

## Safe Drinking Water Act, 2002

### S.O. 2002, CHAPTER 32

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### **PART I** **INTERPRETATION**

#### **Purposes**

1 The purposes of this Act are as follows:

1. To recognize that the people of Ontario are entitled to expect their drinking water to be safe.
2. To provide for the protection of human health and the prevention of drinking water health hazards through the control and regulation of drinking water systems and drinking water testing. 2002, c. 32, s. 1.

#### **Interpretation**

##### **Definitions**

2 (1) In this Act,

“accredited operating authority” means an operating authority accredited under Part IV; (“organisme d’exploitation agréé”)

“administrative penalty” means a penalty imposed under section 121 or 121.1; (“pénalité administrative”)

“Agency” means the Ontario Clean Water Agency established under the *Capital Investment Plan Act, 1993*; (“Agence”)

“alteration” includes the following, in respect of a drinking water system, but excludes repairs to the system:

1. an extension of the system,
2. a replacement of part of the system,
3. a fragmentation of the system, and
4. taking all or part of the system permanently out of service; (“transformation”, “transformer”)

“deficiency” means, in respect of a drinking water system, a violation under this Act that is prescribed as a deficiency for the purposes of this Act; (“défaillance”)

“distribution system” means the part of a drinking water system that is used in the distribution, storage or supply of water and that is not part of a treatment system; (“réseau de distribution”)

“document” includes a sound recording, video tape, film, photograph, chart, graph, map, plan, survey, book of account, and information recorded or stored by means of any device; (“document”)

“drinking water” means,

- (a) water intended for human consumption, or
- (b) water that is required by an Act, regulation, order, municipal by-law or other document issued under the authority of an Act,
  - (i) to be potable, or
  - (ii) to meet or exceed the requirements of the prescribed drinking water quality standards; (“eau potable”)

“drinking water health hazard” means, in respect of a drinking water system,

- (a) a condition of the system or a condition associated with the system’s waters, including any thing found in the waters,
  - (i) that adversely affects, or is likely to adversely affect, the health of the users of the system,
  - (ii) that deters or hinders, or is likely to deter or hinder, the prevention or suppression of disease, or
  - (iii) that endangers or is likely to endanger public health,
- (b) a prescribed condition of the drinking water system, or
- (c) a prescribed condition associated with the system’s waters or the presence of a prescribed thing in the waters; (“danger de l’eau potable pour la santé”)

“drinking water system” means a system of works, excluding plumbing, that is established for the purpose of providing users of the system with drinking water and includes,

- (a) any thing used for the collection, production, treatment, storage, supply or distribution of water,
- (b) any thing related to the management of residue from the treatment process or the management of the discharge of a substance into the natural environment from the treatment system, and
- (c) a well or intake that serves as the source or entry point of raw water supply for the system; (“réseau d’eau potable”)

“drinking water test” means,

- (a) a test for the purposes of this Act to assist in the determination of the quality of any waters in respect of a drinking water system,
- (b) a test for the purposes of the *Health Protection and Promotion Act* to assist in the determination of the quality of any waters in respect of a small drinking water system within the meaning of that Act, and
- (c) a prescribed test; (“analyse de l’eau potable”)

“drinking water testing licence” means a licence to provide a drinking water testing service issued under Part VII; (“permis d’analyse de l’eau potable”)

“drinking water testing service” means a service that involves the conduct of one or more drinking water tests; (“service d’analyse de l’eau potable”)

“drinking water works permit” means a permit issued under Part V; (“permis d’aménagement de station de production d’eau potable”)

“fragmentation” means,

- (a) in respect of a municipal drinking water system, the replacement of all or part of the system with all or part of a non-municipal drinking water system, and
  - (b) in respect of a non-municipal drinking water system that is in a class prescribed for the purposes of subsection 52 (2), the replacement of all or part of the system with a non-municipal drinking water system that is not in a class prescribed for the purposes of that subsection; (“fragmentation”)
- “justice” means a provincial judge or a justice of the peace; (“juge”)
- “laboratory” means a place where drinking water tests are or will be conducted, whether or not other types of tests may be conducted at the place; (“laboratoire”)
- “major residential development” means a development of six or more private residences on one or more properties; (“grand aménagement résidentiel”)
- “medical officer of health” means, in respect of a drinking water system, the medical officer of health for the health unit in which the system is located or if none exists, the Chief Medical Officer of Health; (“médecin-hygiéniste”)
- “Minister” means the Minister of the Environment, Conservation and Parks or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)
- “Ministry” means the ministry over which the Minister presides; (“ministère”)
- “municipal drinking water licence” means a licence issued under Part V; (“permis municipal d’eau potable”)
- “municipal drinking water system” means a drinking water system or part of a drinking water system,
- (a) that is owned by a municipality or by a municipal service board established under the *Municipal Act, 2001* or a city board established under the *City of Toronto Act, 2006*,
  - (b) that is owned by a corporation established under sections 9, 10 and 11 of the *Municipal Act, 2001* in accordance with section 203 of that Act or under sections 7 and 8 of the *City of Toronto Act, 2006* in accordance with sections 148 and 154 of that Act,
  - (c) from which a municipality obtains or will obtain water under the terms of a contract between the municipality and the owner of the system, or
  - (d) that is in a prescribed class; (“réseau municipal d’eau potable”)
- “natural environment” includes the air, land and water of the Province of Ontario; (“environnement naturel”)
- “non-municipal drinking water system” means a drinking water system that is not a municipal drinking water system; (“réseau d’eau potable non municipal”)
- “operating authority” means, in respect of a drinking water system, the person or entity that is given responsibility by the owner for the operation, management, maintenance or alteration of the system; (“organisme d’exploitation”)
- “operational plans” means, in respect of a drinking water system, the operational plans required under this Act; (“plans d’exploitation”)
- “owner” includes, in respect of a drinking water system, every person who is a legal or beneficial owner of all or part of the system, but does not include the Agency or any of its predecessors where the Agency or predecessor is registered on title as the owner of the system; (“propriétaire”)
- “person” includes a municipality; (“personne”)
- “place” includes a building, structure, machine, vehicle and vessel; (“lieu”)
- “plumbing” means a system of works,
- (a) that comprise a “water system” for the purposes of the definition of “plumbing” in subsection 1 (1) of the *Building Code Act, 1992*, other than equipment installed in plumbing to treat water, and
  - (b) that are connected to a drinking water system; (“installation de plomberie”)
- “prescribed” means prescribed by the regulations made under this Act; (“prescrit”)
- “private residence” has the prescribed meaning; (“résidence privée”)
- “raw water” means water that is in a drinking water system or in plumbing that has not been treated in accordance with,
- (a) the prescribed standards and requirements that apply to the system, or

(b) such additional treatment requirements that are imposed by the licence or approval for the system, if the system is licensed or approved under this Act; (“eau brute”)

“raw water supply” means water outside a drinking water system that is a source of water for the system; (“approvisionnement en eau brute”)

“Registry” means the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*; (“Registre”)

“regulated non-municipal drinking water system” means, in respect of a provision of this Act or the regulations, a non-municipal drinking water system that is in a class prescribed for the purposes of that provision; (“réseau d’eau potable non municipal réglementé”)

“test” includes analyse when used as a verb, and “test”, when used as a noun, and “testing” have corresponding meanings; (“analyse”, “analyser”)

“treatment system” means any part of a drinking water system that is used in relation to the treatment of water and includes,

- (a) any thing that conveys or stores water and is part of a treatment process, including any treatment equipment installed in plumbing,
- (b) any thing related to the management of residue from the treatment process or the management of the discharge of a substance into the natural environment from the system, and
- (c) a well or intake that serves as the source or entry point of raw water supply for the system; (“système de traitement”)

“Tribunal” means the Ontario Land Tribunal; (“Tribunal”)

“waters” includes drinking water, raw water, raw water supply and water contained in plumbing. (“eaux”) 2002, c. 32, s. 2 (1); 2006, c. 32, Sched. C, s. 58 (1); 2007, c. 10, Sched. D, s. 3 (1); 2017, c. 2, Sched. 11, s. 6 (1); 2019, c. 14, Sched. 8, s. 64; 2021, c. 4, Sched. 6, s. 88 (1).

#### **References to Director**

(2) In a provision of this Act or the regulations, other than Part X of this Act and the regulations made for the purposes of that Part, a reference to “the Director” is a reference to the director appointed under this Act for the purposes of the provision. 2002, c. 32, s. 2 (2).

#### **Regulations under this Act**

(3) For greater certainty, a reference to “under this Act” includes “under the regulations made under this Act”. 2002, c. 32, s. 2 (3).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. C, s. 58 (1) - 01/01/2007

2007, c. 10, Sched. D, s. 3 (1) - 01/12/2008

2017, c. 2, Sched. 11, s. 6 (1) - 22/03/2017

2019, c. 14, Sched. 8, s. 64 (1, 2) - 10/12/2019

2021, c. 4, Sched. 6, s. 88 (1) - 01/06/2021

## **PART II ADMINISTRATION**

### **Powers and duties of the Minister**

**3** (1) The Minister shall be responsible for overseeing the regulation of safe drinking water in Ontario and, in that capacity and for the administration of this Act and the regulations, may,

- (a) investigate concerns and recommend standards relating to the potability, procurement, treatment, monitoring, testing and distribution of drinking water and the transportation and delivery of drinking water in bulk quantities in Ontario;
- (b) conduct research programs and prepare statistics relating to the potability, procurement, treatment, monitoring, testing and distribution of drinking water;
- (c) convene and conduct conferences, seminars and educational and training programs relating to the potability, procurement, treatment, monitoring, testing and distribution of drinking water;

- (d) develop, implement and facilitate training courses and programs relating to the potability, procurement, treatment, monitoring, testing and distribution of drinking water;
- (e) ensure that appropriate training and retraining programs are available to all operators of drinking water systems in Ontario and facilitate accessibility to the programs for small and remote communities;
- (f) collect, test, publish and otherwise disseminate information, statistics and advice relating to drinking water;
- (g) provide technical assistance to owners and operators of drinking water systems;
- (h) engage in joint discussions and initiatives with other levels of government to facilitate the provision of safe drinking water;
- (i) make grants and loans in such amounts and on such terms as the Minister considers advisable to support research and training relating to drinking water quality and to assist in the planning, operation, development, improvement and enlarging of drinking water systems;
- (j) perform such other functions or carry out such other duties as may be assigned from time to time by the Lieutenant Governor in Council. 2002, c. 32, s. 3 (1).

#### **Delegation**

(2) The Minister may in writing delegate any of his or her powers or duties under this Act to an employee in the Ministry specified in the delegation, other than the power to make a regulation under this Act or an order under section 108. 2002, c. 32, s. 3 (2); 2006, c. 35, Sched. C, s. 119 (1).

#### **Agreements**

(3) The Minister may enter into agreements with such persons, entities or governments as the Minister considers appropriate for the purposes of overseeing the regulation of safe drinking water in Ontario. 2007, c. 10, Sched. D, s. 3 (2).

#### **Annual report**

- (4) The Minister shall prepare and lay before the Assembly an annual drinking water report for the province that includes,
- (a) the status of the development and establishment of drinking water quality standards and the quality of drinking water in Ontario;
  - (b) new and emerging information on pathogens, chemicals and other potential causes of drinking water health hazards;
  - (c) a summary of the results of inspections and accreditation audits for drinking water systems and drinking water testing services;
  - (d) a summary of enforcement activities;
  - (e) a review of the quality of raw water supplies and source protection initiatives across the province; and
  - (f) such other matters as may be prescribed or that the Minister considers appropriate for inclusion in the report. 2002, c. 32, s. 3 (4); 2007, c. 10, Sched. D, s. 3 (3, 4).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (1) - 20/08/2007

2007, c. 10, Sched. D, s. 3 (2-4) - 01/12/2008

#### **Advisory Council on Drinking Water Quality and Testing Standards**

**4** (1) The Minister shall establish an advisory body known in English as the “Advisory Council on Drinking Water Quality and Testing Standards” and in French as “Conseil consultatif sur les normes de qualité et d’analyse de l’eau potable” to consider issues relating to standards for drinking water quality and testing and to make recommendations to the Minister. 2002, c. 32, s. 4 (1).

#### **Appointment of members**

(2) The members of the Advisory Council shall be appointed by the Minister. 2002, c. 32, s. 4 (2).

#### **Notice**

(3) The Advisory Council may publish information in the Registry. 2002, c. 32, s. 4 (3).



### **Consideration by Minister**

**5** The Minister shall ensure that all recommendations of the Advisory Council on Drinking Water Quality and Testing Standards are taken into consideration in establishing and revising standards under this Act for drinking water quality and testing. 2002, c. 32, s. 5.

### **Directors**

**6** (1) The Minister shall in writing appoint such directors as the Minister considers necessary, in respect of one or more provisions of this Act or the regulations, as specified in the appointment. 2002, c. 32, s. 6 (1).

### **Same**

(2) In making an appointment under this section, the Minister shall appoint only,

- (a) a public servant employed under Part III of the *Public Service of Ontario Act, 2006* who works in the Ministry or a member of a class of such public servant; or
- (b) any other person or a member of any other class of person, if the appointment is approved by the Lieutenant Governor in Council. 2006, c. 35, Sched. C, s. 119 (2).

### **Limitation on authority**

(3) The Minister may, in an appointment of a director, limit the authority of the director in such manner as the Minister considers necessary. 2002, c. 32, s. 6 (3).

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (2) - 20/08/2007

### **Chief Inspector**

**7** (1) The Minister shall appoint a Chief Inspector to carry out the following duties:

1. The provision of advice and recommendations to the Minister in respect of operational policies for inspections in relation to drinking water and drinking water systems.
2. The implementation of operational policies for inspections in relation to drinking water and drinking water systems.
3. The review on a periodic basis of all regulations, directions, policies, protocols and procedures relating to inspections referred to in paragraphs 1 and 2 and, if appropriate, the recommendation of revisions.
4. Developing and assisting in the development of training programs for provincial officers for the purposes of this Act.
5. Ensuring the continuing training on a periodic basis of provincial officers for the purposes of this Act.
6. Monitoring the overall frequency and efficacy of inspections referred to in paragraphs 1 and 2.
7. Such other duties as may be assigned by the Minister. 2002, c. 32, s. 7 (1).

### **Annual report**

(2) The Chief Inspector shall provide an annual written report to the Minister respecting the overall performance of drinking water systems in Ontario and the inspection of drinking water systems and containing such other information as the Minister may require. 2007, c. 10, Sched. D, s. 3 (5).

### **No personal information**

(3) A report under subsection (2) shall not contain any personal information that is maintained for the purpose of creating a record that is not available to the general public. 2002, c. 32, s. 7 (3).

