

Lakes and Rivers Improvement Act

R.S.O. 1990, CHAPTER L.3

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DEFINITIONS

Definitions

1. In this Act,

“dam” means a structure or work forwarding, holding back or diverting water and includes a dam, tailings dam, dike, diversion, channel alteration, artificial channel, culvert or causeway; (“barrage”)

“engineer” means a person licensed under the *Professional Engineers Act* to practise professional engineering and appointed by the Minister for the purposes of this Act; (“ingénieur”)

“floating of timber” includes transmission of timber; (“flottage du bois”)

“lake” includes a pond and similar body of water; (“lac”)

“mill” means a plant or works in which logs or wood-bolts are processed, and includes a saw mill, a pulp mill and a pulp and paper mill; (“usine”)

“Minister” means the Minister of Natural Resources; (“ministre”)

“Ministry” means the Ministry of Natural Resources; (“ministère”)

“municipality” means a local municipality; (“municipalité”)

“owner”, in relation to a dam, structure or work, means the owner of the dam, structure or work and includes the person constructing, maintaining or operating the dam, structure or work; (“propriétaire”)

“regulations” means the regulations made under this Act; (“règlements”)

“river” includes a creek, stream, brook and any similar watercourse; (“rivière”)

“timber” includes rafts and crafts, saw logs, posts, ties, cordwood, pulpwood, masts, staves, deals, boards, and all sawed and manufactured lumber. (“bois”) R.S.O. 1990, c. L.3, s. 1; 1998, c. 18, Sched. I, s. 22; 2002, c. 1, Sched. C, s. 3 (1); 2002, c. 17, Sched. F, Table.

GENERAL PROVISIONS

Purposes of Act

2. The purposes of this Act are to provide for,

- (a) the management, protection, preservation and use of the waters of the lakes and rivers of Ontario and the land under them;
- (b) the protection and equitable exercise of public rights in or over the waters of the lakes and rivers of Ontario;
- (c) the protection of the interests of riparian owners;
- (d) the management, perpetuation and use of the fish, wildlife and other natural resources dependent on the lakes and rivers;
- (e) the protection of the natural amenities of the lakes and rivers and their shores and banks; and
- (f) the protection of persons and of property by ensuring that dams are suitably located, constructed, operated and maintained and are of an appropriate nature with regard to the purposes of clauses (a) to (e). 1998, c. 18, Sched. I, s. 23.

Regulations

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

- (a) for the safe and orderly floating of timber down lakes and rivers, and for preventing the use of the lakes and rivers for navigation by vessels and boats being unnecessarily impeded or interfered with by the timber;
- (b) respecting generally the use under this Act of lakes and rivers and waters therein;
- (c) governing applications for approvals under this Act;
- (d) prescribing circumstances in which approval is required under subsection 14 (1) or section 16;
- (e) providing for and governing appeals from a refusal to give an approval required by a regulation made under clause (d).

(f) REPEALED: 2001, c. 9, Sched. K, s. 3 (1).

R.S.O. 1990, c. L.3, s. 3 (1); 1994, c. 23, s. 68; 1996, c. 1, Sched. N, s. 3 (1); 1998, c. 18, Sched. I, s. 24 (1, 2); 2001, c. 9, Sched. K, s. 3 (1).

Minister's regulations re dams

(2) The Minister may make regulations governing the design, construction, operation, maintenance and safety of dams in any lake or river or any defined portion of a lake or river. 2001, c. 9, Sched. K, s. 3 (2).

General or particular

(3) A regulation under subsection (1) or (2) may be general or particular in its application. 2001, c. 9, Sched. K, s. 3 (2).

Adoption by reference

(4) A regulation under subsection (1) or (2) may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council or Minister considers necessary, any code or guideline, as it reads at the time the regulation is made or as amended from time to time. 2001, c. 9, Sched. K, s. 3 (2).

Ministerial agreements

4. For the purposes of this Act, the Minister may enter into agreements, including cost-sharing agreements, with any government or person dealing with the management, protection or use of lakes and rivers and the design, construction, operation, repair, maintenance, alteration or removal of dams or other works in lakes and rivers. 1998, c. 18, Sched. I, s. 25.

Expropriation and arbitration

Expropriation

5. (1) The *Expropriations Act* applies where anything done under this Act constitutes an expropriation or injurious affection within the meaning of that Act. R.S.O. 1990, c. L.3, s. 5 (1).

Arbitrations

(2) Where under this Act a claim or dispute that does not constitute an expropriation or injurious affection is to be determined by arbitration, a judge of the Superior Court of Justice shall be the sole arbitrator for such purpose and the *Arbitrations Act* otherwise applies. R.S.O. 1990, c. L.3, s. 5 (2); 2001, c. 9, Sched. K, s. 3 (3).

