice is sent to him by the clerk.

18. Section 68 of the said Act is repealed and the following substituted therefor:

(1) The council of any local municipality to which a copy of a provisional by-law was sent under subsection 1 of section 46 may, within forty days after the copy of the provisional by-law was sent to the clerk, appeal to the Tribunal from the report by serving the clerk of the initiating municipality and the clerk of every other municipality assessed by the engineer with a written notice of appeal setting forth the reasons for such appeal.

13. Subsection 5 of section 58 of the said Act is amended by inserting "requisitioner or a" after "a" in the third line.
specifications of the drainage works, together with a statement of the amount paid and a description of the land in respect of which the amount was paid in the Form prescribed in the regulations.

19. Subsection 3 of section 75 of the said Act is amended by striking out “$1,000” in the fifth line and inserting in lieu thereof “$5,000”.

20. Subsection 2 of section 76 of the said Act is repealed and the following substituted therefor:

(2) The proceedings upon such report, excepting appeals, shall be the same, as nearly as may be, as upon the report for the construction of the drainage works.

21. Section 77 of the said Act is amended by adding thereto the following subsection:

(3) Where the relocation of a drainage works or part thereof referred to in subsection 2 is to be effected within the lands under the jurisdiction of the road authority, the engineer may prepare a written opinion instead of a report.

22. Subsection 4 of section 78 of the said Act is repealed and the following substituted therefor:

(4) All proceedings, including appeals, under this section shall be the same as on a report for the construction of a drainage works.

23. —(1) Subsection 1 of section 79 of the said Act is amended by striking out “thirty” in the first line and inserting in lieu thereof “forty-five” and by striking out “whose property is injuriously” in the second line.

(2) Subsection 2 of the said section 79 is amended by striking out “whose property is injuriously” in the third and fourth lines.

24. Subsection 1 of section 94 of the said Act is repealed and the following substituted therefor:

(1) The drainage superintendent shall inspect every drainage works for which the municipality is responsible and shall report periodically to council on the condition of the drainage works in the municipality.

25. The said Act is amended by adding thereto the following section:

95a. Every person who wilfully interferes with or obstructs a drainage superintendent or a commissioner in the exercise of his powers under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.
26.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

(1) Subject to subsections 3, 4 and 5, a court of revision shall consist of three or five members appointed by the council of the initiating municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide.

(2) The said section 96 is amended by adding thereto the following subsections:

(4) A majority of the members of the court of revision shall constitute and, notwithstanding the decision of any court, shall be deemed always to have constituted a quorum.

(5) A quorum of the court of revision is sufficient and, notwithstanding the decision of any court, shall be deemed always to have been sufficient to exercise all of the jurisdiction and powers of the court of revision.

27. Subsection 11 of section 97 of the said Act is repealed and the following substituted therefor:

(11) The costs chargeable or to be awarded in any proceedings may include the costs of witnesses and of procuring their attendance, the costs of secretarial staff and such other costs as the Tribunal may direct.

28. Section 100 of the said Act is repealed and the following substituted therefor:

100. In any application, appeal or reference under sections 8, 10, 48, 49, 50, 54, 64, 65, 66 and 75 the decision of the Tribunal is final.

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

30. The short title of this Act is The Drainage Amendment Act, 1980.