### **Same**

(4) The Chief Inspector shall provide the annual report to the Minister on or before a day specified by the Minister. 2002, c. 32, s. 7 (4).

### **Publication**

(5) The Minister shall make the Chief Inspector's annual report public as soon as practicable after the Minister receives it. 2002, c. 32, s. 7 (5).

### **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (5) - 01/12/2008

### **Provincial officers**

**8** (1) The Minister shall in writing designate such persons and classes of persons as the Minister considers necessary as provincial officers in respect of one or more provisions of this Act or the regulations, as specified in the designation. 2002, c. 32, s. 8 (1).

### **Limitation of authority**

(2) The Minister may, in a designation of a provincial officer, limit the authority of the provincial officer in such manner as the Minister considers necessary. 2002, c. 32, s. 8 (2).

### **Provincial officer**

(3) A provincial officer is a peace officer for the purpose of enforcing this Act. 2002, c. 32, s. 8 (3).

### **Investigation and prosecution**

(4) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act. 2002, c. 32, s. 8 (4).

### **Minister's directive**

**9** (1) The Minister may issue a written directive consistent with the purposes of this Act that relates to the exercise of a power or the performance of a duty by a person or entity appointed, designated or established under this Act. 2002, c. 32, s. 9 (1).

### **Exception**

(2) No directive shall be issued under this section that relates to the issue, granting, amendment, renewal, suspension or revocation of a particular accreditation, permit, licence, approval, certificate or order under this Act. 2002, c. 32, s. 9 (2).

### **Compliance**

(3) Every person to whom a directive is given under subsection (1) shall comply with the directive. 2002, c. 32, s. 9 (3).

### **Publication**

(4) Every directive issued under this section comes into effect on the day notice of the directive is given in the Registry. 2002, c. 32, s. 9 (4).

### **Legislation Act, 2006, Part III**

(5) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a directive issued under this section. 2002, c. 32, s. 9 (5); 2006, c. 21, Sched. F, s. 136 (1).

### **Section Amendments with date in force (d/m/y)**

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

## **PART III GENERAL REQUIREMENTS**

### **Potable water**

**10** Despite any other Act, a requirement that water be "potable" in any Act, regulation, order or other document issued under the authority of any Act or in a municipal by-law shall be deemed to be a requirement to meet, at a minimum, the requirements of the prescribed drinking water quality standards. 2002, c. 32, s. 10.

### **Duties of owners and operating authorities**

**11** (1) Every owner of a municipal drinking water system or a regulated non-municipal drinking water system and, if an operating authority is responsible for the operation of the system, the operating authority for the system shall ensure the following:

1. That all water provided by the system to the point where the system is connected to a user's plumbing system meets the requirements of the prescribed drinking water quality standards.
2. That, at all times in which it is in service, the drinking water system,
  - i. is operated in accordance with the requirements under this Act,
  - ii. is maintained in a fit state of repair, and

- iii. satisfies the requirements of the standards prescribed for the system or the class of systems to which the system belongs.
3. That the drinking water system is operated by persons having the training or expertise for their operating functions that is required by the regulations and the licence or approval issued or granted for the system under this Act.
4. That all sampling, testing and monitoring requirements under this Act that relate to the drinking water system are complied with.
5. That personnel at the drinking water system are under the supervision of persons having the prescribed qualifications.
6. That the persons who carry out functions in relation to the drinking water system comply with such reporting requirements as may be prescribed or that are required by the conditions in the licence or approval issued or granted for the system under this Act. 2002, c. 32, s. 11 (1).

#### **Duty of owner to report to public**

(2) If an owner of a municipal drinking water system or regulated non-municipal drinking water system is required by the regulations to report on any matter to the public, the owner shall report in accordance with the regulations. 2002, c. 32, s. 11 (2).

#### **Out-of-province drinking water testing service**

(3) No owner or operating authority of a municipal drinking water system or regulated non-municipal drinking water system shall obtain a drinking water testing service from a person who is not licensed under Part VII to offer or provide the service unless,

- (a) the laboratory at which the testing is to be conducted is located outside Ontario and is an eligible laboratory in respect of the particular tests to be conducted;
- (b) the person agrees in writing to comply with section 18 and any prescribed requirements; and
- (c) the owner or operating authority provides to the Director appointed for the purposes of Part VII,
  - (i) written notice of the use of the testing service,
  - (ii) a copy of the accreditation referred to in clause (4) (a), if applicable, and
  - (iii) a copy of the agreement referred to in clause (b). 2002, c. 32, s. 11 (3).

#### **Eligible laboratory**

(4) For the purposes of this section, a laboratory located outside Ontario is an eligible laboratory in respect of a particular test if the laboratory is on a list maintained by the Director appointed for the purposes of Part VII and,

- (a) the laboratory is accredited for the conduct of the test and, in the Director's opinion, the accreditation is equivalent to the accreditation standard of an accreditation body for drinking water testing under Part VII; or
- (b) in the Director's opinion,
  - (i) it is desirable for the purposes of this Act that the test be available,
  - (ii) there is no laboratory, or there are insufficient laboratories, in the area for the conduct of the test under a licence issued under Part VII, and
  - (iii) the person who is to provide the drinking water testing service will be capable of conducting the test at the laboratory, or causing the test to be conducted there. 2002, c. 32, s. 11 (4).

#### **List of out-of-province laboratories**

(5) For the purposes of subsection (4), a laboratory may be added to the list maintained by the Director, and may be retained on the list, only if,

- (a) any fee required under this Act has been paid in respect of the laboratory; and
- (b) the laboratory complies with the prescribed requirements. 2002, c. 32, s. 11 (5).

#### **Director's direction**

(6) The Director may issue a direction to one or more owners or operating authorities prohibiting them from obtaining drinking water testing services from a laboratory located outside Ontario if the Director has reason to believe that the laboratory has ceased to be an eligible laboratory or has failed to comply with section 18 or a prescribed requirement. 2002, c. 32, s. 11 (6).

### **Same**

(7) Every person who receives a direction under subsection (6) shall comply with the direction and advise the Director in writing of the alternative laboratory from which the person will obtain drinking water testing services. 2002, c. 32, s. 11 (7).

### **Revocation of direction**

(8) The Director may revoke a direction issued under subsection (6) if he or she is of the opinion that the reasons for issuing the direction no longer exist. 2002, c. 32, s. 11 (8).

### **Operator's certificate**

**12** (1) No person shall operate a municipal drinking water system or a regulated non-municipal drinking water system unless the person holds a valid operator's certificate issued in accordance with the regulations. 2002, c. 32, s. 12 (1).

(2)-(4) REPEALED: 2017, c. 2, Sched. 11, s. 6 (2).

### **Section Amendments with date in force (d/m/y)**

2017, c. 2, Sched. 11, s. 6 (2) - 22/03/2017

### **Duty to have accredited operating authority**

**13** (1) Every owner of a municipal drinking water system shall ensure that an accredited operating authority is in charge of the system at all times on and after the day specified in the regulations for the municipality, the system or the owner of the system. 2002, c. 32, s. 13 (1).

### **Same**

(2) If the Minister makes a regulation requiring an accredited operating authority to be in charge of a non-municipal drinking water system, the owner of the system shall ensure that an accredited operating authority is in charge of the system at all times. 2002, c. 32, s. 13 (2).

### **Agreement with accredited operating authority**

**14** (1) If an accredited operating authority is in charge of a drinking water system and it is not the owner of the system, the accredited operating authority and the owner of the system shall enter into an agreement that contains the following:

1. A description of the system or the parts of the system for which the operating authority is responsible.
2. A description of the respective responsibilities of the owner and the operating authority to ensure that the operation, maintenance, management and alteration of the system comply with this Act, the regulations, any order under this Act and the conditions in,
  - i. the drinking water works permit and the municipal drinking water licence for the system, in the case of a municipal drinking water system, or
  - ii. the approval for the system, in the case of a non-municipal drinking water system.
3. A description of the respective responsibilities of the owner and the accredited operating authority in the event a deficiency is determined to exist or an emergency occurs.
4. A description of the respective responsibilities of the owner and the accredited operating authority to ensure that the operational plans for the system are reviewed and revised appropriately and that both parties are informed of all revisions.
5. Any other provisions required by the regulations. 2002, c. 32, s. 14 (1).

### **Delegation of duty**

(2) If an owner of a drinking water system enters into an agreement with an accredited operating authority, the owner may, in the agreement, delegate a duty imposed on the owner under this Act to the accredited operating authority. 2002, c. 32, s. 14 (2).

### **Exception**

(3) A delegation referred to in subsection (2) shall not relieve the owner of the drinking water system from the duty to comply with section 19 or the duty,

- (a) to ensure that the accredited operating authority carries out its duties under this Act and the agreement in a competent and diligent manner while it is in charge of the system; and

- (b) upon discovery that the accredited operating authority is failing to act in accordance with clause (a), to take all reasonable steps to ensure that the operation of the system complies with the requirements under this Act. 2002, c. 32, s. 14 (3).

#### **Agreement to be made public**

(4) The contents of every agreement referred to in subsection (1) between an owner of a drinking water system and an accredited operating authority shall be made public by the owner of the system in accordance with the requirements prescribed by the Minister. 2002, c. 32, s. 14 (4).

#### **Directions, operational plans**

**15** (1) The Director shall, on or before the prescribed date, issue directions governing the preparation and content of operational plans for municipal drinking water systems and may issue such additional directions as the Director considers necessary for the purposes of this section. 2002, c. 32, s. 15 (1).

#### **Same**

(2) If the Minister makes a regulation requiring a non-municipal drinking water system or a class of non-municipal drinking water systems to have operational plans, the Director shall, on or before the date prescribed by the Minister, issue directions governing the preparation and content of operational plans for the system or systems. 2002, c. 32, s. 15 (2).

#### **Same**

(3) The Director may amend, revoke or replace a direction issued under this section. 2002, c. 32, s. 15 (3).

#### **Content of direction**

(4) The direction shall include,

- (a) minimum content requirements for operational plans;
- (b) rules respecting the retention of copies of versions of operational plans;
- (c) rules respecting the public disclosure of the contents of operational plans; and
- (d) such other requirements as the Director considers necessary for the purposes of this Act and the regulations. 2002, c. 32, s. 15 (4).

#### **Same**

(5) A direction issued under this section may,

- (a) be general or limited in its application;
- (b) apply in respect of any class of drinking water systems;
- (c) require the preparation of operational plans for a treatment system, a distribution system or any part of either or both of them. 2002, c. 32, s. 15 (5).

#### **Publication**

(6) A direction, amendment to a direction or revocation of a direction takes effect when a notice of the direction, amendment or revocation, as the case may be, is given in the Registry. 2002, c. 32, s. 15 (6).

#### **Legislation Act, 2006, Part III**

(7) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a direction issued under this section. 2002, c. 32, s. 15 (7); 2006, c. 21, Sched. F, s. 132 (1).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 21, Sched. F, s. 132 (1) - 25/07/2007

#### **Operational plans**

**16** (1) If operational plans are required for a drinking water system under this Act, every owner and accredited operational authority of the system shall,

- (a) ensure that the plans comply with such directions issued under section 15 that apply in respect of the system; and
- (b) make public the contents of the operating plans in accordance with the Director's directions. 2002, c. 32, s. 16 (1).

### **Submission of plans, municipal drinking water system**

(2) Every owner of a municipal drinking water system shall provide a copy of all operational plans for the system to the Director on or before the day prescribed by the regulations for the municipality, the system or the owner of the system. 2002, c. 32, s. 16 (2).

### **Review of plans**

(3) The Director shall review the operational plans for the municipal drinking water system and shall issue a notice,

- (a) accepting the plans if the Director is satisfied that the plans satisfy the directions; or
- (b) rejecting the plans for the reasons set out in the notice, if the Director is not satisfied that the plans satisfy the directions. 2002, c. 32, s. 16 (3).

### **Resubmission of plans**

(4) The owner of a municipal drinking water system whose operational plans are rejected by the Director shall revise and resubmit the revised plans to the Director in accordance with the directions specified in the notice. 2002, c. 32, s. 16 (4).

### **Ownership of operational plans**

**17** (1) All operational plans for a drinking water system remain the property of the owner of the system, irrespective of who prepares or revises the plans. 2002, c. 32, s. 17 (1).

### **Retention of plans**

(2) Every accredited operating authority of a drinking water system for which operational plans are required under this Act shall retain copies of the operational plans for the system in accordance with the Director's directions under section 15. 2002, c. 32, s. 17 (2).

### **Same**

(3) Upon termination of an agreement between the owner and the accredited operating authority of a system, the accredited operating authority shall ensure that the owner has copies of the most recently prepared and revised operational plans for the system. 2002, c. 32, s. 17 (3).

### **Duty to report adverse test result**

**18** (1) Each of the following persons shall report every prescribed adverse result of a drinking water test conducted on any waters from a municipal drinking water system or a regulated non-municipal drinking water system to the Ministry and the medical officer of health immediately after the adverse result is obtained:

1. The operating authority responsible for the system or, if there is no operating authority responsible for the system, the owner of the system.
2. The person operating the laboratory at which the adverse result was obtained. 2002, c. 32, s. 18 (1); 2007, c. 10, Sched. D, s. 3 (6).

### **Same**

(2) A report under subsection (1) shall be made in accordance with the regulations. 2002, c. 32, s. 18 (2).

### **Duty to report to the owner**

(3) If an operating authority is required to report an adverse test result under subsection (1), the operating authority shall also immediately report the adverse test result to the owner of the system for which the operating authority is responsible. 2007, c. 10, Sched. D, s. 3 (7).

### **Duty of laboratory to report**

(4) Every person operating a laboratory who is required to report an adverse test result under subsection (1) shall also notify the operating authority responsible for the system or, if there is no operating authority responsible for the system, the owner of the system, of every adverse test result relating to the system, immediately after the adverse result is obtained. 2007, c. 10, Sched. D, s. 3 (7).

### **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (6, 7) - 01/12/2008

### **Duty to report adverse test result**

**18.1** (1) The person operating the laboratory at which an adverse result was obtained shall report every prescribed adverse result of a drinking water test conducted on any waters from a small drinking water system within the meaning of the *Health*

*Protection and Promotion Act* to the Ministry of Health and Long-Term Care and the medical officer of health immediately after the adverse result is obtained. 2007, c. 10, Sched. D, s. 3 (8).

**Same**

(2) A report under subsection (1) shall be made in accordance with the regulations. 2007, c. 10, Sched. D, s. 3 (8).