Where compensation for flooding or injury by dam made before grant from the Crown

6. Where land is overflowed or otherwise injured by the maintenance of a dam that was erected before the land was granted by the Crown and the grantee or any person under whom the grantee derived title obtained a reduction in the price of the land on account of, or was otherwise indemnified for, its being overflowed or otherwise injured by the dam, no subsequent owner of the land is entitled to maintain an action against the owner or occupier of the dam for damages for any overflowing or injury to the land due to the continuance of the dam. R.S.O. 1990, c. L.3, s. 6.

Restrictions upon operations

7. Nothing in this Act authorizes any person to obstruct any waters already navigable. R.S.O. 1990, c. L.3, s. 7; 1998, c. 18, Sched. I, s. 26.

Orders binding

8. An order of the Minister and all conditions in an approval under this Act are binding upon and enforceable against the successor or assignee of the person to whom the order is directed or the approval is granted. 1998, c. 18, Sched. I, s. 27.

No liability re approvals, etc.

9. (1) Any person heretofore or hereafter giving any approval or making any recommendation for approval authorized or required under this Act is not liable for any injury, including death, loss or other damage caused by or resulting from the giving of the approval or the making of the recommendation or the doing of or the failure to do any act in connection therewith. R.S.O. 1990, c. L.3, s. 9 (1).

Crown not relieved of liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by any 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. R.S.O. 1990, c. L.3, s. 9 (2).

10. REPEALED: 1998, c. 18, Sched. I, s. 28.

Refusal of approval or order that will result in costs

11. (1) If the Minister intends to refuse an approval that he or she is empowered to give under this Act or to make an order directing any act that will incur costs, the Minister shall, before refusing the approval or making the order, give notice of the intention to the person asking for the approval or to whom the order would be directed. 1998, c. 18, Sched. I, s. 28.

When notice received

(2) A notice that is mailed by prepaid post to the last known address recorded with the Ministry for a person shall be deemed to have been received by that person five business days after it is mailed. 1998, c. 18, Sched. I, s. 28.

Request for inquiry

(3) The notice shall inform the person to whom it is given that the person is entitled to an inquiry if a written request for an inquiry is delivered to the Minister within 15 days after the notice is received. 1998, c. 18, Sched. I, s. 28.

Inquiry required

(4) If the Minister receives a request for an inquiry within the time set out in subsection (3), the Minister shall cause an inquiry to be held and shall consider the inquiry officer's report before making a decision respecting an approval or the making of an order. 1998, c. 18, Sched. I, s. 28.

Inquiry not required

(5) Subsections (1), (3) and (4) do not apply if the Minister is of the opinion that an immediate order is necessary to protect any person from injury or property from damage and if the Minister so states in the order. 1998, c. 18, Sched. I, s. 28; 2001, c. 9, Sched. K, s. 3 (4).

Inquiry officer

(6) The Minister may appoint an inquiry officer and shall specify the particulars of the inquiry. 1998, c. 18, Sched. I, s. 28.

Inquiry

(7) An inquiry officer shall establish the parties to the inquiry, shall fix a time and place for the inquiry, giving adequate notice in the circumstances, and shall hold the inquiry specified. 1998, c. 18, Sched. I, s. 28.

Parties

(8) The following are parties to an inquiry:

1. The person who requested the inquiry.
2. The Minister.
3. Any person whom the inquiry officer determines has a direct interest and should be added as a party. 1998, c. 18, Sched. I, s. 28.

Disclosure

(9) At least 20 days before the day fixed for the inquiry,

- (a) each of the parties to the inquiry shall serve each of the other parties a statement setting out the grounds and a list of the documents upon which each intends to rely at the inquiry; and
- (b) each party to the inquiry shall make available for inspection by the other parties all documents that the party proposes to use at the inquiry. 1998, c. 18, Sched. I, s. 28.

Purpose of inquiry

(10) The inquiry officer shall inquire as to whether the refusal of approval or the proposed order is fair, sound and reasonably necessary to achieve the purposes of this Act. 1998, c. 18, Sched. I, s. 28.

Report

(11) The inquiry officer shall report to the Minister,

- (a) setting out the findings of fact;
- (b) stating the officer's opinion on the merits and the reasons for that opinion; and
- (c) setting out the officer's recommendations. 1998, c. 18, Sched. I, s. 28.

Copies of report

(12) The inquiry officer shall provide a copy of the report to each of the other parties. 1998, c. 18, Sched. I, s. 28.

Application of R.S.O. 1990, c. S.22

(13) Sections 6 to 16, 21, 21.1, 22 and 23 of the *Statutory Powers Procedure Act* apply, with necessary modification, to an inquiry under this section. 1998, c. 18, Sched. I, s. 28.

Minister's decision

(14) The Minister, after considering the report, may,

- (a) in the case of a request for approval, grant the approval requested or a modified version of it or refuse to grant the approval; or
- (b) in the case of a proposed order, make the order proposed or a modified version of it or refrain from making the proposed order. 1998, c. 18, Sched. I, s. 28.

Reasons

(15) The Minister shall give reasons for his or her decision to the parties to the inquiry. 1998, c. 18, Sched. I, s. 28.

