c 19 The Ontario Water Resources Amendment Act, 1974.
CHAPTER 19

An Act to amend
The Ontario Water Resources Act

Assented to June 18th, 1974

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

1.—(1) Clause g of section 1 of The Ontario Water Resources Act, being chapter 332 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(g) "cost" means,

(i) in relation to a project under an agreement entered into before the 1st day of April, 1974, the cost thereof as determined by the Minister and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Minister may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Crown as the Minister in his discretion may allocate to the project, or

(ii) in relation to a project under an agreement entered into on or after the 1st day of April, 1974, the cost thereof as determined by the Minister and includes such engineering fees and other charges and expenses in connection with construction as the Minister may determine and such financing costs applicable to the project as the Treasurer may determine and the Minister in his discretion may allocate to the project.
(2) Clauses (ia) and (oa) of the said section 1, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(ia) "Director" means a Director appointed under section 8.

(3) The said section 1, as amended by the Statutes of Ontario, 1972, chapter 1, section 70 and 1973, chapter 90, section 1, is further amended by adding thereto the following clause:

(qa) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

2. The said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70 and 1973, chapter 90, is further amended by,

(a) striking out "the Executive Director, Water Supply and Pollution Control, of the Ministry,

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 1

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(b) striking out "the Executive Director, Water Resources, of the Ministry",

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".
Table 2

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(c) striking out “the Assistant Deputy Minister, Water Management, of the Ministry”.

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance “a Director”, and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance “the Director”.

Table 3

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(d) striking out “the Assistant Deputy Minister, Water Management, the Executive Director, Water Sup-
ply and Pollution Control, or the Executive Director, Water Resources, of the Ministry’’ where they occur in the sections set out in the following Table and inserting in lieu thereof in each instance “a Director”.

Table 4

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e) striking out “Minister” where it occurs in each of the sections set out in the following Table and inserting in lieu thereof in each instance “Treasurer”.

Table 5

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3.—(1) Subsection 4 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is amended by inserting after “reference” in the first line “to the Commission” and by striking out “the Assistant Deputy Minister, Water Management, Executive Director, Water Supply and Pollution Control or the Executive Director, Water Resources, of the Ministry” in the fourth, fifth, sixth, seventh and eighth lines and inserting in lieu thereof “a Director”.

(2) Subsection 5 of the said section 3 is repealed and the following substituted therefor:

(5) A reference to the Commission in Regulation 644 of Revised Regulations of Ontario, 1970, shall be deemed to be a reference to a Director.

(5a) A reference to the Commission in Regulation 647 of Revised Regulations of Ontario, 1970, shall be deemed to be a reference to the Minister.
s. 3 (9), amended

(3) Subsection 9 of the said section 3 is amended by striking out “Executive Director, Water Supply and Pollution Control or the Executive Director, Water Resources or the Assistant Deputy Minister, Water Management, of the Ministry” in the sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Director”.

s. 5, repealed

4. Section 5 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed.

s. 8, enacted

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

Appointment of Directors by Minister

8.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments.

Limitations

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable.

s. 9a (11), re-enacted

6. Subsection 11 of section 9a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

When Hearing Board to hold public hearing

(11) Upon receipt of notice from a Director referred to in subsection 10, the Hearing Board shall hold a public hearing with respect to the subject-matter of the notice and shall report thereon to the Director.

s. 12, 13, repealed

7. Sections 12 and 13 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

s. 17 (1) (f), amended

8. Clause f of subsection 1 of section 17 of the said Act is amended by striking out “and to charge fees in respect thereof” in the third and fourth lines.

s. 20 (1), amended

9. Subsection 1 of section 20 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out “and, except as provided in subsection 3, the Crown is liable for any damage occasioned thereby” in the ninth, tenth and eleventh lines and in the amendment of 1972.

s. 24, 25, repealed

10. Sections 24 and 25 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.
11. Section 26 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed.

12. Section 27 of the said Act is repealed.

13. Subsection 5 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by adding after "Ministry" in the amendment of 1972 "or a Director".

14. Subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(1) An area may be defined by a Director that includes a source of public water supply,

(a) wherein no person shall swim or bathe; or

(b) wherein no material of any kind that may impair the quality of water therein shall be placed, deposited, discharged or allowed to remain; or

(c) wherein no act shall be done and no water shall be taken that may unduly diminish the amount of water available in such area as a public water supply,

and thereupon the municipality or person who has a right to use the water from such source for the purpose of a public water supply shall give notice of the area so defined by publication, posting or otherwise as the Director considers necessary for the protection of the source of public water supply.