**Duty of laboratory to report**

(3) Every person operating a laboratory who is required to report an adverse test result under subsection (1) shall also notify the operator responsible for the system or, if there is no operator responsible for the system, the owner of the system, of every adverse test result relating to the system, immediately after the adverse result is obtained. 2007, c. 10, Sched. D, s. 3 (8).

**Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (8) - 01/12/2008

**Standard of care, municipal drinking water system**

**19** (1) Each of the persons listed in subsection (2) shall,

- (a) exercise the level of care, diligence and skill in respect of a municipal drinking water system that a reasonably prudent person would be expected to exercise in a similar situation; and
- (b) act honestly, competently and with integrity, with a view to ensuring the protection and safety of the users of the municipal drinking water system. 2002, c. 32, s. 19 (1).

**Same**

(2) The following are the persons listed for the purposes of subsection (1):

- 1. The owner of the municipal drinking water system.
- 2. If the municipal drinking water system is owned by a corporation other than a municipality, every officer and director of the corporation.
- 3. If the system is owned by a municipality, every person who, on behalf of the municipality, oversees the accredited operating authority of the system or exercises decision-making authority over the system. 2002, c. 32, s. 19 (2).

**Offence**

(3) Every person under a duty described in subsection (1) who fails to carry out that duty is guilty of an offence. 2002, c. 32, s. 19 (3).

**Same**

(4) A person may be convicted of an offence under this section in respect of a municipal drinking water system whether or not the owner of the system is prosecuted or convicted. 2002, c. 32, s. 19 (4).

**Reliance on experts**

(5) A person shall not be considered to have failed to carry out a duty described in subsection (1) in any circumstance in which the person relies in good faith on a report of an engineer, lawyer, accountant or other person whose professional qualifications lend credibility to the report. 2002, c. 32, s. 19 (5).

**Prohibition**

**20** (1) No person shall cause or permit any thing to enter a drinking water system if it could result in,

- (a) a drinking water health hazard;
- (b) a contravention of a prescribed standard; or
- (c) interference with the normal operation of the system. 2002, c. 32, s. 20 (1).

**Exception**

(2) Subsection (1) does not apply to prohibit activities that are carried out,

- (a) in the course of the proper operation, maintenance, repair or alteration of a drinking water system; or
- (b) under a statutory authority or for the purposes of complying with a statutory requirement. 2002, c. 32, s. 20 (2).

### **Dilution no defence**

(3) For the purposes of prosecuting the offence of contravening subsection (1), it is not necessary to prove that the thing, if it was diluted when or after it entered the system, continued to result in or could have resulted in a drinking water health hazard. 2002, c. 32, s. 20 (3).

## **PART IV ACCREDITATION OF OPERATING AUTHORITIES**

### **Quality Management Standard**

**21** (1) On or before the first anniversary of the coming into force of this section, the Minister shall approve a Quality Management Standard for drinking water systems. 2002, c. 32, s. 21 (1).

### **Revisions**

(2) The Minister may approve such revisions to the Quality Management Standard as the Minister considers advisable. 2002, c. 32, s. 21 (2).

### **Publication**

(3) The Quality Management Standard, including any revisions to it, comes into effect upon the Ministry giving a notice of the Standard or revision in the Registry. 2002, c. 32, s. 21 (3).

### **Same**

(4) If the Minister proposes to make a regulation requiring accredited operating authorities to be in charge of non-municipal drinking water systems, the Minister may approve revisions to the Quality Management Standard that include standards relating to non-municipal drinking water systems. 2002, c. 32, s. 21 (4).

### **Application of Standard**

(5) The Quality Management Standard may,

- (a) be general or limited in its application; and
- (b) apply in respect of any class of activity, matter, person or thing. 2002, c. 32, s. 21 (5).

### **Same**

(6) A class mentioned in clause (5) (b) may be defined with respect to any attribute, quality, characteristic or combination of them and may be defined to consist of or to include or exclude any specified member of a class whether or not the member has the same attributes, qualities or characteristics as other members of the class. 2002, c. 32, s. 21 (6).

### **Adoption by reference**

(7) The Quality Management Standard may adopt by reference, in whole or in part, with such changes as the Minister considers necessary, any document, including a code, formula, standard, protocol or procedure. 2002, c. 32, s. 21 (7).

### **Amendments to codes, etc.**

(8) The power to adopt by reference and require conformity with a document in subsection (7) includes the power to adopt the document as it may be amended from time to time after it is adopted. 2002, c. 32, s. 21 (8).

### **Legislation Act, 2006, Part III**

(9) Part III (Regulations) of the *Legislation Act, 2006* does not apply to the approval of the Quality Management Standard or to the approval of revisions to the Standard. 2002, c. 32, s. 21 (9); 2006, c. 21, Sched. F, s. 132 (2).

### **Section Amendments with date in force (d/m/y)**

2006, c. 21, Sched. F, s. 132 (2) - 25/07/2007

### **Accreditation body for operating authorities**

**22** (1) One or more accreditation bodies for operating authorities shall be designated or established for the purposes of administering programs for the accreditation of operating authorities for drinking water systems. 2002, c. 32, s. 22 (1).

### **Designation by agreement**

(2) The Minister may designate a person as an accreditation body for operating authorities by entering into an accreditation agreement under this Part with the person. 2002, c. 32, s. 22 (2).



### **Same**

(3) A person who enters into an accreditation agreement under this Part ceases to be designated as an accreditation body for operating authorities on the termination of the agreement. 2002, c. 32, s. 22 (3).

### **Designation or establishment by regulation**

(4) One or more accreditation bodies for operating authorities may be designated or established by the regulations, whether or not the Minister enters into an accreditation agreement under this Part. 2002, c. 32, s. 22 (4).

### **No action on termination**

(5) No action or other proceeding shall be commenced in respect of,

- (a) the termination by the Minister of an accreditation agreement; or
- (b) the revocation of a regulation or a provision of a regulation designating or establishing an accreditation body for operating authorities. 2002, c. 32, s. 22 (5).

### **Obligations of accreditation body**

**23** (1) Every accreditation body for operating authorities shall exercise and perform its powers and duties in accordance with the requirements under this Act and its accreditation agreement, if any. 2002, c. 32, s. 23 (1).

### **Audit reports**

(2) Every accreditation body for operating authorities shall,

- (a) provide a copy of the report of any audit required by the accreditation body to the Director within the time period specified by the Director; and
- (b) make public the results of any audit required by the accreditation body, in a form and manner specified by the Director. 2002, c. 32, s. 23 (2).

### **Notice of proposed suspensions, revocations**

(3) Every accreditation body for operating authorities shall, within the time specified by the Director,

- (a) notify the Director in writing of any proposed suspension or revocation of accreditation of an accredited operating authority, including the reasons for the proposed action; and
- (b) notify the Director in writing if the accreditation body implements the proposed suspension or revocation mentioned in clause (a). 2002, c. 32, s. 23 (3).

### **Accreditation agreement**

**24** (1) The Minister may enter into an accreditation agreement with a person and every accreditation agreement shall include the following:

1. The requirement that the person establish and administer a program based on the Quality Management Standard for drinking water systems for the accreditation of operating authorities for drinking water systems.
2. The terms on which the accreditation program is to be administered.
3. The requirement that the person administer an audit program to audit the level of conformity by accredited operating authorities with the Quality Management Standard.
4. The terms and conditions for the administration of the audit program including,
  - i. the frequency of audits,
  - ii. the required qualifications of the auditors,
  - iii. the powers and duties of the auditors,
  - iv. the types of matters to be audited and the requirements for reporting the auditors' findings and recommendations,
  - v. the requirement that copies of every audit report in respect of a system be provided to the Director and the operating authority and owner of the system and the results be made available to the public.
5. The authority for and procedures governing the granting, suspending and revocation of accreditation.
6. Requirements for the giving of notice in writing of a proposed suspension or revocation of accreditation of an accredited operating authority to the Director, the appropriate municipality or municipalities and the owner of the

relevant drinking water system, if the system is not owned by a municipality, including the manner for giving notice and the requirement that the notice set out the reasons for the proposed action.

7. The entitlement of the Minister to review or audit, at such time or times as the Minister considers advisable, the performance of the person under the agreement, including the conduct and results of audits under the agreement.
8. The requirement that the person obtain and maintain specified kinds and amounts of insurance.
9. Provisions governing the amendment and termination of the agreement. 2002, c. 32, s. 24 (1).

#### **Same**

(2) Subsection (1) does not prohibit the inclusion in the agreement of such other provisions as the Minister considers advisable that are consistent with the provisions described in subsection (1) and the purposes of the agreement. 2002, c. 32, s. 24 (2).

#### **Compliance with audit**

**25** (1) Every owner and accredited operating authority of a drinking water system shall,

- (a) submit to and assist with all audits required by an accreditation body for operating authorities; and
- (b) consent to the release to the Director of all audit reports relating to the system and the release to the public of the results of the audits. 2002, c. 32, s. 25 (1).

#### **Exception**

(2) Subsection (1) does not apply in respect of a non-municipal drinking water system unless the regulations require an accredited operating authority to be in charge of the system. 2002, c. 32, s. 25 (2).

#### **Report by auditor of violations**

**26** If an auditor, in the course of an audit, becomes aware of a violation of this Act, the regulations, a drinking water works permit, a municipal drinking water licence, an approval or order under this Act, the auditor shall report the violation to the Director as soon as practicable, and shall include a summary of his or her observations in relation to the violation in his or her report. 2002, c. 32, s. 26.

#### **Obligation to report suspension or revocation of accreditation**

**27** If an operating authority's accreditation under this Part is suspended or revoked by an accreditation body, the operating authority shall, immediately after the suspension or revocation,

- (a) notify all owners of drinking water systems, of which the operating authority is in charge, of the suspension or revocation; and
- (b) provide a copy of the accreditation body's order or decision to suspend or revoke the accreditation to each owner described in clause (a). 2002, c. 32, s. 27.

#### **Not an agent of the Crown**

**28** (1) Despite the *Crown Agency Act*, no accreditation body for operating authorities is or shall hold itself out as an agent of Her Majesty for any purpose. 2002, c. 32, s. 28 (1).

#### **Crown not liable**

(2) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,

- (a) for any act done by an accreditation body for operating authorities in the execution or intended execution of a power or duty under this Act or its accreditation agreement, if any, or for an alleged neglect or default in the execution of such a power or duty; or
- (b) for any tort committed by an accreditation body for operating authorities or its employee or agent in relation to a power or duty under this Act or its accreditation agreement, if any. 2002, c. 32, s. 28 (2); 2006, c. 35, Sched. C, s. 119 (3).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (3) - 20/08/2007

### **Annual reports, etc., by accreditation bodies**

29 (1) Every accreditation body for operating authorities shall report annually to the Minister on its activities over the previous year with respect to the execution of its powers and duties under this Act and its accreditation agreement, if any. 2002, c. 32, s. 29 (1).

### **Additional reports**

(2) Every accreditation body for operating authorities shall provide such additional reports to the Minister as the Minister may require or as required by its accreditation agreement, if any, and the Minister shall make public a copy of the report in a form and manner the Minister considers appropriate. 2002, c. 32, s. 29 (2).

## **PART V MUNICIPAL DRINKING WATER SYSTEMS**

### **Financial plans**

#### **Definition**

30 In this Part,

“financial plans” means financial plans that satisfy the requirements prescribed by the Minister. 2017, c. 2, Sched. 11, s. 6 (3).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 2, Sched. 11, s. 6 (3) - 22/03/2017

#### **Requirement for approval or permit and licence**

31 (1) No person shall,

- (a) establish a new municipal drinking water system or replace or carry out an alteration to a municipal drinking water system except under the authority of and in accordance with an approval under this Part or a drinking water works permit; or
- (b) use or operate a municipal drinking water system that was established before or after this section comes into force except under the authority of and in accordance with an approval under this Part or municipal drinking water licence. 2002, c. 32, s. 31 (1).

#### **Deemed approval under this Part**

(2) An approval granted under section 52 of the *Ontario Water Resources Act* for a municipal drinking water system shall be deemed to be an approval under this Part for the system and may be amended, suspended, reinstated and revoked as if it were an approval granted by the Director under this Part. 2002, c. 32, s. 31 (2).

#### **Exception, testing**

(3) Subsection (1) does not apply if,

- (a) the operator of the system is conducting a test or experiment on the system;
- (b) the water under treatment in the test or experiment is not distributed to users of the system; and
- (c) no substance is discharged from the treatment system into the natural environment during the test or experiment. 2002, c. 32, s. 31 (3).

#### **Exception, prescribed system**

(4) Subsection (1) does not apply to a municipal drinking water system if the system is a prescribed system or is a member of a prescribed class of systems. 2002, c. 32, s. 31 (4).

### **Applications**

#### **New system**

32 (1) A person who proposes to establish a new municipal drinking water system to which subsection 31 (1) will apply or to replace a municipal drinking water system with a new system to which that subsection will apply shall make an application to the Director,

- (a) for an approval under this Part if the application is made before the day prescribed for the purposes of section 33 for the municipality, the proposed system or the owner of the system; or

- (b) for a drinking water works permit and a municipal drinking water licence for the proposed system if the application is made on or after the day referred to in clause (a). 2002, c. 32, s. 32 (1).

#### **Alteration to system**

- (2) The owner of a municipal drinking water system who proposes to carry out an alteration to the system shall apply to the Director,
  - (a) for an amendment to the approval under this Part for the system, if the proposed alteration will be carried out before the owner of the system is required to obtain a drinking water works permit for the system under this Part and the approval does not authorize the alteration; or
  - (b) for an amendment to the drinking water works permit for the system, if a permit has been issued for the system and the permit does not authorize the alteration. 2002, c. 32, s. 32 (2).

#### **Amendment, revocation**

- (3) The owner of a municipal drinking water system may apply to the Director for,
  - (a) an amendment to the approval under this Part or the drinking water works permit or municipal drinking water licence for the system; or
  - (b) the revocation of the approval under this Part or the drinking water works permit or municipal drinking water licence for the system. 2002, c. 32, s. 32 (3).

#### **Licence renewal**

- (4) The owner of a municipal drinking water system for which a municipal drinking water licence has been issued may apply to the Director for a renewal of the licence on or before the day specified in the licence as the deadline for a renewal application. 2002, c. 32, s. 32 (4).