No petition to Lieutenant Governor in Council

Definition

12. (1) In this section,

“old section 12” means this section as it read immediately before the day the *Good Government Act, 2009* received Royal Assent. 2009, c. 33, Sched. 2, s. 40.

Not subject to petition

(2) Every refusal or order of the Minister that is the subject of a petition filed under the old section 12 that is not disposed of or withdrawn before the day the *Good Government Act, 2009* receives Royal Assent is deemed not to be subject to petition to the Lieutenant Governor in Council, and shall not be considered or continue to be considered, as the case may be, by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 40.

Same

(3) Every refusal or order of the Minister that may be the subject of a petition under the old section 12 is deemed not to be subject to petition to the Lieutenant Governor in Council, and shall not be considered by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 40.

No effect on validity

(4) Nothing in this section affects the validity of a refusal or order of the Minister that, but for section 40 of Schedule 2 to the *Good Government Act, 2009*, was or could have been the subject of a petition filed under the old section 12. 2009, c. 33, Sched. 2, s. 40.

**PART I
CONSTRUCTION, REPAIR AND USE OF DAMS**

13. REPEALED: 1998, c. 18, Sched. I, s. 29.

Approvals

14. (1) No person shall construct a dam in any lake or river in circumstances set out in the regulations without the written approval of the Minister for the location of the dam and its plans and specifications. 1998, c. 18, Sched. I, s. 29.

Location approval

(2) An application for approval of the location of a dam must be made in writing and must be accompanied by,

- (a) a diagram showing the proposed location of the dam, any area to be flooded and the land of persons other than the applicant that may be affected by the flooding; and
- (b) a statement showing the purpose, type and size of the dam, whether the dam will be temporary or permanent, the quantity of water to be held, and the rate of flow of water that may be diverted. 1998, c. 18, Sched. I, s. 29.

Plan approval

(3) If the location of a dam has been approved, an application for approval of the plans and specifications of the dam must be made in writing and must be accompanied by,

- (a) three copies of the plans and specifications showing full details of the dam, including any spillways, sluiceways, channels and other associated structures, and the maximum elevation at which the water will be held under normal operating conditions;
- (b) a report on the design of the dam and a map showing the location and size of the watershed above the dam; and
- (c) particulars of the nature of the foundation on which the dam is to be constructed with reports of all boring or test pits. 1998, c. 18, Sched. I, s. 29.

Additional information

(4) The Minister may require any person submitting an application under this section to provide any additional information that the Minister considers pertinent. 1998, c. 18, Sched. I, s. 29.

Approval

(5) The Minister may approve the location or the plans and specifications of a dam subject to such conditions or with such changes as the Minister considers advisable to further the purposes of this Act. 1998, c. 18, Sched. I, s. 29.

Fees

(6) The Minister may set, charge and collect fees for issuing approvals under this Part. 1998, c. 18, Sched. I, s. 29.

Refusal of approval

(7) The Minister may refuse to grant an approval for the location of a dam if the Minister is of the opinion that the construction of the dam at that location would not coincide with the purposes of this Act. 1998, c. 18, Sched. I, s. 29.

Expiration of approval - location

(8) An approval for location of a dam expires with the specified time for applying for approval of the plans and specifications unless the application for the approval of the plans and specifications is made within that time. 1998, c. 18, Sched. I, s. 29.

Expiration of approval

(9) An approval for location of a dam and the approval for plans and specifications of the dam expire with the specified time for the completion of construction of the approved dam. 1998, c. 18, Sched. I, s. 29.

Extension

(10) Subsection (9) does not apply if the Minister is satisfied that construction of the dam is progressing to completion in a diligent manner and extends the time for the completion of construction. 1998, c. 18, Sched. I, s. 29.

Non-application - emergency

(11) This section does not apply to the construction of an emergency dam if the construction is immediately necessary to prevent injury to persons, loss of life or loss of property. 1998, c. 18, Sched. I, s. 29.

Directions from Minister

- (12) When the situation set out in subsection (11) arises, the owner shall,
- (a) immediately give notice to the Minister of the start of construction of a dam; and
 - (b) comply with the directions of the Minister on the precautions to be taken in maintaining the dam and its removal when the purpose for which it was constructed has been served. 1998, c. 18, Sched. I, s. 29.

Ministerial delegation

15. (1) The Minister may delegate, in writing, any of his or her powers or duties respecting approvals or orders under this Part to any person or body outside the Ministry subject to such limitations and requirements as may be set out in the delegation. 1998, c. 18, Sched. I, s. 30; 2012, c. 8, Sched. 26, s. 1 (1).

Fees

(2) A delegation of a power or duty to issue approvals includes the right to collect and retain fees for issuing the approvals. 1998, c. 18, Sched. I, s. 30.

Performance agreement

(3) If the Minister delegates powers or duties under subsection (1), the Minister and the delegate shall enter into a performance agreement setting out measurable performance goals and objectives for the delegate. 2012, c. 8, Sched. 26, s. 1 (2).

Annual performance assessment

(4) Every year, the delegate shall prepare a performance assessment demonstrating that the performance goals and objectives set out in the performance agreement are being met. 2012, c. 8, Sched. 26, s. 1 (2).