15. Clause a of subsection 8 of section 37 of the said Act is amended by striking out "2" and inserting in lieu thereof "3".

16. Subsection 3 of section 41 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(3) Where any person undertakes or proceeds with the establishment of any water works, or the extension of or change in any existing water works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the
source of water supply and may direct such changes to be made in the source of water supply and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

17. Subsection 3 of section 42 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(3) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

18. Section 48 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

48. Sewage works that are being or have been constructed, maintained or operated with the approval of the former Department of Health, the Commission, the Executive Director, Water Supply and Pollution Control of the Ministry or of a Director and in accordance with the terms and conditions imposed in any order, direction, report or regulation of the former Department of Health, the Commission, the Minister of Health, the Executive Director, Water Supply and Pollution Control of the Ministry, a Director or the Board under the authority of this Act or any predecessor of any provision of this Act, so long as the sewage works are being so constructed or are so constructed, maintained or operated, shall be deemed to be under construction, constructed, maintained or operated by statutory authority.

19. Subsection 3 of section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(3) Where the municipality fails to do every act and thing in its power to implement a report made to it
under subsection 1 forthwith after receipt of the report, and the time for taking an appeal has passed or there has been final disposition of an appeal by which the report is confirmed or altered, the Director, with the approval of the Board, may direct that whatever is necessary to implement the report or the report as confirmed or altered be done at the expense of the municipality, and the Minister may recover the expense incurred in doing it, with costs, by action in a court of competent jurisdiction, as a debt due to the Crown by such municipality.

20. Clause b of subsection 2 of section 52 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(b) a statement of the terms and conditions including the method of financing as determined by the Minister upon which the Minister will complete and operate the project; and

21.—(1) Subsection 1 of section 53 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is amended by,

(a) inserting after "52" in the second line "before the 1st day of April, 1974";

(b) striking out "Minister" in the third line and inserting in lieu thereof "Treasurer"; and

(c) striking out "Assistant Deputy Minister, Water Management, of the Ministry" in the seventh and eighth lines and by striking out "Assistant Deputy Minister, Water Management" in the sixteenth and seventeenth lines and inserting in lieu thereof in each instance "Minister".

(2) Subsections 2 and 3 of the said section 53, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(2) In respect of agreements under section 52 entered into after the 31st day of December, 1965 and before the 1st day of April, 1974, the interest and expenses of debt service that would be payable by the Commission referred to in clause a of paragraph 1 of subsection 1 shall, in each year during the currency of the agreement, be the
Annual adjustment of payments

s. 54 (1, 2) re-enacted

Sewer rates and water works rates

amount calculated by applying the average rate of such interest and expenses as would have been payable to the Treasurer in respect of the project.

(3) The Minister shall annually adjust and apportion among the respective municipalities the sums payable to the Treasurer by such municipalities under subsection 1.

Subsections 1 and 3 of section 54 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(1) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 52 may by by-law, subject to the approval of the Board, provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the project a sewer rate or water works rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(a) where the agreement is or has been entered into before the 1st day of April, 1974, under clause a of paragraph 1 and paragraph 2 of subsection 1 of section 53; or

(b) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for the cost of the project,

and, with the like approval, such by-law may from time to time be amended or repealed.

(3) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 52 may by by-law provide for imposing upon owners or occupants of land from which sewage is received, treated or disposed of or to which water is supplied through or by the project a sewage service rate or water service rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(a) where the agreement is or has been entered into before the 1st day of April, 1974, under clauses b and e of paragraph 1 of subsection 1 of section 53; or
(b) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for,

(i) the total cost to the Crown in each year of the operation, supervision, maintenance, repair, administration and insurance of the project, and

(ii) the total amount in each year placed by the Minister to the credit of any reserve account established under the agreement for the project.

23.—(1) Subsections 1 and 2 of section 56 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(1) As soon as practicable in each calendar year, and in any event not later than the 15th day of February, the Minister shall estimate the respective amounts payable to the Treasurer in such calendar year by each of the municipalities having agreements with the Crown under section 52 entered into before the 1st day of April, 1974 and shall by his precept directed to each municipality require such municipality to pay to the Treasurer the sums so payable by each municipality and the municipality shall make payments to the Treasurer accordingly, but in the calendar year in which occurs the date of completion of the project the estimate by the Minister may be made and the precept of the Minister may be delivered at any time in such year as the Minister may determine and the payment or payments by the municipality shall be made at such time or times as the Minister may require.