#### **Requirements of application**

- (5) An application under this section must satisfy the following requirements:
  - 1. The application must be made in the manner and form approved by the Director and contain the information required by the Director.
  - 2. In the case of an application for a licence, the application must include,
    - i. a copy of all current operational plans relating to the system, as of the date of the application, prepared in accordance with the Director's directions for operational plans,
    - ii. proof satisfactory to the Director that the financial plans for the system satisfy the requirements under this Act if the Minister prescribes requirements referred to in the definition of "financial plans" in section 30,
    - iii. proof satisfactory to the Director that an accredited operating authority will be in charge of the system, and
    - iv. proof satisfactory to the Director that a permit to take water has been issued under the *Ontario Water Resources Act* that,
      - A. authorizes the system to take water, if water will be taken by the system from a raw water supply and the permit is required under the *Ontario Water Resources Act* in order to take the water, and
      - B. authorizes the system to transfer water between Great Lakes watersheds as defined in section 34.5 of the *Ontario Water Resources Act*, if water will be transferred by the system between Great Lakes watersheds as defined in that section and the permit is required under that Act in order to transfer the water.
  - 3. All fees required on the application must be submitted to the Director as part of the application. 2002, c. 32, s. 32 (5); 2007, c. 12, s. 2 (1); 2017, c. 2, Sched. 11, s. 6 (4).

#### **Additional information**

- (6) In connection with an application under this section, the Director may require the applicant to do one or more of the following:
  - 1. Submit plans, specifications, engineers' reports and other information and documents relating to the municipal drinking water system.
  - 2. Carry out tests or experiments relating to the system or the raw water supply for the system, and report on the results. 2002, c. 32, s. 32 (6).

### **Section Amendments with date in force (d/m/y)**

2007, c. 12, s. 2 (1) - 01/01/2015

2017, c. 2, Sched. 11, s. 6 (4) - 22/03/2017

### **Requirement to apply for permit and licence**

**33** The owner of a municipal drinking water system shall apply to the Director, on or before the day prescribed for the municipality, the system or the owner of the system, for a drinking water works permit and a municipal drinking water licence for the system. 2002, c. 32, s. 33.

### **Failure to apply for required approval, permit or licence**

**34** If a person proceeds to establish, carry out an alteration to or operate a municipal drinking water system without applying for an approval under this Part, a drinking water works permit, an amendment to an approval, drinking water works permit or municipal drinking water licence, as required by this Part, and the person has failed to comply with an order issued under Part IX requiring the person to submit an application for it, the Director may,

- (a) retain such experts and obtain such facilities, at the person's expense, as the Director considers necessary for the investigation of the municipal drinking water system and the raw water supply;
- (b) require the person to produce all documents under the person's control that relate to the drinking water system; and
- (c) grant or amend an approval or issue or amend a drinking water works permit and municipal drinking water licence for the system in accordance with his or her authority under this Part. 2002, c. 32, s. 34.

### **Late application**

**35** If an order is issued under Part IX to a person requiring the submission of an application for an approval under this Part, a drinking water works permit, a municipal drinking water licence or an amendment to an approval, permit or licence for a municipal drinking water system by reason of the person's failure to make an application in accordance with the requirements under this Act, or if the Director considers it necessary for the purposes of this Act,

- (a) the Director may accept and consider a late application as though it were made within the time specified under this Part; and
- (b) in the case of an approval or drinking water works permit, if the Director decides to grant or amend the approval or issue or amend the permit, the Director may impose as a condition the requirement that the person reverse any alteration that was made to the system that was not previously authorized by the Director in an approval or drinking water works permit. 2002, c. 32, s. 35.

## **APPROVALS FOR MUNICIPAL DRINKING WATER SYSTEMS**

### **Approval**

**36** (1) After consideration of an application for an approval or an amendment to an approval, the Director shall, as he or she considers necessary for the purposes of this Act,

- (a) on an application for an approval under this Part, grant the approval with such conditions as the Director may impose under section 37;
- (b) on an application for the amendment of an approval under this Part, amend the approval to impose, vary or remove a condition, subject to subsection 37 (2); or
- (c) refuse to grant or amend the approval, as the case may be. 2002, c. 32, s. 36 (1).

### **Same**

(2) An approval granted under this section for a system that was established before this section came into force may deal with any works associated with the system. 2002, c. 32, s. 36 (2).

### **Fragmentation**

(3) Despite subsection (1), the Director shall not grant an approval or amend an approval to authorize the fragmentation of a municipal drinking water system or part of the system unless,

- (a) the Director has consulted the medical officer of health concerning the proposed fragmentation;
- (b) the owner of the system proves to the satisfaction of the Director that the owner gave written notice in a form and manner approved by the Director to each user of the system who would cease to be served by a municipal drinking water system if the fragmentation proceeds; and

- (c) the owner of the system demonstrates to the Director's satisfaction that the fragmentation will not expose users of the fragmented system to a drinking water health hazard and will not endanger the natural environment. 2002, c. 32, s. 36 (3).

### **Expiry of approval**

- (4) An approval for a municipal drinking water system expires,
  - (a) on the day a municipal drinking water licence is issued for the system, if the owner makes an application for a drinking water works permit and municipal drinking water licence in accordance with section 33; or
  - (b) on the day after the day the owner of the system is required under section 33 to apply for a drinking water works permit and a municipal drinking water licence for the system, if the owner fails to make the application on or before the day the application is required. 2002, c. 32, s. 36 (4).

### **Extension**

- (5) The Director may authorize an extension of the expiry date of an approval for a municipal drinking water system if an application for a drinking water works permit and a municipal drinking water licence for the system has been received by the day required under section 33 and the decision on the application is not made on or before the expiry date. 2002, c. 32, s. 36 (5).

### **Approval conditions and Director's amendments**

- 37 (1) The Director may,
  - (a) impose such conditions in an approval at the time the approval is granted as the Director considers necessary for the purposes of this Act; and
  - (b) on his or her own initiative, amend the approval to impose, vary or remove conditions in the approval at any time after it is granted, if the Director considers it necessary for the purposes of this Act. 2002, c. 32, s. 37 (1).

### **Same**

- (2) The Director may impose any condition in an approval that may be imposed in a drinking water works permit or a municipal drinking water licence and may include an expiry date for the approval as a condition in the approval. 2002, c. 32, s. 37 (2).

### **Application of *Environmental Assessment Act***

- (3) Subsections 12.2 (2) and 15.1.2 (2) of the *Environmental Assessment Act* does not prohibit a Director from imposing a condition mentioned in paragraph 3 of subsection 41 (2) in an approval, but the other provisions of that Act continue to apply to any future alterations to a municipal drinking water system that the Director may specify in an approval. 2002, c. 32, s. 37 (3); 2020, c. 18, Sched. 6, s. 65 (1).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 37 (3) of the Act is amended by striking out "Subsections 12.2 (2) and 15.1.2 (2)" at the beginning and substituting "Subsections 15.1.2 (2), 17.27 (2) and 17.30 (2)". (See: 2020, c. 18, Sched. 6, s. 65 (2))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 37 (3) of the Act is amended by striking out "15.1.2 (2)". (See: 2020, c. 18, Sched. 6, s. 65 (3))

### **Certificate of compliance**

- (4) If a condition of an approval for a municipal drinking water system so provides, no owner of the system shall put into service any works, equipment, mechanism or thing specified in the approval until the owner or the owner's designate has given the Director a certificate of compliance in such form as the Director requires. 2002, c. 32, s. 37 (4).

### **Permitting inspections**

- (5) It is a condition in every approval under this Part, whether or not it is specified in the approval, that the owner and every other operator of the system shall permit provincial officers to conduct inspections authorized under,
  - (a) this Act;
  - (b) section 156, 156.1 or 158 of the *Environmental Protection Act*;
  - (c) section 13, 14 or 16 of the *Nutrient Management Act, 2002*;
  - (d) section 15, 15.1 or 17 of the *Ontario Water Resources Act*;
  - (e) section 19, 19.1 or 20 of the *Pesticides Act*;
  - (f) section 15 or 18 of the *Toxics Reduction Act, 2009*. 2002, c. 32, s. 37 (5); 2009, c. 19, s. 72 (1).

### **Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (1) - 01/01/2010; 2009, c. 19, s. 72 (2) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

2020, c. 18, Sched. 6, s. 65 (1) - 21/07/2020; 2020, c. 18, Sched. 6, s. 65 (2, 3) - not in force

### **Condition in approval, relief from regulatory requirements**

#### **Definition**

**38** (1) In this section,

“regulatory requirement” means a prescribed requirement relating to,

- (a) the sampling, testing or monitoring of water quality in a municipal drinking water system or the reporting of the results, or
- (b) the treatment of water in a municipal drinking water system. 2002, c. 32, s. 38 (1).

#### **Condition, relief from regulatory requirement**

(2) Subject to subsection (3) and despite any other provision of this Act, the Director may impose a condition in an approval under section 37 that,

- (a) provides relief from the duty of strict compliance with a regulatory requirement; or
- (b) imposes a condition in the approval, in place of a regulatory requirement, that is less onerous than the regulatory requirement. 2002, c. 32, s. 38 (2).

#### **Exception**

(3) The Director shall not impose a condition described in subsection (2) in an approval granted under section 37 unless,

- (a) the owner of the municipal drinking water system has applied in writing to the Director for relief from the regulatory requirement;
- (b) the regulations do not prohibit the Director from including the condition in the approval under the circumstances relating to the particular system;
- (c) the application includes, if required by the regulations, an assessment prepared in accordance with the regulations that demonstrates that providing the relief sought will not result in a drinking water health hazard and the Director agrees with the conclusions of the assessment;
- (d) the owner has conducted public consultations on the application, if any are required by the regulations, and the public consultations, if required, have been conducted in accordance with the prescribed requirements; and
- (e) the owner has obtained all consents from individuals that are required by the regulations before the relief may be given. 2002, c. 32, s. 38 (3).

#### **Suspension, revocation of approval**

**39** (1) The Director may suspend an approval for a municipal drinking water system if,

- (a) the Director is of the opinion that the continuing operation of the system will result in a drinking water health hazard; or
- (b) the owner of the system has failed or refused to correct a deficiency associated with the system. 2002, c. 32, s. 39 (1).

#### **Reinstatement after suspension**

(2) The Director may reinstate an approval for a municipal drinking water system if the reason for suspending the approval no longer exists and there are no additional grounds for suspending the approval. 2002, c. 32, s. 39 (2).

#### **Revocation of approval**

(3) The Director may revoke an approval for a municipal drinking water system granted under this Part if,

- (a) the approval was issued on the basis of false information or information that was incomplete in a material respect;
- (b) the approval was issued in error or to the wrong person;
- (c) the owner of the system has decommissioned the system in accordance with the conditions in the approval;
- (d) the owner of the system applies for revocation;

- (e) at least 365 days have passed since the approval was issued, no application for an extension of any deadlines specified in the approval has been received by the Director and the Director has reasonable grounds for believing that,
  - (i) the establishment of the system has not been significantly advanced since the approval was issued, or
  - (ii) work to establish the system has been essentially discontinued for a period of at least 365 days; or
- (f) the approval has been suspended. 2002, c. 32, s. 39 (3).

#### DRINKING WATER WORKS PERMITS

##### **Issue and amendment of permit**

**40** (1) After consideration of an application for a drinking water works permit under this Part or an amendment to a permit, the Director shall, as he or she considers necessary for the purposes of this Act,

- (a) on an application for the issue of a permit, issue the permit with such conditions as the Director may impose under section 41;
- (b) on an application for the amendment of a permit, amend the permit to impose, vary or remove a condition, including a condition described in subsection 41 (2); or
- (c) refuse to issue or amend the permit, as the case may be. 2002, c. 32, s. 40 (1).

##### **Fragmentation**

(2) Despite subsection (1), the Director shall not issue or amend a drinking water works permit to authorize the fragmentation of a municipal drinking water system or part of the system unless,

- (a) the Director has consulted the medical officer of health concerning the proposed fragmentation;
- (b) the owner of the system proves to the satisfaction of the Director that the owner gave written notice in a form and manner approved by the Director to each user of the system who would cease to be served by a municipal drinking water system if the fragmentation proceeds; and
- (c) the owner of the system demonstrates to the Director's satisfaction that the fragmentation will not expose users of the fragmented system to a drinking water health hazard and will not endanger the natural environment. 2002, c. 32, s. 40 (2).

##### **Permit conditions and Director's amendments**

**41** (1) The Director may,

- (a) impose such conditions in a drinking water works permit at the time of issue of the permit as the Director considers necessary for the purposes of this Act; and
- (b) on his or her own initiative, amend the permit to impose, vary or remove conditions in the permit at any time after it is issued, if the Director considers it necessary for the purposes of this Act. 2002, c. 32, s. 41 (1).

##### **Subject matter of conditions**

(2) Permit conditions may include any or all of the following:

1. Requirements in relation to the construction, installation or alteration of any works, equipment, mechanism or other thing, including any specified details.
2. Requirements for compliance with design standards specified by the Director in the conditions.
3. Requirements in relation to the carrying out of future specified alterations to the system.
4. A condition specifying, for the purposes of this Act, which part or parts of the drinking water system constitute the treatment system and which part or parts constitute the distribution system.
5. A condition directing the owner of the system to decommission all or part of the system in accordance with the directions specified in the condition.
6. A condition directing the owner to restore the system to the state specified in the condition.
7. Such other requirements relating to the works, equipment, mechanism or things authorized by the permit as the Director considers necessary to ensure that other conditions in the permit are satisfied in accordance with the requirements of those conditions. 2002, c. 32, s. 41 (2).



### **Application of *Environmental Assessment Act***

(3) Subsections 12.2 (2) and 15.1.2 (2) of the *Environmental Assessment Act* does not prohibit a Director from imposing a condition in a drinking water works permit under paragraph 3 of subsection (2) of this section, but the other provisions of that Act continue to apply to any future alteration to the system specified in the permit. 2002, c. 32, s. 41 (3); 2020, c. 18, Sched. 6, s. 65 (4).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 41 (3) of the Act is amended by striking out “Subsections 12.2 (2) and 15.1.2 (2)” at the beginning and substituting “Subsections 15.1.2 (2), 17.27 (2) and 17.30 (2)”. (See: 2020, c. 18, Sched. 6, s. 65 (5))

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 41 (3) of the Act is amended by striking out “15.1.2 (2)”. (See: 2020, c. 18, Sched. 6, s. 65 (6))

### **Relief from strict compliance**

(4) Subject to subsection (5), the Director may impose a condition in a drinking water works permit that provides relief from the duty of strict compliance with a prescribed requirement and that authorizes or requires the installation of a water treatment process for a municipal drinking water system that does not comply with the prescribed treatment standards or requirements for the system. 2002, c. 32, s. 41 (4).

### **Same**

(5) Subsection 46 (3) applies with necessary modifications in determining if the Director may impose a condition described in subsection (4) in a drinking water works permit. 2002, c. 32, s. 41 (5).