Failure to meet performance goals, etc.

(5) If the Minister believes that a delegate has failed to meet the performance goals and objectives set out in the performance agreement, the Minister shall give the delegate written notice of his or her belief and require that the delegate fulfil the requirements of the performance agreement within such time period as may be specified in the notice. 2012, c. 8, Sched. 26, s. 1 (2).

Failure to comply

(6) If a delegate fails to comply with a notice given under subsection (5), the Minister may terminate the performance agreement and revoke the delegation made under subsection (1). 2012, c. 8, Sched. 26, s. 1 (2).

Alterations, etc.

16. (1) No person shall alter, improve or repair any part of a dam in the circumstances prescribed by the regulations unless the plans and specifications for whatever is to be done have been approved by the Minister. 1998, c. 18, Sched. I, s. 31.

Approval

(2) An approval may be granted subject to such conditions or changes as the Minister considers necessary to further the purposes of this Act. 1998, c. 18, Sched. I, s. 31.

Orders

17. (1) If a dam has been constructed on a lake or river and the location or the plans and specifications of the dam have not been approved by the Minister, the Minister may order the owner to do one or more of the following within the time specified in the order, if the Minister considers it necessary for any of the purposes of this Act:

1. Provide plans and specifications of the dam.
2. Remove the dam or any part of it.
3. Open up the dam.
4. Repair the dam.
5. Improve the dam.
6. Otherwise alter the dam. 2002, c. 18, Sched. L, s. 5.

Engineer's report

(2) If an engineer reports to the Minister that, because of the design, construction or condition of a dam, water is being or may be held, released, forwarded or diverted in sufficient volume or at sufficient rate of flow to cause personal injury or loss of or damage to property, the Minister may order the owner to do what the Minister, on the basis of the report, considers necessary to rectify the problem within the time specified in the order. 1998, c. 18, Sched. I, s. 32; 2000, c. 26, Sched. L, s. 5 (1); 2001, c. 9, Sched. K, s. 3 (5).

Engineer's examination

(3) The Minister may have an engineer examine and report on a dam and the Minister may order the owner, within the time specified in the order, to do what, on the basis of the report, the Minister considers necessary to further the purposes of this Act. 1998, c. 18, Sched. I, s. 32.

Fishway

(4) The Minister may order the owner of a dam that has been constructed without a fishway to provide one, within the time specified in the order, that permits free and unobstructed passage of fish up and down stream at any season of the year. 1998, c. 18, Sched. I, s. 32.

Where failure to comply

(5) After the expiration of the time specified in an order, the Minister may do anything that an owner was ordered to but did not do. 1998, c. 18, Sched. I, s. 32.

Where no approval

17.1 (1) If any activity that requires an approval under this Act is started without that approval, the Minister may order the owner to,

- (a) stop the activity;
- (b) furnish, within the time specified in the order, the diagrams, statements, plans and specifications, reports or other information that the Minister would be entitled to have before issuing an approval; and
- (c) change or remove, within the time specified in the order and at the owner's expense, whatever may have been done. 1998, c. 18, Sched. I, s. 32.

Where failure to comply

(2) After the expiration of the time specified in an order, the Minister may do, change or remove anything that an owner was ordered to but did not do, change or remove. 1998, c. 18, Sched. I, s. 32.

Recoverable debt

(3) The cost of anything that the Minister does under section 17 or this section because of the failure of an owner to comply with an order is a debt of the owner due to the Crown in right of Ontario and is recoverable with costs in any court of competent jurisdiction. 1998, c. 18, Sched. I, s. 32.

Non-application of s. 11

(4) Section 11 does not apply to an order made under this section. 1998, c. 18, Sched. I, s. 32.

Subsequent approval

17.2 (1) The Minister may approve the location or plans and specifications of a dam that have not been approved under section 14, with any changes the Minister considers necessary, after construction has started if the location and plans and specifications are compatible, in the opinion of the Minister, with the purposes of this Act. 1998, c. 18, Sched. I, s. 32.

Modifying order

(2) In giving an approval under subsection (1), the Minister may rescind or modify a previously issued order in respect of the dam for which approval is given. 1998, c. 18, Sched. I, s. 32.

Compliance with conditions in approval

17.3 The holder of an approval issued under section 14, 16 or 17.2 shall comply with the conditions to which the approval is subject. 2006, c. 19, Sched. P, s. 2 (1).

18. REPEALED: 2009, c. 33, Sched. 22, s. 5 (1).

Inspectors and engineers

19. (1) The Minister may, in writing, appoint inspectors and engineers for the purposes of this Act. 1998, c. 18, Sched. I, s. 33.

Limitation

(2) The Minister may limit the duties and authority of any inspector or engineer appointed. 1998, c. 18, Sched. I, s. 33.