(2) At the end of each calendar year, the actual sums payable by each municipality to the Treasurer for such year for the purposes aforesaid shall be ascertained by the Minister and the Minister shall inform the municipality of the amount owing to or by it and such amount shall be deducted from or added to the first payment to be made by the municipality in the next calendar year.

(2) Subsection 5 of the said section 56, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "Minister" in the amendment of 1972 and inserting in lieu thereof "Treasurer" and by inserting after "agreement" in the second line "entered into under section 52".
24.—(1) Subsections 1 and 2 of section 57 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(1) The Minister may establish and maintain a reserve account in respect of each project under section 52,

(a) to provide for renewals and replacements in respect of the project;

(b) to provide for contingencies in respect of such project; and

(c) to provide for capital expenditures for the improvement of the project in relation to its operation and appearance,

and for such purposes may place to the credit of or charge to such reserve accounts such amounts as may in the opinion of the Minister be sufficient therefor.

(2) Notwithstanding subsection 1, where a reserve account has been established in respect of a project, the Minister may, in respect of any other project for the same municipality, charge to such reserve account such amounts as in the opinion of the Minister may be sufficient therefor for any of the purposes mentioned in clauses a, b and c of subsection 1.

(2) Subsections 3 and 4 of the said section 57, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

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

57a.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all reserve accounts under any agreements under this Act shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called “Ministry of the Environment Reserve Account” and the interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to each reserve account proportionately having regard to the respective balances from time to time remaining to the credit of the respective reserve accounts.
(2) The accounts of the Minister with respect to the reserve accounts referred to in subsection 1 shall be kept so as to exhibit at all times the amounts placed to the credit of each reserve account, the interest credited thereon and the payments made in respect thereof.

26. Section 58 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

58.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all municipalities with respect to all moneys received from the municipalities under paragraph 2 of subsection 1 of section 53 shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called "Ministry of the Environment Debt Retirement Account" and that part of the amounts so credited as is attributable to each project shall remain as a credit in the Ministry of the Environment Debt Retirement Account until the expiration of the period of years during which payments are required to be made in respect of such project under paragraph 2 of subsection 1 of section 53.

(2) The interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to the respective projects proportionately having regard to the respective balances in the consolidated account from time to time attributable to such projects and the accounts of the Minister with respect to such projects shall be kept so as to exhibit at all times the amounts placed to the credit of each project, the interest credited thereon and the payments made in respect thereof.

(3) If at any time the amount in the consolidated account attributable to any project is, in the opinion of the Minister, sufficient with the further estimated interest thereon to form at the expiration of the period of years referred to in paragraph 2 of subsection 1 of section 53 an amount equal to the cost of the project, the Minister, subject to subsection 4 of this section and with the consent of the Treasurer, may authorize the municipality or municipalities with whom the Crown has an agreement in respect of such project to discontinue any further payments under paragraph 2 of subsection 1 of section 53.

(4) If at the expiration of such period of years the amount in the consolidated account attributable to any project,
Discharge of indebtedness to Province

(a) is in excess of the cost of the project, the Treasurer shall within one year thereafter repay to such municipality or municipalities the amount of such excess; or

(b) is less than the cost of the project, the municipality or municipalities shall, within one year thereafter, pay to the Treasurer the amount of such deficiency.

(5) Notwithstanding any other provision of this Act, the Treasurer may at any time, upon the request of the Minister, pay to the Province out of the Ministry of the Environment Debt Retirement Account any sum attributable to any project in payment or part payment of the amount owing to the Crown for the cost of the project.

27. Section 59 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

59. All moneys in the Ontario Water Resources Reserve Account and the Ontario Water Resources Debt Retirement Account immediately before this section comes into force and all investments derived from moneys at any time in those accounts vest in the Crown and the Crown is bound by the liabilities in respect of such moneys and investments.

28.—(1) Clause g of subsection 1 of section 62 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out “Executive Director, Water Supply and Pollution Control, of the Ministry” in the amendment of 1972, and inserting in lieu thereof “Minister”.

(2) Clause j of subsection 1 of the said section 62 is amended by inserting after “operate” in the first line “water works and” and by inserting after “of” in the second line “water work and”.