### **Permit applies to any works of established system**

(6) A drinking water works permit issued for a municipal drinking water system that was established before this section came into force may deal with any works associated with the system. 2002, c. 32, s. 41 (6).

### **Section Amendments with date in force (d/m/y)**

2020, c. 18, Sched. 6, s. 65 (4) - 21/07/2020; 2020, c. 18, Sched. 6, s. 65 (5, 6) - not in force

### **Revocation of drinking water works permit**

**42** The Director may revoke a drinking water works permit if,

- (a) the permit was issued on the basis of false information or information that was incomplete in a material respect;
- (b) the permit was issued in error or to the wrong person;
- (c) at least 365 days have passed since the permit was issued, no application for an extension of any deadlines specified in the permit has been received by the Director and the Director has reasonable grounds for believing that,
  - (i) the establishment of the system has not been significantly advanced since the permit was issued, or
  - (ii) work to establish the system has been essentially discontinued for a period of at least 365 days;
- (d) the owner of the system requests that the permit be revoked; or
- (e) the owner of the system has decommissioned the system in accordance with the conditions in the permit. 2002, c. 32, s. 42.

### **Certificate of compliance**

**43** If a condition of a drinking water works permit so provides, no owner of a municipal drinking water system shall put into service any works, equipment, mechanism or thing specified in the permit until the owner or the owner’s designate has given the Director a certificate of compliance in such form as the Director requires. 2002, c. 32, s. 43.

## **MUNICIPAL DRINKING WATER LICENCES**

### **Director’s decision, municipal drinking water licence**

**44** (1) After consideration of an application for a municipal drinking water licence under this Part, the Director shall issue a municipal drinking water licence to the owner of a municipal drinking water system if,

- (a) a drinking water works permit has been issued for the system;
- (b) the operational plans for the system satisfy the requirements in the Director’s directions under Part III for the particular system or type of system;
- (c) the system will be operated by an accredited operating authority;

- (d) the financial plans for the system, if required, satisfy the requirements under this Act;
- (e) a permit to take water has been issued under the *Ontario Water Resources Act* that,
  - (i) authorizes the system to take water, if water will be taken by the system from a raw water supply and the permit is required under the *Ontario Water Resources Act* in order to take the water, and
  - (ii) authorizes the system to transfer water between Great Lakes watersheds as defined in section 34.5 of the *Ontario Water Resources Act*, if water will be transferred by the system between Great Lakes watersheds as defined in that section and the permit is required under that Act in order to transfer the water; and
- (f) the Director is satisfied that the system will be operated in accordance with the requirements under this Act and the conditions in the licence. 2002, c. 32, s. 44 (1); 2007, c. 12, s. 2 (2).

**Information in licence**

- (2) A licence shall identify the following:
  - 1. All owners of the system.
  - 2. The accredited operating authority responsible for the operation of the system.
  - 3. The date of issue and number of the drinking water works permit for the system.
  - 4. The number of the most recent financial plans for the system that satisfy the requirements under this Act, as of the day the licence or renewed licence is issued, if financial plans are required for the system.
  - 5. The number of each operational plan for the system.
  - 6. The date of issue and number of each permit to take water, if one or more permits are required for the system. 2002, c. 32, s. 44 (2).

**Expiry date**

- (3) The expiry date for a licence issued or renewed under this Part shall be no later than the fifth anniversary of the day of issue or renewal of the licence, and shall be set out in the licence. 2002, c. 32, s. 44 (3).

**Date for application for renewal**

- (4) A licence or renewal under this Part shall contain a date that is the deadline for an application for renewal of the licence. 2002, c. 32, s. 44 (4).

**Same**

- (5) The date mentioned in subsection (4) must not be less than 90 days before the date of expiry of the licence. 2002, c. 32, s. 44 (5).

**Extension**

- (6) The Director may authorize an extension of the expiry date of a licence if an application for renewal of the licence has been received by the date described in subsection (4) and the decision on the application is not made on or before the expiry date. 2002, c. 32, s. 44 (6).

**Not transferable without consent**

- (7) A licence is not transferable without the consent of the Director. 2002, c. 32, s. 44 (7).

**Section Amendments with date in force (d/m/y)**

2007, c. 12, s. 2 (2) - 01/01/2015

**Licence conditions and amendments**

- 45** (1) The Director may,
- (a) impose such conditions in a municipal drinking water licence at the time of issue of the licence as the Director considers necessary for the purposes of this Act; and
  - (b) amend the licence at any time after it is issued, including on his or her initiative, in order to impose, vary or remove conditions in the licence, if the Director considers it necessary for the purposes of this Act. 2002, c. 32, s. 45 (1).

### **Subject matter of conditions**

(2) Without limiting subsection (1) and in addition to any prescribed requirements, licence conditions may include any or all of the following:

1. Staffing requirements.
2. Sampling, testing and monitoring requirements.
3. Treatment requirements.
4. Requirements relating to the management of residue from the treatment process and the management of a discharge of a substance from the treatment system into the natural environment, including standards for those discharges.
5. Requirements relating to drinking water quality standards.
6. Requirements to prevent any thing from entering the system that will result in a drinking water health hazard.
7. Reporting and notice requirements.
8. Requirements for ensuring that the operational plans for the system are revised as needed to,
  - i. satisfy the Director's directions under Part III,
  - ii. reflect any future alterations to the system permitted under the drinking water works permit for the system, and
  - iii. reflect the conditions in the licence.
9. The requirement to make available copies of the current operational plans and financial plans to the Director, provincial officers and auditors upon request. 2002, c. 32, s. 45 (2).

### **Permitting inspections**

(3) It is a condition in every licence, whether or not it is specified in the licence, that the owner and accredited operating authority of the system shall permit provincial officers to conduct inspections authorized under,

- (a) this Act;
- (b) section 156, 156.1 or 158 of the *Environmental Protection Act*;
- (c) section 13, 14 or 16 of the *Nutrient Management Act, 2002*;
- (d) section 15, 15.1 or 17 of the *Ontario Water Resources Act*;
- (e) section 19, 19.1 or 20 of the *Pesticides Act*;
- (f) section 15 or 18 of the *Toxics Reduction Act, 2009*. 2002, c. 32, s. 45 (3); 2009, c. 19, s. 72 (3).

### **Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (3) - 01/01/2010; 2009, c. 19, s. 72 (4) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

### **Licence condition, relief from regulatory requirement**

#### **Definition**

**46** (1) In this section,

“regulatory requirement” means a prescribed requirement relating to,

- (a) the sampling, testing or monitoring of water quality in a municipal drinking water system or the reporting of the results, or
- (b) the treatment of water in a municipal drinking water system. 2002, c. 32, s. 46 (1).

### **Relief from compliance**

(2) Subject to subsection (3) and despite any other provision of this Act, the Director may impose a condition in a municipal drinking water licence that,

- (a) provides relief from the duty of strict compliance with a regulatory requirement; or
- (b) imposes a condition in the licence, in place of a regulatory requirement, that is less onerous than the regulatory requirement. 2002, c. 32, s. 46 (2).

### **Exception**

- (3) The Director shall not impose a condition described in subsection (2) in a licence unless,
- (a) the owner of the municipal drinking water system has applied in writing to the Director for relief from the regulatory requirement;
  - (b) the regulations do not prohibit the Director from including the condition in the licence under the circumstances relating to the particular system;
  - (c) the application includes, if required by the regulations, an assessment prepared in accordance with the regulations that demonstrates that providing the relief sought will not result in a drinking water health hazard and the Director agrees with the conclusions of the assessment;
  - (d) the owner has conducted public consultations on the application, if any are required by the regulations, and the public consultations, if required, have been conducted in accordance with the prescribed requirements; and
  - (e) the owner has obtained all consents from individuals that are required by the regulations before the relief may be given. 2002, c. 32, s. 46 (3).

### **Licence renewal**

**47** After consideration of an application to renew a municipal drinking water licence, the Director shall renew the licence if the Director is satisfied that,

- (a) the system is and will continue to be operated by an accredited operating authority;
- (b) a drinking water works permit remains in force for the system;
- (c) the operational plans for the system satisfy the requirements for the system under the Director's directions in Part III for the particular system or type of system;
- (d) the financial plans for the system, if required, satisfy the requirements under this Act;
- (e) the system has been and will continue to be operated in accordance with the requirements under this Act and the licence; and
- (f) a permit to take water has been issued under the *Ontario Water Resources Act* that,
  - (i) authorizes the system to take water, if water will be taken by the system from a raw water supply and the permit is required under the *Ontario Water Resources Act* in order to take the water, and
  - (ii) authorizes the system to transfer water between Great Lakes watersheds as defined in section 34.5 of the *Ontario Water Resources Act*, if water will be transferred by the system between Great Lakes watersheds as defined in that section and the permit is required under that Act in order to transfer the water. 2002, c. 32, s. 47; 2007, c. 12, s. 2 (3).

### **Section Amendments with date in force (d/m/y)**

2007, c. 12, s. 2 (3) - 01/01/2015

### **Revocation of licence**

**48** The Director may revoke a municipal drinking water licence if,

- (a) the licence was issued on the basis of false information or information that was incomplete in a material respect;
- (b) the licence was issued in error or to the wrong person;
- (c) the drinking water works permit for the system is revoked;
- (d) a drinking water works permit is issued to decommission the system;
- (e) the owner of the system applies for revocation;
- (f) a permit to take water issued under the *Ontario Water Resources Act* that is required for the system is revoked or expires;
- (g) the system is not operated by an accredited operating authority; or
- (h) the licence has been suspended under section 49. 2002, c. 32, s. 48.

### **Suspension of licence**

**49** The Director may suspend a municipal drinking water licence if,

- (a) the Director is of the opinion that the continuing operation of the system will result in a drinking water health hazard;
- (b) the owner of the system has failed or refused to correct a deficiency associated with the system; or
- (c) the system is not operated by an accredited operating authority. 2002, c. 32, s. 49.

### **Reinstatement of suspended licence**

**50** The Director may reinstate a licence for a system that is suspended under section 49 if the reason for suspending the licence no longer exists and there are no additional grounds for suspending the licence. 2002, c. 32, s. 50.

### **Transfer of municipal drinking water system**

**51** If a municipality transfers the ownership of a municipal drinking water system to a person other than another municipality,

- (a) the municipality shall ensure that the agreement transferring the ownership of the system includes all the provisions required to be included by the regulations to ensure continuing municipal responsibility for the system; and
- (b) the drinking water system shall be deemed to continue to be a municipal drinking water system and shall be subject to all requirements under this Act that relate to municipal drinking water systems. 2002, c. 32, s. 51.

## **PART VI REGULATED NON-MUNICIPAL DRINKING WATER SYSTEMS**

### **Prohibition, regulated non-municipal drinking water systems**

**52** (1) No person shall establish, replace or operate a regulated non-municipal drinking water system or carry out an alteration to the system except,

- (a) in accordance with the prescribed requirements that apply to the system; and
- (b) under the authority of and in accordance with an approval granted by the Director under this Part, if an approval is required under the regulations for the system. 2002, c. 32, s. 52 (1).

### **Prohibition, fragmentation**

(2) No person shall cause or permit the fragmentation of a non-municipal drinking water system that is a regulated non-municipal drinking water system for the purposes of this subsection unless the person first obtains the written consent of the Director. 2002, c. 32, s. 52 (2).

### **Fragmentation**

(3) The Director shall not give his or her written consent under subsection (2) for the fragmentation of a non-municipal drinking water system or part of the system unless,

- (a) the Director has consulted the medical officer of health concerning the proposed fragmentation;
- (b) the owner of the system proves to the satisfaction of the Director that the owner gave written notice in a form and manner approved by the Director to each user of the system who would cease to be served by a system prescribed as a regulated non-municipal drinking water system for the purposes of subsection (2) if the fragmentation proceeds; and
- (c) the owner of the system demonstrates to the Director's satisfaction that the fragmentation will not expose users of the fragmented system to a drinking water health hazard and will not endanger the natural environment. 2002, c. 32, s. 52 (3).

### **Application to existing systems**

(4) Subsections (1) and (2) apply in respect of the operation, alteration or fragmentation of a system whether the system was established before or after those subsections come into force. 2002, c. 32, s. 52 (4).

### **Exception, testing**

(5) The requirements under subsection (1) in respect of the operation of a system do not apply if,

- (a) the operator of the system is conducting a test or experiment on the system;
- (b) the water under treatment in the test or experiment is not distributed to users of the system; and
- (c) no substance is discharged from the treatment system into the natural environment during the test or experiment. 2002, c. 32, s. 52 (5).

### **Transition, deemed approval**

(6) If a non-municipal drinking water system requires an approval under this Part, an approval granted under section 52 of the *Ontario Water Resources Act* before this section comes into force,

- (a) is deemed to be an approval granted under this Part while the approval is in force; and
- (b) may be amended, suspended, reinstated or revoked as if it were an approval granted by the Director under this Part. 2002, c. 32, s. 52 (6).

### **Revocation of deemed approval**

(7) If a non-municipal drinking water system is not required under this Part to have an approval and an approval has been granted for the system under section 52 of the *Ontario Water Resources Act*, the approval under the *Ontario Water Resources Act* shall be deemed to be revoked on the date specified in the regulations. 2002, c. 32, s. 52 (7).

### **Prohibition, development**

**53** (1) No person shall construct a non-municipal drinking water system that is intended to serve a major residential development within the geographic area of a municipality or extend an existing non-municipal drinking water system within the geographic area of a municipality to serve a major residential development, unless the person obtains the written consent of the municipality to do so. 2002, c. 32, s. 53 (1).

### **Same**

(2) If a non-municipal drinking water system crosses a municipal boundary and requires a consent for its construction or extension under subsection (1), a consent shall be obtained from each municipality in which the system is or will be located. 2002, c. 32, s. 53 (2).

### **May impose conditions**

(3) A municipality may give a written consent under subsection (1) subject to such conditions and limits as it considers necessary to prevent a deficiency in connection with the system. 2002, c. 32, s. 53 (3).

### **Financial assurance**

(4) If a municipality grants a consent mentioned in subsection (1), the municipality may, as a condition of granting the consent, require the owner of the system to provide cash, a letter of credit from a bank, a bond or another form of financial assurance that the municipality considers appropriate in any amount the municipality believes is necessary to ensure that the municipality has sufficient funds to deal with any failure by the owner or a future owner to comply with an order issued under this Act,

- (a) that relates to a deficiency with the system; or
- (b) that arises after the system or part of the system is abandoned, within the meaning of Part IX. 2002, c. 32, s. 53 (4).

### **Copy of consent**

(5) If a municipality grants a consent mentioned in subsection (1), the municipality shall provide the Director with a copy of the consent within 30 days of granting the consent. 2002, c. 32, s. 53 (5).