Powers and duties of inspectors and engineers

Duties of inspectors

20. (1) The duties of an inspector include determining if,
- (a) the approvals or conditions of approvals under this Act have been complied with;
 - (b) the orders issued under this Act have been complied with; and
 - (c) the regulations are being complied with. 1998, c. 18, Sched. I, s. 33.

Powers: inspector, engineer

- (2) For the purpose of carrying out his or her duties under this Act, an inspector or an engineer may,
- (a) enter and inspect, at any reasonable time, any place, structure or land, other than a private dwelling;
 - (b) require the production for inspection of any document or thing; and
 - (c) record or copy any information or document by any method. 1998, c. 18, Sched. I, s. 33.

Owner's obligation

(3) The owner of a dam or proposed dam shall permit and facilitate an inspector or an engineer, in the course of carrying out his or her duties, to,

- (a) enter and inspect, at any reasonable time, any place, structure or land under the control of the owner, other than a private dwelling; and
- (b) inspect any document, data or thing under the control of the owner. 1998, c. 18, Sched. I, s. 33; 2006, c. 19, Sched. P, s. 2 (2).

Removal

(4) An inspector may, upon giving a receipt for it, remove any document or thing produced pursuant to a request under clause (2) (b) for the purpose of making copies or extracts. 1998, c. 18, Sched. I, s. 33.

Return

(5) Any document or thing that is taken under subsection (4) shall be returned as soon as reasonably possible. 1998, c. 18, Sched. I, s. 33.

Search warrant

(6) An inspector may obtain a search warrant under Part VIII of the *Provincial Offences Act*. 1998, c. 18, Sched. I, s. 33.

Interference prohibited

20.1 (1) No person shall obstruct, interfere with or otherwise hinder an inspector or engineer in carrying out his or her duties. 2002, c. 1, Sched. C, s. 3 (2).

Information

(2) No person shall furnish an inspector or an engineer with false information or fail to furnish information required by an inspector or an engineer for the purpose of carrying out his or her duties. 1998, c. 18, Sched. I, s. 33.

Plans, etc., to be kept on file in Ministry

21. All plans, orders and reports furnished or made under this Part shall be kept on file in the Ministry. R.S.O. 1990, c. L.3, s. 21.

Officers to take charge of lake, river or dam

22. (1) The Minister may appoint officers with the powers and duties specified by the Minister to take charge of a lake or river or any dam in a lake or river if,

- (a) a dam is under construction or has been constructed on the lake or river and the Minister considers it expedient for the purposes of this Act; or
- (b) a dispute arises between persons having the right to use the lake or river or dam in a lake or river. 1998, c. 18, Sched. I, s. 34.

Orders

(2) The Minister may, on the recommendation of an officer, make orders to regulate the use of the lake or river or to regulate the use and operation of any dam in the lake or river in the manner that seems, to the Minister, best calculated to afford to persons having conflicting interests on the lake or river or in the dam a fair and reasonable use of the waters of the lake or river and to achieve the purposes of this Act. 1998, c. 18, Sched. I, s. 34.

Boundary waters

(3) If a change in the level of international boundary waters is involved, the orders of the Minister and the duties of the officers shall conform to any order or recommendation that the International Joint Commission may make under the authority of the International Boundary Waters Treaty between Great Britain and the United States. 1998, c. 18, Sched. I, s. 34.

Water levels and management plans

Regulation of water levels

23. (1) Where a dam or other structure or work has been heretofore or is hereafter constructed on a lake or river and the Minister considers it necessary or expedient for the purposes of this Act, the Minister may order the owner of the dam or other structure or work to take such steps within the time specified in the order as may be necessary to maintain the level of the water of the lake or river or to raise or lower such level as the order provides. R.S.O. 1990, c. L.3, s. 23 (1).

(1.1) REPEALED: 2002, c. 1, Sched. C, s. 3 (3).

Non-compliance with order

(2) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may cause to be taken such steps as are necessary to achieve the result intended by the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. R.S.O. 1990, c. L.3, s. 23 (2).

Where section not to apply

(3) This section does not apply to any lake or river over which the International Joint Commission established under the Boundary Waters Treaty of 1909 or any public authority exercising jurisdiction under the Parliament of Canada or The Lake of the Woods Control Board established under *The Lake of the Woods Control Board Act, 1922*, chapter 21, has jurisdiction with respect to the level of the water. R.S.O. 1990, c. L.3, s. 23 (3).

Plans for operation and maintenance

23.1 (1) If the Minister considers it necessary or expedient for the purposes of this Act, the Minister may order the owner of a dam or other structure or work that has been constructed on a lake or river, or a person who has applied under section 14 or 16 for an approval to construct, alter, improve or repair a dam, other structure or work on a lake or river, to, in accordance with the regulations and with guidelines approved by the Minister,

- (a) prepare or amend a plan for the operation and maintenance of the existing or proposed dam, other structure or work; or
- (b) participate in the preparation or amendment of a plan referred to in clause (a). 2012, c. 8, Sched. 26, s. 2 (1).