29. Subsection 1 of section 69 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(1) If an industrial or commercial enterprise makes arrangements for the collection, transmission, treatment or disposal of sewage that are considered unsatisfactory by a Director, the Director may require such industrial or commercial enterprise,
(a) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;

(b) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and

(c) to maintain, keep in repair and operate such facilities,
as may be directed from time to time by the Director.

(1a) If an industrial or commercial enterprise makes no arrangements for the collection, transmission, treatment or disposal of sewage, a Director may require such industrial or commercial enterprise,

(a) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;

(b) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and

(c) to maintain, keep in repair and operate such facilities,
as may be directed from time to time by the Director.

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

71.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against any member of the Environmental Appeal Board or the Hearing Board or against any employee of the Ministry or any Crown employee within the meaning of The Public Service Act, R.S.O. 1970, c. 366, acting under the direction of such member or employee of the Ministry for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of The Proceedings Against the Crown Act, R.S.O. 1970, c. 366.
relieve the Crown of liability in respect of a tort com-
mitted by an agent or servant of the Crown to which
it would otherwise be subject and the Crown is liable
under that Act for any such tort in a like manner as if
subsection 1 had not been enacted.

31. Section 75 of the said Act, as amended by the Statutes of
Ontario, 1972, chapter 1, section 70, is repealed and the
following substituted therefor:

75. Upon the issuance or alteration of a permit or the
giving of approval under this Act, there shall be paid to the
Treasurer such fees as the Minister may determine, in each
case having regard amongst other things to the time
occupied by the Ministry in respect of such issuance,
alteration or approval, and the terms and conditions in
respect thereof.

32. Section 76 of the said Act, as amended by the Statutes of
Ontario, 1972, chapter 1, section 70, is repealed and the
following substituted therefor:

76. The Minister may charge and collect for payment
to the Treasurer such fees as the Minister considers proper,

(a) for copies of documents, maps, plans or drawings;
or

(b) for information or advice in respect of the col-
lection, production, transmission, treatment, stor-
age, supply or distribution of water or sewage,
supplied by the Ministry.

33. Section 77 of the said Act, as amended by the Statutes of
Ontario, 1972, chapter 1, section 70, is further amended by
inserting after "who" in the first line "knowingly" and
by inserting after "Minister" in the amendment of 1972
"or an employee of the Ministry".

34. Section 78 of the said Act, as amended by the Statutes of
Ontario, 1972, chapter 1, section 70, is repealed and the
following substituted therefor:

78. Any amount due and payable by a municipality
or a person to the Treasurer in respect of any matter
under this Act, together with such interest and expenses
of debt service as may be determined by the Treasurer
with respect to such amount, may be recovered by the
Minister with costs in a court of competent jurisdiction
as a debt due to the Crown by the municipality or person.
35.—(1) Subsection 2 of section 79 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

(2) When a Director,

(a) refuses to issue or renew, or cancels or suspends a licence or permit or refuses to grant an approval;

(b) imposes terms and conditions in issuing a licence or permit or in granting an approval;

(c) alters the terms and conditions of a permit after it is issued; or

(d) gives or makes any notice, direction, report or order, except an order under section 61,

he shall serve written notice of the refusal, cancellation or suspension referred to in clause a, the terms and conditions imposed or altered as referred to in clause b or c, or a written copy of the notice, direction, report or order referred to in clause d, together with written reasons therefor, in each case upon the applicant or the person or municipality to whom the licence, permit, approval, direction, order, report or notice is issued, as the case may be, and the applicant, person or municipality may, by written notice served upon the Director and the Environmental Appeal Board within fifteen days after the service of the notice, terms and conditions or written copy together with written reasons therefor in each case require a hearing by the Environmental Appeal Board.

(2) Subsection 4 of the said section 79 is repealed and the following substituted therefor:

(4) The applicant, person or municipality requiring the hearing, the Director referred to in subsection 2 and any other persons specified by the Environmental Appeal Board are parties to the hearing.

36. The exercise on or after the 1st day of April, 1974, and before this Act receives Royal Assent of any power, duty or authority under The Ontario Water Resources Act, as amended by this Act, by the Treasurer of Ontario, the Minister of the Environment or a Director appointed under section 8 of The Ontario Water Resources Act, as amended by this Act, that by this Act is vested in any of them shall be deemed to have been exercised under The Ontario Water Resources Act, as amended by this Act.
Commencement

37. This Act shall be deemed to have come into force on the 1st day of April, 1974.

Short title

38. This Act may be cited as The Ontario Water Resources Amendment Act, 1974.