### **Interpretation**

(6) In this section, a reference to a municipality means, in the case of a two-tier municipality, the municipality that has jurisdiction to provide a water public utility under the *Municipal Act, 2001*. 2002, c. 32, s. 53 (6).

### **Applications**

#### **Establishment or replacement of system**

**54** (1) If a person proposes to establish or replace a regulated non-municipal drinking water system and an approval granted by the Director is required under subsection 52 (1), the person shall apply to the Director for the approval. 2007, c. 10, Sched. D, s. 3 (9).

#### **Alteration to system**

(2) If a person proposes to carry out an alteration to a regulated non-municipal drinking water system, an approval granted by the Director is required under subsection 52 (1) and the person has not obtained the required approval, the person shall apply to the Director for the approval. 2007, c. 10, Sched. D, s. 3 (10).

### **Same**

(2.1) If a person proposes to carry out an alteration to a regulated non-municipal drinking water system and the alteration relates to a condition of an approval that was imposed under subsection 60 (2), the person shall apply to the Director for an amendment to the approval. 2007, c. 10, Sched. D, s. 3 (10).

### **Applications for amendment, revocation**

(3) An owner of a non-municipal drinking water system for which an approval was granted under this Part may apply to the Director for an amendment to the approval or the revocation of the approval. 2002, c. 32, s. 54 (3).

### **Voluntary application for approval**

(4) An owner of a regulated non-municipal drinking water system may apply to the Director for an approval for the purpose of obtaining relief under section 60 from the duty of strict compliance with a regulatory requirement, even if no approval granted by the Director is required under subsection 52 (1). 2007, c. 10, Sched. D, s. 3 (11).

### **Requirements for application**

- (5) An application under this section must,
- (a) be made in the manner and form approved by the Director and contain the information required by the Director;
  - (b) include a copy of any consent relating to the system that is required under section 53; and
  - (c) include all fees required on the application. 2002, c. 32, s. 54 (5).

### **Additional information**

- (6) In connection with an application under this section, the Director may require an applicant to,
- (a) submit plans, specifications, engineers' reports and other information and documents relating to the non-municipal drinking water system; or
  - (b) carry out tests and experiments relating to the non-municipal drinking water system or the raw water supply for the system, and report on the results. 2002, c. 32, s. 54 (6).

### **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (9, 11) - 04/06/2007; 2007, c. 10, Sched. D, s. 3 (10) - 01/12/2008

### **Late application**

**55** If an order is issued under Part IX to a person requiring the submission of an application for an approval or an amendment to an approval for a non-municipal drinking water system by reason of the person's failure to make an application in accordance with the requirements under this Act, or if the Director considers it necessary for the purposes of this Act,

- (a) the Director may accept and consider a late application as though it were made within the time specified under this Part; and
- (b) if the Director decides to issue or amend the approval, the Director may impose as a condition under section 57 the requirement that the person reverse any alteration that was made to the system that was not previously authorized by the Director in an approval. 2002, c. 32, s. 55.

### **Grant and amendment of approval**

**56** (1) After consideration of an application for an approval under this Part or an amendment to an approval, the Director shall, as he or she considers necessary for the purposes of this Act,

- (a) on an application for the grant of an approval under this Part, grant the approval with such conditions as the Director may impose under section 57;
- (b) on an application for the amendment of an approval under this Part, amend the approval to impose, vary or remove a condition, subject to subsection 57 (2); or
- (c) refuse to grant or amend the approval, as the case may be. 2002, c. 32, s. 56 (1).

### **Same**

(2) An approval granted under this Part for a system that was established before this section came into force may deal with any works associated with the system. 2002, c. 32, s. 56 (2).

### **Approval conditions and Director's amendments**

**57** (1) The Director may,

- (a) impose such conditions in an approval under this Part at the time the approval is granted as the Director considers necessary for the purposes of this Act; and
- (b) on his or her own initiative, amend the approval to impose, vary or remove conditions in the approval at any time after it is granted, if the Director considers it necessary for the purposes of this Act. 2002, c. 32, s. 57 (1).

### **Same**

(2) The Director may impose any condition in an approval that may be imposed in a drinking water works permit or a municipal drinking water licence and may include an expiry date for the approval as a condition in the approval. 2002, c. 32, s. 57 (2).

### **Permitting inspections**

(3) It is a condition in every approval under this Part, whether or not it is specified in the approval, that the owner and every other operator of the system shall permit provincial officers to conduct inspections authorized under,

- (a) this Act;
- (b) section 156, 156.1 or 158 of the *Environmental Protection Act*;
- (c) section 13, 14 or 16 of the *Nutrient Management Act, 2002*;
- (d) section 15, 15.1 or 17 of the *Ontario Water Resources Act*;
- (e) section 19, 19.1 or 20 of the *Pesticides Act*;
- (f) section 15 or 18 of the *Toxics Reduction Act, 2009*. 2002, c. 32, s. 57 (3); 2009, c. 19, s. 72 (5).

### **Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (5) - 01/01/2010; 2009, c. 19, s. 72 (6) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

### **Failure to apply for required approval**

**58** If a person proceeds to establish, replace, operate or carry out an alteration to a non-municipal drinking water system without applying for any approval or amendment to an approval that is required by this Part and the person has failed to comply with an order issued under Part IX requiring the person to submit an application for it, the Director may,

- (a) retain, at the person's expense, such experts as the Director considers necessary for the investigation of the system and the raw water supply;
- (b) require the person to produce all documents under the person's control that relate to the drinking water system; and
- (c) grant an approval for the system in accordance with his or her authority under this Part. 2002, c. 32, s. 58.

### **Certificate of compliance**

**59** If a prescribed requirement or a condition of an approval under this Part so provides, no owner of a regulated non-municipal drinking water system shall put into service any works, equipment, mechanism or thing specified in the requirement or approval until the owner or the owner's designate has given the Director a certificate of compliance in such form as the Director requires. 2002, c. 32, s. 59.

### **Condition in approval, relief from regulatory requirements**

#### **Definition**

**60** (1) In this section,

“regulatory requirement” means a prescribed requirement relating to,

- (a) the sampling, testing or monitoring of water quality in a non-municipal drinking water system or the reporting of the results, or
- (b) the treatment of water in a non-municipal drinking water system. 2002, c. 32, s. 60 (1).

### **Condition, relief from regulatory requirement**

(2) Subject to subsection (3) and despite any other provision of this Act, the Director may impose a condition in an approval under this Part that,



- (a) provides relief from the duty of strict compliance with a regulatory requirement; or
- (b) imposes a condition in the approval, in place of a regulatory requirement, that is less onerous than the regulatory requirement. 2002, c. 32, s. 60 (2).

#### **Exception**

- (3) The Director shall not impose a condition described in subsection (2) in an approval unless,
- (a) the owner of the drinking water system has applied in writing to the Director for relief from the regulatory requirement;
  - (b) the regulations do not prohibit the Director from including the condition in the approval under the circumstances relating to the particular system;
  - (c) the application includes, if required by the regulations, an assessment prepared in accordance with the regulations that demonstrates that providing the relief sought will not result in a drinking water health hazard and the Director agrees with the conclusions of the assessment;
  - (d) the owner has conducted public consultations on the application, if any are required by the regulations, and the public consultations, if required, have been conducted in accordance with the prescribed requirements; and
  - (e) the owner has obtained all consents from individuals that are required by the regulations before the relief may be given. 2002, c. 32, s. 60 (3).

#### **If no approval required for system**

- (4) If an approval is granted by the Director to provide relief from a regulatory requirement for a regulated non-municipal drinking water system that does not require an approval under this Part, the approval granting the regulatory relief shall not be construed as an approval granted for the system under this Part. 2002, c. 32, s. 60 (4).

#### **Suspension, revocation of approval**

- 61** (1) The Director may suspend an approval for a non-municipal drinking water system if,
- (a) the Director is of the opinion that the continuing operation of the system will result in a drinking water health hazard;
  - (b) the owner of the system has failed or refused to correct a deficiency associated with the system;
  - (c) the system is abandoned within the meaning of Part IX; or
  - (d) an accredited operating authority is not in charge of the system and the regulations require an accredited operating authority to be in charge of the system. 2002, c. 32, s. 61 (1).

#### **Notice of suspension**

- (2) If the Director suspends an approval under subsection (1), the Director shall notify the local municipality in which the system that is the subject of the approval is located. 2002, c. 32, s. 61 (2).

#### **Reinstatement after suspension**

- (3) The Director may reinstate an approval for a system if the reason for suspending the approval no longer exists and there are no additional grounds for suspending the approval. 2002, c. 32, s. 61 (3).

#### **Revocation of approval**

- (4) The Director may revoke an approval for a non-municipal drinking water system granted under this Part if,
- (a) the approval was issued on the basis of false information or information that was incomplete in a material respect;
  - (b) the approval was issued in error or to the wrong person;
  - (c) the owner of the system has decommissioned the system in accordance with the conditions in the approval;
  - (d) the owner of the system applies for revocation;
  - (e) at least 365 days have passed since the approval was issued, no application for an extension of any deadlines specified in the approval has been received by the Director and the Director has reasonable grounds for believing that,
    - (i) the establishment of the system has not been significantly advanced since the approval was issued, or
    - (ii) work to establish the system has been essentially discontinued for a period of at least 365 days;
  - (f) the system, if required under this Act, is not operated by an accredited operating authority; or

(g) the approval has been suspended. 2002, c. 32, s. 61 (4).

## **PART VII DRINKING WATER TESTING**

### **Authorization of drinking water tests**

**62** For the purposes of this Act, a drinking water testing licence only authorizes the offer or provision of a drinking water testing service that involves the conduct of a drinking water test at a laboratory if,

- (a) the test is specified in the licence or is in a class specified in the licence;
- (b) the laboratory is specified in the licence; and
- (c) where the test is in a class specified in the licence, either,
  - (i) the laboratory is accredited by an accreditation body for drinking water testing to conduct the test, or
  - (ii) the licence expressly authorizes the conduct of the test. 2002, c. 32, s. 62.

### **Requirement for licence**

**63** (1) No person shall offer or provide a drinking water testing service except under the authority of and in accordance with a drinking water testing licence. 2002, c. 32, s. 63 (1).

### **Exception, prescribed testing at drinking water systems**

(2) Subsection (1) does not apply to the offer or provision of a drinking water testing service that involves only the conduct of a prescribed test at a drinking water system by a person with prescribed qualifications under the authority of the owner or operating authority of the system in relation to water supplied through the system. 2002, c. 32, s. 63 (2).

### **Employees, etc.**

(3) A person employed or otherwise engaged to conduct drinking water tests by a person who offers or provides a drinking water testing service shall not be taken to offer or provide a drinking water testing service by virtue only of such employment or engagement. 2002, c. 32, s. 63 (3).

## **ACCREDITATION OF LABORATORIES**

### **Accreditation body for drinking water testing**

**64** (1) One or more accreditation bodies for drinking water testing shall be designated or established for the purposes of administering programs to accredit laboratories for the conduct of drinking water tests under the authority of drinking water testing licences. 2002, c. 32, s. 64 (1).

### **Designation by agreement**

(2) The Minister may designate a person as an accreditation body for drinking water testing by entering into an accreditation agreement with the person. 2002, c. 32, s. 64 (2).

### **Same**

(3) A person who enters into an accreditation agreement under this Part ceases to be designated as an accreditation body for drinking water testing on the termination of the agreement. 2002, c. 32, s. 64 (3).

### **Designation or establishment by regulation**

(4) One or more accreditation bodies for drinking water testing may be designated or established by the regulations, whether or not the Minister enters into an accreditation agreement under this Part. 2002, c. 32, s. 64 (4).

### **No action for termination of agreement, etc.**

- (5) No action or other proceeding shall be commenced in respect of,
- (a) the termination by the Minister of an accreditation agreement; or
  - (b) the revocation of a regulation or a provision of a regulation designating or establishing an accreditation body for drinking water testing. 2002, c. 32, s. 64 (5).

### **Obligations of accreditation body**

**65** (1) Every accreditation body for drinking water testing shall exercise and perform its powers and duties in accordance with the requirements under this Act and its accreditation agreement, if any. 2002, c. 32, s. 65 (1).

### **Audit reports, copies to Director**

(2) Every accreditation body for drinking water testing shall, within the time specified by the Director, give to the Director a copy of the report of any drinking water testing audit required by the accreditation body. 2002, c. 32, s. 65 (2).

### **Audit reports, public availability**

(3) The Director shall make the results of any drinking water testing audit required by the accreditation body available to any person, including a provincial officer, who requests it. 2002, c. 32, s. 65 (3).

### **Notice of proposed suspension or revocation**

(4) Every accreditation body for drinking water testing shall, within the time specified by the Director,

- (a) notify the Director in writing of any proposed suspension or revocation of accreditation, for a drinking water test or tests, of the laboratory at which a licensee conducts drinking water tests, including the reasons for the proposed action; and
- (b) notify the Director in writing if the body implements the proposed suspension or revocation mentioned in clause (a). 2002, c. 32, s. 65 (4).

### **Accreditation agreement**

**66** (1) The Minister may enter into an accreditation agreement with a person, and every accreditation agreement shall include the following:

1. The requirement that the person establish and administer a program to accredit laboratories for the conduct of drinking water tests under the authority of drinking water testing licences.
2. The terms on which the accreditation program is to be administered.
3. The authority for and procedures governing the granting, suspending and revocation of accreditation.
4. Provision for the person to be able to make decisions about accreditation by reference to,
  - i. a testing standard or standards included in, or adopted by, the agreement, including an adopted standard as amended from time to time after the agreement is made,
  - ii. a testing standard or standards prescribed by the regulations, including a standard or standards in a document or documents adopted by the regulations, or
  - iii. advice received from any other body.
5. The requirement that the person comply with applicable Ministry standards and policies in administering the accreditation program.
6. The requirement that the person administer an audit program to audit conformity by the holders of drinking water testing licences with the testing standard or standards mentioned in paragraph 4.
7. The terms for the administration of the audit program, including the following:
  - i. The frequency of audits.
  - ii. The required qualifications of the testing auditors.
  - iii. The powers and duties of the testing auditors.
  - iv. The types of matters to be audited and the requirements for reporting the testing auditors' findings and recommendations.
  - v. The requirement that copies of all audit reports be provided to the Minister and the licensee that is the subject of the audit, and the results be made available to the public.
8. The requirements for the giving of notice in writing of a proposed suspension or revocation of accreditation, for a drinking water test or tests, of the laboratory at which a licensee conducts drinking water tests to the Director and the licensee in the manner specified in the agreement, including the reasons for the proposed action.
9. The entitlement of the Minister to review or audit, at such time or times as the Minister considers advisable, the performance of the person under the agreement, including the conduct and results of audits under the agreement.
10. The requirement that the person obtain and maintain specified kinds and amounts of insurance.
11. Provisions governing the amendment and termination of the agreement. 2002, c. 32, s. 66 (1).