Submission of plan to Minister

(2) A person to whom an order to prepare or amend a plan is directed under subsection (1) shall submit the plan or amended plan to the Minister within the time specified in the order. 2002, c. 1, Sched. C, s. 3 (4); 2012, c. 8, Sched. 26, s. 2 (2).

Participation in plan

(3) A person to whom an order to participate in the preparation or amendment of a plan is directed under subsection (1) shall do so within the time specified in the order. 2002, c. 1, Sched. C, s. 3 (4); 2012, c. 8, Sched. 26, s. 2 (3).

Non-compliance with order

(4) If a person fails to comply with an order made under subsection (1) within the time specified in the order, the Minister may cause to be taken such steps as are necessary to achieve the result intended by the order, and the cost of taking those steps is a debt due by the person to the Crown and is recoverable with costs in any court of competent jurisdiction. 2002, c. 1, Sched. C, s. 3 (4); 2012, c. 8, Sched. 26, s. 2 (4).

Minister's powers

(5) If a plan or an amended plan is submitted to the Minister under subsection (2), the Minister may approve it, reject it or approve it with such modifications as may be made by the Minister. 2002, c. 1, Sched. C, s. 3 (4).

Amendment of plan

(6) The Minister may at any time amend a plan or an amended plan, that the Minister has previously approved or amended. 2002, c. 1, Sched. C, s. 3 (4).

Duty to comply with plan

(7) An owner of a dam or other structure or work shall operate and maintain the dam or other structure or work in accordance with,

- (a) the plan or amended plan that has been approved by the Minister under subsection (5); and
- (b) the amendments, if any, that have been made by the Minister under subsection (6). 2002, c. 1, Sched. C, s. 3 (4).

Non-compliance with plan

(8) If an owner contravenes subsection (7), the Minister may cause to be taken such steps as are necessary to achieve the result intended by the plan or amended plan that has been approved by the Minister under subsection (5) and the amendments, if any, that have been made by the Minister under subsection (6), and the cost of taking those steps is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction. 2002, c. 1, Sched. C, s. 3 (4).

Where section not to apply

(9) This section does not apply to any lake or river over which the International Joint Commission established under the Boundary Waters Treaty of 1909 or any public authority exercising jurisdiction under the Parliament of Canada or The Lake

of the Woods Control Board established under *The Lake of the Woods Control Board Act, 1922*, chapter 21, has jurisdiction with respect to the level of the water. 2002, c. 1, Sched. C, s. 3 (4).

Removal of obstructions

24. Subject to compensation being made as provided by the *Ministry of Government Services Act* for any damage sustained by reason thereof, the Minister may authorize any person employed by or under the Minister to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he or she considers necessary or expedient for the achievement of any of the purposes of this Act. R.S.O. 1990, c. L.3, s. 24.

25. REPEALED: 1998, c. 18, Sched. I, s. 35.

26. REPEALED: 1998, c. 18, Sched. I, s. 35.

27. REPEALED: 1998, c. 18, Sched. I, s. 35.

Offence

28. (1) A person is guilty of an offence if the person,
- (a) constructs a dam in any lake or river, in circumstances set out in the regulations, without the location or plans and specifications of the dam having been approved in writing by the Minister;
 - (a.1) constructs a dam in any lake or river, in circumstances set out in the regulations, that does not conform with the plans and specifications approved under section 14;
 - (a.2) fails to comply with the conditions of an approval given by the Minister under section 14 or 17.2;
 - (b) alters, improves or repairs any part of a dam, in the circumstances prescribed by the regulations, without the plans and specifications for whatever is to be done having been approved by the Minister;
 - (b.1) alters, improves or repairs any part of a dam, in the circumstances prescribed by the regulations, in a way that does not conform with the plans and specifications approved under section 16;
 - (b.2) fails to comply with the conditions of an approval given by the Minister under section 16;
 - (c) obstructs, interferes with or otherwise hinders an engineer, an inspector or an officer or agent of the Minister in the exercise of a power or performance of a duty under this Act or the regulations; or
 - (d) contravenes any provision of this Act or a regulation for the contravention of which no other penalty is provided. 2002, c. 1, Sched. C, s. 3 (5); 2006, c. 19, Sched. P, s. 2 (3).

Same

- (2) A person is guilty of an offence if the person,
- (a) fails to comply with an order under section 17, 17.1, 18, 22, 23, 23.1, 36 or 38;
 - (b) fails to comply with a plan that has been approved or amended by the Minister under section 23.1;
 - (c) fails to maintain or operate a dam in accordance with the regulations; or
 - (d) when required to provide any of the following by the Minister, by an engineer or inspector or by an officer or agent of the Minister, fails to provide any plans and specifications, books, accounts, documents, data or other information relating to a dam or other structure or work in a lake or river, its design, construction, condition, maintenance or operation or any information relating to plans and specifications or other documents required under this Act. 2002, c. 1, Sched. C, s. 3 (5); 2012, c. 8, Sched. 26, s. 3.