## **Same**

(2) Subsection (1) does not prohibit the inclusion in the agreement of such other provisions as the Minister considers advisable that are consistent with the provisions described in subsection (1) and the purposes of the agreement. 2002, c. 32, s. 66 (2).

## **Compliance with audit**

**67** Every person who offers or provides a drinking water testing service shall,

- (a) submit to and assist with all audits required by an accreditation body for drinking water testing; and
- (b) consent to the release to the Director of all audit reports relating to the service and the release to the public of the results of the audits. 2002, c. 32, s. 67.

## **Report by auditor of violations**

**68** If an auditor, in the course of an audit, becomes aware of a violation of this Act, the regulations, a drinking water testing licence or an order under this Act, the auditor shall report the violation to the Director as soon as practicable, and shall include a summary of his or her observations in relation to the violation in his or her report. 2002, c. 32, s. 68.

## **Obligation to report suspension or revocation of accreditation**

**69** If a laboratory's accreditation for a drinking water test is suspended or revoked by an accreditation body for drinking water testing, the person who holds a drinking water testing licence for the laboratory shall, immediately after the suspension or revocation,

- (a) notify accordingly all owners and operating authorities of drinking water systems who could reasonably be expected to be affected by the suspension or revocation; and
- (b) provide a copy of the accreditation body's order or decision to suspend or revoke the accreditation to each owner and operating authority described in clause (a). 2002, c. 32, s. 69; 2007, c. 10, Sched. D, s. 3 (12, 13).

## **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (12, 13) - 04/06/2007

## **Not an agent of the Crown**

**70** (1) Despite the *Crown Agency Act*, no accreditation body for drinking water testing is or shall hold itself out as an agent of Her Majesty for any purpose. 2002, c. 32, s. 70 (1).

## **Crown not liable for acts of accreditation bodies**

(2) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,

- (a) for any act done by an accreditation body for drinking water testing in the execution or intended execution of a power or duty under this Act or its accreditation agreement, if any, or for an alleged neglect or default in the execution of such a power or duty; or
- (b) for any tort committed by an accreditation body for drinking water testing or its employee or agent in relation to a power or duty under this Act or its accreditation agreement, if any. 2002, c. 32, s. 70 (2); 2006, c. 35, Sched. C, s. 119 (3).

## **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (3) - 20/08/2007

## **Annual reports, etc., by accreditation bodies**

**71** (1) Every accreditation body for drinking water testing shall report annually to the Minister on its activities over the previous year with respect to the execution of its powers and duties under this Act and its accreditation agreement, if any. 2002, c. 32, s. 71 (1).

## **Additional reports**

(2) Every accreditation body for drinking water testing shall provide such additional reports to the Minister as the Minister may require or as required by its accreditation agreement, if any, and the Minister shall make public a copy of the report in a form and manner the Minister considers appropriate. 2002, c. 32, s. 71 (2).

## DRINKING WATER TESTING LICENCES

### **Applications**

#### **Licence**

**72** (1) A person who proposes to offer a drinking water testing service involving the conduct of drinking water tests at a laboratory shall apply to the Director for a drinking water testing licence authorizing the conduct of such tests at the laboratory. 2002, c. 32, s. 72 (1).

#### **Amendment**

(2) The holder of a drinking water testing licence may apply to the Director for an amendment to the licence. 2002, c. 32, s. 72 (2).

#### **Renewal**

(3) The holder of a drinking water testing licence may apply to the Director for the renewal of the licence before the expiry of the licence. 2002, c. 32, s. 72 (3).

#### **Requirements of application**

(4) An application under this section must satisfy the following requirements:

1. The application must be made in the manner and form approved by the Director and contain the information required by the Director.
2. The application must include all prescribed information or documents.
3. All fees required on the application must be submitted to the Director as part of the application. 2002, c. 32, s. 72 (4).

#### **Director's decision, drinking water testing licence**

**73** (1) After consideration of an application for a drinking water testing licence, the Director shall, subject to subsection (2), issue a licence to the applicant in relation to the conduct of a drinking water test or class of tests at a single laboratory specified in the licence if the Director is satisfied that,

- (a) either,
  - (i) the laboratory is accredited by an accreditation body for drinking water testing for the conduct of the test or one or more tests within the class of tests, or
  - (ii) the requirements of section 74 are met in relation to the conduct of the test or tests;
- (b) the testing will be conducted using suitable laboratory facilities;
- (c) the applicant will have suitable resources, including staff, technical resources and records management systems, to comply with the requirements under this Act;
- (d) the applicant will be able to carry out the necessary test associated with the testing and to articulate the results to persons who submit drinking water for testing;
- (e) the applicant will be able to meet the notice and reporting requirements to be imposed under the licence;
- (f) drinking water testing services will be provided,
  - (i) in accordance with the requirements under this Act and the licence, and
  - (ii) with competence, honesty and integrity; and
- (g) any other prescribed criteria have been met. 2002, c. 32, s. 73 (1).

#### **Same**

(2) In making a determination of whether to issue a licence under subsection (1), the Director shall,

- (a) take into consideration any prior failure of the applicant to comply with the requirements under this Act or an order issued under this Act, including the seriousness of the prior failure to comply; and
- (b) not issue the licence if the Director has reason to believe that, if the licence were issued, the applicant would fail to comply with the requirements under this Act or an order issued under this Act. 2002, c. 32, s. 73 (2).

#### **Authorized tests, specification by class**

(3) If the Director issues a licence in relation to the conduct of a test or tests at a laboratory,

- (a) the licence need not specify the particular test or tests; and
- (b) the licence may state instead that the conduct of any test in a specified class of tests is authorized if,
  - (i) the laboratory is accredited to conduct the test, or
  - (ii) the conduct of the test is expressly authorized under the licence. 2002, c. 32, s. 73 (3).

#### **Expiry date**

(4) The expiry date of a licence, including a licence that is renewed, shall be determined in accordance with the regulations. 2002, c. 32, s. 73 (4).

#### **Extension**

(5) The Director may authorize an extension of the expiry date of a licence if an application for renewal of the licence has been received and the decision on the application is not made on or before the expiry date. 2002, c. 32, s. 73 (5).

#### **Not transferable without consent**

(6) A licence is not transferable without the consent of the Director. 2002, c. 32, s. 73 (6).

#### **Licence to authorize test at non-accredited laboratory**

**74** (1) The Director may issue or amend a drinking water testing licence to authorize the conduct of a drinking water test at a laboratory that is not accredited by an accreditation body for drinking water testing for the conduct of the test only if subsection (2), (3) or (4) applies. 2002, c. 32, s. 74 (1).

#### **Location of laboratory**

(2) This subsection applies if the Director is satisfied that,

- (a) it is desirable that the test be available in the area in which the laboratory is situated, or is to be situated;
- (b) there is no laboratory, or there are insufficient laboratories, in the area for the conduct of the test under a drinking water testing licence; and
- (c) the licensee will be capable of providing a drinking water testing service involving the conduct of the test at the laboratory. 2002, c. 32, s. 74 (2); 2007, c. 10, Sched. D, s. 3 (14).

#### **No accreditation standards in Ontario**

(3) This subsection applies if the Director is satisfied that,

- (a) no accreditation body for drinking water testing is able to provide accreditation for the conduct of the test because there are no accreditation standards for the test currently applicable in Ontario; and
- (b) the licensee will be capable of providing a drinking water testing service involving the conduct of the test at the laboratory. 2002, c. 32, s. 74 (3).

#### **Prescribed laboratory**

(4) This subsection applies if the laboratory is a prescribed laboratory or a member of a prescribed class of laboratories and the Director is satisfied that the drinking water tests at the laboratory will be conducted by persons having the prescribed qualifications or experience. 2002, c. 32, s. 74 (4).

#### **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (14) - 01/12/2008

#### **Licence conditions**

**75** (1) The Director may, if he or she considers it necessary for the purposes of this Act,

- (a) impose conditions in a drinking water testing licence at the time of issue of the licence; and
- (b) on his or her own initiative, amend a drinking water testing licence at any time after it is issued in order to impose, vary or remove conditions in the licence. 2002, c. 32, s. 75 (1).

#### **Subject matter of conditions**

(2) Without limiting subsection (1), and in addition to any condition under subsection (3), licence conditions may include any or all of the following:

1. Authorization for the conduct of a drinking water test or tests at the laboratory specified in the licence, subject to section 74.
2. If the laboratory specified in the licence is not accredited by an accreditation body for drinking water testing to conduct a particular drinking water test,
  - i. authorization for the conduct of the test, subject to section 74, and
  - ii. a requirement, in conjunction with the conduct of the test, that a specified method be used or one or more other tests be conducted.
3. Staffing requirements.
4. Requirements for laboratory facilities and equipment.
5. Requirements for the analysis that must be conducted for any particular test.
6. Requirements for the method for articulating the results of any test to the person who submitted the drinking water for testing.
7. Reporting and notice requirements. 2002, c. 32, s. 75 (2).

### **Statutory conditions**

(3) A drinking water testing licence is issued subject to the following conditions, whether or not they are specified in the licence:

1. The licensee may only cause or permit the conduct of the drinking water tests authorized under the licence, at the laboratory specified in the licence.
2. If the licence authorizes the conduct of a class of drinking water tests at a laboratory that is accredited to conduct one or more tests in that class,
  - i. a test in that class may be conducted there only while the accreditation for the test is still current, unless the licence expressly provides otherwise, and
  - ii. the licensee shall take all reasonable steps to keep the accreditation in good standing, including paying any fees required by an accreditation body for drinking water testing.
3. The licensee shall take all reasonable steps to ensure compliance with the prescribed requirements for handling drinking water samples and collecting information.
4. The licensee shall not sub-contract with another person to perform a drinking water testing service at another laboratory in relation to a sample submitted for testing unless,
  - i. the person who submitted the sample consents, and
  - ii. the other person is licensed under this Part for the conduct of the test at the other laboratory, or the other laboratory is an eligible laboratory for the purposes of section 11.
5. The licensee shall permit provincial officers to conduct inspections authorized under,
  - i. this Act,
  - ii. section 156, 156.1 or 158 of the *Environmental Protection Act*,
  - iii. section 13, 14 or 16 of the *Nutrient Management Act, 2002*,
  - iv. section 15, 15.1 or 17 of the *Ontario Water Resources Act*,
  - v. section 19, 19.1 or 20 of the *Pesticides Act*, or
  - vi. section 15 or 18 of the *Toxics Reduction Act, 2009*.
6. Any other prescribed condition. 2002, c. 32, s. 75 (3); 2009, c. 19, s. 72 (7).

### **Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (7) - 01/01/2010; 2009, c. 19, s. 72 (8) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

### **Director's direction**

**76** (1) If the Director considers it necessary, the Director may, by written notice, issue a direction to one or more holders of drinking water testing licences that a drinking water test or class of tests is to be conducted under the licence in accordance with a method specified in the direction. 2007, c. 10, Sched. D, s. 3 (15).

### **May authorize test at non-accredited laboratory**

(2) A direction under subsection (1) may authorize the conduct of a drinking water test at a laboratory that is not accredited for the purpose if the Director considers it necessary. 2007, c. 10, Sched. D, s. 3 (16).

### **Amendment or revocation of direction**

(3) The Director may amend or revoke a direction by written notice to all licensees to whom the direction was given. 2002, c. 32, s. 76 (3).

### **Direction deemed a condition**

(4) A direction given to a licensee under this section is deemed to be a condition of the licence. 2002, c. 32, s. 76 (4).

### **Notice**

(5) The Director shall give notice to the accreditation body for drinking water testing of every direction issued under this section and every amendment and revocation of a direction. 2002, c. 32, s. 76 (5).

### **Expiry of direction**

(6) A direction under this section remains in force until,

- (a) the day specified in the notice of revocation of the direction; or
- (b) the third anniversary of the day the direction is issued, if the direction is not revoked. 2002, c. 32, s. 76 (6).

### **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (15, 16) - 01/12/2008

### **Licence amendment, renewal**

**77** (1) After consideration of an application to amend or renew a drinking water testing licence in relation to the conduct of a drinking water test or class of tests at a laboratory specified in the licence, the Director shall amend or renew the licence, as the case may be, if the Director is satisfied that,

- (a) either,
  - (i) the laboratory is accredited by an accreditation body for drinking water testing for the conduct of the test or one or more tests within the class of tests, or
  - (ii) the requirements of section 74 are met in relation to the conduct of the test or tests;
- (b) the testing will be conducted using suitable laboratory facilities;
- (c) the licensee will have suitable resources, including staff, technical resources and records management systems, to comply with the requirements under this Act;
- (d) the licensee will be able to carry out the necessary analysis associated with the testing and to articulate the results to persons who submit drinking water for testing;
- (e) the licensee will be able to meet notice and reporting requirements imposed under the licence;
- (f) drinking water testing services will be provided,
  - (i) in accordance with the requirements under this Act and the licence, and
  - (ii) with competence, honesty and integrity; and
- (g) any other prescribed criteria have been met. 2002, c. 32, s. 77 (1).

### **Same**

(2) In making a determination of whether to amend or renew a licence under subsection (1), the Director shall,

- (a) take into consideration any prior failure of the applicant to comply with the requirements under this Act or an order issued under this Act, including the seriousness of the prior failure to comply; and



- (b) not amend or renew the licence if the Director has reason to believe that, if the licence were amended or renewed, the applicant would fail to comply with the requirements under this Act or an order issued under this Act. 2002, c. 32, s. 77 (2).

#### **Revocation of licence**

**78** The Director may revoke a drinking water testing licence if the Director is satisfied that,

- (a) the licence was issued on the basis of false information or information that was incomplete in a material respect;
- (b) the licence was issued in error or to the wrong person;
- (c) grounds would exist to refuse to renew the licence; or
- (d) the continuing provision of drinking water testing services by the licensee, or from the laboratory specified in the licence, endangers or is likely to endanger public health. 2002, c. 32, s. 78.

#### **Suspension of licence**

**79** (1) The Director may suspend a drinking water testing licence if,

- (a) the Director is of the opinion that the continuing provision of drinking water testing services by the licensee, or from the laboratory specified in the licence, endangers or is likely to endanger public health; or
- (b) the licensee is no longer authorized as provided by section 62 to offer or provide any drinking water testing service. 2002, c. 32, s. 79 (1).