Penalty for offence under subs. (1)

- (2.1) Every person who is guilty of an offence under subsection (1) is liable, on conviction,
- (a) to a fine of not more than \$1 million;
 - (b) to imprisonment for a term of not more than six months; or
 - (c) to both a fine described in clause (a) and imprisonment described in clause (b). 2002, c. 1, Sched. C, s. 3 (5).

Penalty for offence under subs. (2)

- (2.2) Every person who is guilty of an offence under subsection (2) is liable, on conviction,

- (a) to a fine of not more than \$1 million for the day during which the offence first occurs and to an additional fine of not more than \$20,000 for each day during which the offence continues;
- (b) to imprisonment for a term of not more than six months; or
- (c) to both a fine described in clause (a) and imprisonment described in clause (b). 2002, c. 1, Sched. C, s. 3 (5).

Increasing fine by amount of monetary benefit

(2.3) Despite the maximum fine provided in subsection (2.1) or (2.2), the court that convicts a person of an offence under clause (1) (a) or (b) or (2) (a), (b) or (c) may, in addition to any other penalty imposed or order made under this section, increase the fine imposed on the person for the commission of the offence by an amount equal to the monetary benefit that was acquired by, or that accrued to, the person as a result of the commission of the offence. 2002, c. 1, Sched. C, s. 3 (5).

Order to repair damage

(2.4) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under clause (2) (b) or (c) may, in addition to any other penalty imposed under this section, order the person to take such action as the court directs to repair or rehabilitate the damage that results from or is in any way connected to the commission of the offence, within the time specified in the order. 2002, c. 1, Sched. C, s. 3 (5).

Non-compliance with order

(2.5) If a person fails to comply with an order made under subsection (2.4), the Minister may cause to be taken such steps as are necessary to achieve the result intended by the order, and the cost of taking those steps is a debt due by the person to the Crown and is recoverable with costs in any court of competent jurisdiction. 2002, c. 1, Sched. C, s. 3 (5).

Other liability

(3) A conviction of a person under this section does not affect that person's liability for damages. 1998, c. 18, Sched. I, s. 35.

Onus of proof

(4) In a prosecution under clause (1) (a) or (b), the onus is on the person charged to prove that the location or the plans and specifications, as the case may be, have been approved by the Minister. 1998, c. 18, Sched. I, s. 35.

Limitation period

(5) A proceeding in respect of an offence under this Act shall not be commenced more than five years after the date on which the offence was or is alleged to have been committed. 2001, c. 9, Sched. K, s. 3 (6).

Minister's direction for payment

29. (1) If a debt is owed to the Crown by an owner who owns real property in a municipality for work carried out by the Minister under this Act, the Minister may direct the municipality to recover the amount specified. 1998, c. 18, Sched. I, s. 35.

Lien

(2) Upon receiving a direction under subsection (1), the municipality has a lien on the property for the amount to be recovered and the amount shall have priority lien status, as described in section 1 of the *Municipal Act, 2001* or in section 3 of the *City of Toronto Act, 2006*, as the case may be, in respect of the property and shall be added by the treasurer of the municipality to the tax roll. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 28 (1).

Same

(3) Despite any other Act, a lien arising by operation of subsection (2) is not an estate or interest of the Crown in right of Canada or in right of Ontario. 1998, c. 18, Sched. I, s. 35.

Money collected

(4) A municipality collecting money under this section shall pay the amount collected, less costs reasonably attributable to the collection, to the Minister of Finance. 1998, c. 18, Sched. I, s. 35.

Where land sold

(5) If land is sold under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be, and any of the proceeds are payable to the Minister of Finance under this section, the *Fire Protection and Prevention Act, 1997*, the *Environmental Protection Act* or the *Ontario Water Resources Act*, none of the proceeds are payable until after payment of all other amounts payable from the proceeds in respect of the cancellation price of the land. 1998, c. 18, Sched. I, s. 35; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 28 (2).

Cancellation price

(6) Despite Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, the treasurer of a municipality may sell land under those Parts for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Fire Protection and Prevention Act, 1997*, the *Environmental Protection Act* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 28 (3).

Interpretation

(7) In subsections (5) and (6),

“cancellation price” has the same meaning that it has in Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 28 (3).

Territory without municipal organization

(8) If a debt is owed to the Crown by an owner who owns real property in a territory without municipal organization for work carried out by the Minister under this Act, the Minister may give written notice to the Minister of Finance of the amount to be recovered, requesting the collection of the amount under the *Provincial Land Tax Act, 2006*, and the amount may be collected under that Act as if it was tax imposed under it. 1998, c. 18, Sched. I, s. 35; 2006, c. 33, Sched. Z.3, s. 15 (1).

(9) REPEALED: 2006, c. 33, Sched. Z.3, s. 15 (2).

PART II PUBLIC RIGHTS IN LAKES AND RIVERS

30.-35. REPEALED: 1998, c. 18, Sched. I, s. 36.

Throwing matter into lake or river in conflict with purposes of Act

36. (1) No person shall throw, deposit, discharge or permit the throwing, depositing or discharging of any substance or matter in a lake or river, whether or not the lake or river is covered by ice, or on the shores or banks of a lake or river under circumstances that conflict with the purposes of this Act. 1998, c. 18, Sched. I, s. 36; 2009, c. 33, Sched. 22, s. 5 (2).

Order to remove

(2) If any substance or matter is deposited, thrown or discharged in a lake or river or on the shore or banks of a lake or river in circumstances that the Minister considers conflict with the purposes of this Act, the Minister may order the person who did the act or caused it to be done to take such steps, within the time specified in the order, as the Minister considers necessary to remove the substance or matter from the lake or river or the shore or bank, as the case may be. 1998, c. 18, Sched. I, s. 36; 2009, c. 33, Sched. 22, s. 5 (2).

Where failure to comply

(3) After the expiration of the time specified in an order, the Minister may remove whatever the person to whom the order was directed did not remove. 1998, c. 18, Sched. I, s. 36.

Recoverable debt

(4) The cost of anything that the Minister does under this section because of the failure of a person to whom an order was directed to comply with the order is a debt of that person due to the Crown in right of Ontario and is recoverable with costs in any court of competent jurisdiction. 1998, c. 18, Sched. I, s. 36.

37. REPEALED: 1998, c. 18, Sched. I, s. 36.

38. REPEALED: 2009, c. 33, Sched. 22, s. 5 (3).

DISCRETIONARY POWER OF COURT

Discretion of court as to granting of injunction in certain cases

39. (1) Where in an action or proceeding a person claims, and but for this section would be entitled to, an injunction against the owner or occupier of a mill for an injury or damage, direct or consequential, sustained by the person, or for any interference directly or indirectly with any rights of the person as riparian proprietor or otherwise, by reason or in consequence of the throwing, depositing or discharging, or permitting the throwing, depositing or discharging of any refuse, sawdust, chemical, substance or matter from the mill or from it and other mills into a lake or river, or by reason or in consequence of any odour arising from any such refuse, sawdust, chemical, substance or matter so thrown, deposited or discharged or so permitted to be thrown, deposited or discharged, the court or judge may,

- (a) refuse to grant an injunction if it is proved that having regard to all the circumstances and taking into consideration the importance of the operation of the mill to the locality in which it operates and the benefit and advantage, direct and consequential, which the operation of the mill confers on that locality and on the inhabitants of that locality, and weighing the same against the private injury, damage or interference complained of, it is on the whole proper and expedient not to grant the injunction;
- (b) grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as are considered proper; or
- (c) in lieu of granting an injunction, direct that the owner or occupant of the mill take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of as are considered proper. R.S.O. 1990, c. L.3, s. 39 (1).

Right to damages not affected

(2) Nothing in subsection (1) affects any right of the person claiming the injunction to damages against the owner or occupier of the mill for any such injury, damage or interference. R.S.O. 1990, c. L.3, s. 39 (2).

Subsequent damages

(3) Where damage from the same cause continues, the person entitled to the damages may apply from time to time in the same action or proceeding for the assessment of subsequent damages or for any other relief to which by subsequent events the person from time to time becomes entitled. R.S.O. 1990, c. L.3, s. 39 (3).

Application of section

(4) This section applies whether the injury, damage or interference is or is not a continuing one, and whether the person claiming the injunction in the action or proceeding is a plaintiff or is a defendant proceeding by way of counterclaim. R.S.O. 1990, c. L.3, s. 39 (4).

PART III (ss. 40-59) REPEALED: 1998, c. 18, Sched. I, s. 38 (1).

PART IV (ss. 60-67) REPEALED: 1998, c. 18, Sched. I, s. 38 (1).

PART V (ss. 68-88) REPEALED: 1998, c. 18, Sched. I, s. 38 (1).

**PART VI
WATER PRIVILEGES**

Application

89. This Part is subject to Part I. R.S.O. 1990, c. L.3, s. 89.

Definition

90. In this Part,

“occupied water privilege” means a mill privilege, or water power, that has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are in course of construction. R.S.O. 1990, c. L.3, s. 90.

Protection of occupied water privilege

91. An occupied water privilege shall not be in any manner interfered with or encroached upon under the authority of this Part without the consent of the owner. R.S.O. 1990, c. L.3, s. 91.

Right of owner of water privilege to enter on and survey lands

92. A person desiring to use or improve a water privilege, of which or a part of which the person is the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes by erecting a dam and creating a pond of water, increasing the head of water in any existing pond or extending its area, diverting the waters of any stream, pond or lake into any other channel, constructing any raceway or other erection or work that the person requires in connection with the improvement and use of the privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection or work, or any part thereof, may enter upon any land that the person considers necessary to be examined and to make an examination and survey thereof, doing no unnecessary damage and making compensation for any actual damage done. R.S.O. 1990, c. L.3, s. 92.

Expropriation of land for purposes of s. 92

93. A person to whom section 92 applies may expropriate land for the purposes mentioned in section 92. R.S.O. 1990, c. L.3, s. 93.

FORM 1 REPEALED: 1998, c. 18, Sched. I, s. 39.

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