#### **Reinstatement after suspension**

(2) The Director may reinstate a suspended drinking water testing licence if the reason for suspending the licence no longer exists and there are no additional grounds for suspending the licence. 2002, c. 32, s. 79 (2).

#### **Public health endangered if decision stayed**

**80** (1) If the Director believes that a reviewable decision that he or she is about to make in respect of a drinking water testing licence, if stayed by an appeal, would endanger, or likely endanger, public health, the Director shall include in the decision the reasons for his or her belief and shall also serve a copy of the decision on the Chief Medical Officer of Health. 2002, c. 32, s. 80 (1).

#### **Reviewable decision**

(2) In this section,

“reviewable decision” has the meaning given in section 127. 2002, c. 32, s. 80 (2).

### **PART VIII INSPECTIONS**

#### **Inspection**

**81** (1) A provincial officer may, at any reasonable time and without a warrant or court order, conduct an inspection for the purposes of determining compliance of any person with this Act or the regulations. 2002, c. 32, s. 81 (1).

#### **Powers of provincial officer**

(2) A provincial officer may do any one or more of the following in the course of conducting an inspection:

1. Enter into or on any part of the natural environment to ascertain or to attempt to ascertain,
  - i. the extent to which a drinking water health hazard, if any, exists or did exist,
  - ii. the cause of any drinking water health hazard, or
  - iii. how a drinking water health hazard may be prevented, eliminated or ameliorated, and the natural environment restored.
2. Enter any place where the provincial officer reasonably believes a drinking water system or part of a drinking water system is located.
3. Enter any place where the provincial officer reasonably believes plumbing is located if the provincial officer reasonably believes,
  - i. the condition of the plumbing or something in the water in the plumbing may create a drinking water health hazard, or

- ii. a thing may be found in the plumbing or connected to the plumbing that may create a drinking water health hazard.
4. Enter any place where the provincial officer reasonably believes drinking water tests are conducted.
  5. Enter any place where the provincial officer reasonably believes is likely to contain documents that relate to,
    - i. an activity or undertaking that is, or is required to be, the subject of a certificate, permit, licence, approval, agreement or order under this Act,
    - ii. an activity or undertaking that is exempted under this Act from a requirement to have an approval, permit or licence, if the activity or undertaking is regulated by the provisions of this Act or the regulations, or
    - iii. a drinking water system.
  6. Enter any place that the provincial officer reasonably believes,
    - i. is, or is required to be, subject to or referred to in a permit, licence, approval, order or agreement under this Act,
    - ii. is subject to or referred to in a provision of this Act or the regulations that provides an exemption from a requirement to have an approval, permit or licence under this Act, if the provisions of this Act or the regulations regulate any activity or undertaking at the place, or
    - iii. is regulated by a provision of this Act or the regulations.
  7. Require that any thing be operated, used or set in motion under conditions specified by the provincial officer.
  8. Take samples for testing.
  9. Conduct tests, take measurements and carry away samples from the testing.
  10. Examine, record or copy any document by any method.
  11. Record the condition of a place or a part of the natural environment by means of a photograph, video recording or other visual recording.
  12. Require the production of any document required to be kept under this Act and of any other document related to the purposes of the inspection.
  13. Remove from a place documents produced under paragraph 12 for the purpose of making copies.
  14. Make reasonable inquiries of any person, orally or in writing.
  15. Make necessary excavations.
  16. Require any person at a place that tests drinking water to conduct a test under conditions specified by the provincial officer. 2002, c. 32, s. 81 (2); 2009, c. 19, s. 72 (9).

**Limitation re photographs, recordings**

(3) A record made under paragraph 11 of subsection (2) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 2002, c. 32, s. 81 (3).

**Limitation re removal of documents**

(4) A provincial officer shall not remove documents under paragraph 13 of subsection (2) without giving a receipt for them and shall promptly return the documents to the person who produced them. 2002, c. 32, s. 81 (4).

**Power to exclude persons**

(5) A provincial officer who exercises the power set out in paragraph 14 of subsection (2) may exclude from the questioning any person except counsel for the individual being questioned. 2002, c. 32, s. 81 (5); 2009, c. 33, Sched. 15, s. 10 (1).

**Assistance to be given**

(6) A provincial officer may, in the course of an inspection, require a person to produce a document and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a document in readable form and the person shall produce the document or provide the assistance. 2002, c. 32, s. 81 (6).

**Assistance in inspection of drinking water system**

(7) The following persons may accompany a provincial officer on an inspection conducted under this section for the purposes of assessing the condition of a drinking water system and reporting to the Director:

1. If the Director has issued or is considering issuing a notice of emergency response under Part IX, an employee or agent of the Agency or the person to whom the Director issued or would issue the notice of emergency response.
2. If the Director has appointed or is considering appointing an interim operating authority under Part IX, an employee or agent of the interim operating authority.
3. If the Director has issued or is considering issuing a notice to a municipality under subsection 114 (2), an employee or agent of the municipality.
4. A person who has special, expert or professional knowledge in relation to the operation of a drinking water system. 2002, c. 32, s. 81 (7).

#### **Assistance in inspecting laboratory**

(8) An employee in the Ministry with expertise in drinking water testing may accompany a provincial officer on an inspection of a laboratory conducted under this section for the purposes of assessing the competence of the laboratory to conduct a drinking water test and of reporting to the Director appointed for the purposes of Part VIII. 2002, c. 32, s. 81 (8); 2006, c. 35, Sched. C, s. 119 (4).

#### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (4) - 20/08/2007

2009, c. 19, s. 72 (9) - 01/01/2010; 2009, c. 33, Sched. 15, s. 10 (1) - 15/12/2009

#### **Authority to stop vehicles and vessels**

##### **Definition**

**82 (1)** In this section,

“vehicle” includes a trailer or other equipment attached to the vehicle. 2002, c. 32, s. 82 (1).

##### **Requirement to stop**

(2) For the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop. 2002, c. 32, s. 82 (2).

##### **Same**

(3) On a provincial officer’s signal to stop, the operator of a vehicle or vessel shall immediately come to a safe stop. 2002, c. 32, s. 82 (3).

##### **Signal to stop**

(4) For the purposes of this section, a signal to stop includes,

- (a) intermittent flashes of red light in the case of a vehicle;
- (b) intermittent flashes of blue light in the case of a vessel; and
- (c) a hand signal to stop by a provincial officer who is readily identifiable as a provincial officer. 2002, c. 32, s. 82 (4).

##### **Sign to report**

(5) Where a clearly marked sign is posted indicating that a class of vehicles or vessels should report to a certain place in the vicinity of the sign, the operator of a vehicle or vessel that passes the sign and that falls within the class of vehicles or vessels indicated shall report forthwith to the place the sign directs. 2002, c. 32, s. 82 (5).

##### **Production of documents**

(6) Where the operator of a vehicle or vessel stops under subsection (3) or reports under subsection (5), the provincial officer may make reasonable inquiries of the operator and the operator shall produce for inspection any documents related to the operation or ownership of the vehicle or vessel, including licenses, permits and any documents that are required to be kept by the law of any jurisdiction in relation to the carriage of any cargo or container. 2002, c. 32, s. 82 (6).

##### **Inspection powers**

(7) Based on questioning or an examination of documents conducted under subsection (6), the provincial officer may, without warrant or court order, inspect any means of containment that the provincial officer reasonably believes is being used for the handling or transportation of drinking water or water from a raw water supply. 2002, c. 32, s. 82 (7); 2009, c. 19, s. 72 (10).

**Same**

(8) As part of an inspection under subsection (7), the provincial officer may open or require the operator to open any cargo hold, container or other means of containment. 2002, c. 32, s. 82 (8); 2009, c. 33, Sched. 15, s. 10 (2).

**Same**

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise such powers under subsection 81 (2) as are reasonably required for the administration of this Act or the regulations. 2002, c. 32, s. 82 (9).

**Same**

(10) Subsections 81 (3), (4), (5) and (6) apply to the exercise of a power under subsection (9). 2002, c. 32, s. 82 (10).

**Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (10) - 01/01/2010; 2009, c. 33, Sched. 15, s. 10 (2) - 15/12/2009

**Power to administer other statutes**

**83** A provincial officer who exercises any power set out in section 81, 82, 91, 92 or 93 may, if he or she is designated a provincial officer under the *Environmental Protection Act*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Nutrient Management Act, 2002* or the *Toxics Reduction Act, 2009*, as the case may be, do anything authorized by,

- (a) section 156, 156.1, 160, 161 or 161.1 of the *Environmental Protection Act*;
- (b) section 13, 14 or 23 of the *Nutrient Management Act, 2002*;
- (c) section 15, 15.1, 19, 20 or 20.1 of the *Ontario Water Resources Act*;
- (d) section 19, 19.1, 22, 23 or 23.1 of the *Pesticides Act*; or
- (e) section 15, 20 or 21 of the *Toxics Reduction Act, 2009*. 2009, c. 19, s. 72 (11).

**Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (11) - 01/01/2010; 2009, c. 19, s. 72 (12) - no effect - see 2009, c. 19, s. 65 - 31/12/2019

**Entry to dwellings**

**84** A person shall not exercise a power conferred by this Act to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order issued under section 89. 2002, c. 32, s. 84.

**Identification**

**85** On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer, either by the production of a copy of his or her designation or in some other manner, and shall explain the purpose of the exercise of the power. 2002, c. 32, s. 85.

**Entry, etc., may be prohibited**

**86** (1) A provincial officer may by order prohibit entry into all or part of any place or prohibit the use of, interference with, disruption of or destruction of any thing in any of the following circumstances:

1. During an inspection under this Part.
2. During a search under this Part.
3. During the time required for the provincial officer to obtain an order under this Part or a warrant under section 158 of the *Provincial Offences Act*.
4. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*. 2002, c. 32, s. 86 (1).

**Requirements for order**

- (2) An order under subsection (1) shall not be issued unless the provincial officer reasonably believes that,
- (a) in the case of an order prohibiting entry, there is, on the land or in the place, a thing that will afford evidence of an offence under this Act;
  - (b) in the case of an order prohibiting the use of, interference with, disruption of, or destruction of a thing, the thing will afford evidence of an offence under this Act; or

- (c) in the case of an order prohibiting entry or an order prohibiting the use of, interference with, disruption of, or destruction of a thing, failure to make the order will or could result in,
- (i) a drinking water health hazard, or
  - (ii) an alteration of test results or testing equipment relating to drinking water. 2002, c. 32, s. 86 (2).

#### **Notice of order**

(3) The provincial officer shall give notice of the order in the manner that he or she considers appropriate in the circumstances. 2002, c. 32, s. 86 (3).

#### **Contents of notice**

(4) Notice of the order shall include an explanation of the rights provided by subsections (6) and (7). 2002, c. 32, s. 86 (4).

#### **Order not effective without notice**

(5) An order under subsection (1) is not effective in any court proceeding against a person if the person satisfies the court that the person neither knew nor should have known of the order. 2002, c. 32, s. 86 (5).

#### **Request for revocation**

(6) A person aggrieved by the order may make an oral or written request to the Director to revoke it and may make oral or written submissions to the Director in support of the request. 2002, c. 32, s. 86 (6).

#### **Powers of Director**

(7) The Director shall give prompt consideration to any request or submissions made under subsection (6) and may rescind the order. 2002, c. 32, s. 86 (7).

#### **Same**

(8) For the purposes of subsection (7), the Director may substitute his or her own opinion for that of the provincial officer. 2002, c. 32, s. 86 (8).

#### **Same**

(9) A Director who rescinds an order under subsection (7) shall give such directions to a provincial officer as he or she considers appropriate to bring the rescission to the attention of persons affected. 2002, c. 32, s. 86 (9).

#### **No stay**

(10) A request for rescission of an order under subsection (1) does not stay the order, unless the Director orders otherwise in writing. 2002, c. 32, s. 86 (10).

#### **Duration of order**

- (11) An order under subsection (1) shall,
- (a) subject to clause (b), be effective for the shorter of the length of time necessary to complete the inspection or search referred to in that subsection or a period not exceeding two days excluding holidays; or
  - (b) if the inspection or search referred to in subsection (1) is under section 89 of this Act or under a warrant issued under section 158 of the *Provincial Offences Act* and a time limit for the inspection or search is specified in the order or warrant, be effective until the expiration of that time. 2002, c. 32, s. 86 (11).

#### **Order of justice prohibiting entry, etc.**

**87** (1) If a justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground for believing that it is appropriate for the administration of this Act or the regulations or necessary to protect human health or safety or to protect property, the justice may issue an order prohibiting entry into all or part of any place or prohibiting the use of, interference with, disruption of or destruction of any thing. 2002, c. 32, s. 87 (1).

#### **Same**

(2) The prohibition under the justice's order shall, subject to subsection (3), be for the period of time set out in the order. 2002, c. 32, s. 87 (2).

#### **Expiry**

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order and the day that is 30 days after the day on which the order is made. 2002, c. 32, s. 87 (3).

**Renewal**

(4) An order under this section may be renewed for any reason set out in subsection (1), before or after expiry, for one or more periods of not more than 30 days each. 2002, c. 32, s. 87 (4).

**Notice of application**

(5) An initial order under subsection (1) may be issued on application without notice. 2002, c. 32, s. 87 (5).

**Same**

(6) A renewal order under subsection (4) may be issued on application made with such notice, if any, as may be specified under subsection (7). 2002, c. 32, s. 87 (6).

**Same**

(7) In an order under subsection (1) or (4), a justice may specify notice requirements that must be met by a person applying for a renewal of the order or for a further renewal of the order, as the case may be. 2002, c. 32, s. 87 (7).

**Notice of order**

(8) A provincial officer may give notice of an order under subsection (1) or (4) in the manner that he or she considers appropriate in the circumstances. 2002, c. 32, s. 87 (8).

**Order not effective without notice**

(9) An order under subsection (1) or (4) is not effective in any court proceeding against a person if the person satisfies the court that the person neither knew nor should have known of the order. 2002, c. 32, s. 87 (9).

**Securing a place or thing**

**88** If an order under section 86 or 87 is in effect, a provincial officer may take measures to secure the land, place or thing to which the order relates by means of locks, gates, fences, security guards or such other means as the provincial officer deems necessary to prevent entry into the place or to prevent the use of, interference with, disruption of or destruction of the thing. 2002, c. 32, s. 88.

**Entry or inspection order**

**89** (1) A justice may issue an order authorizing a provincial officer to do anything set out in section 81 or 82 if the justice is satisfied, on evidence under oath by a provincial officer, that there are reasonable grounds to believe that it is appropriate for the administration of this Act or the regulations for the provincial officer to do it and that the provincial officer may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked or otherwise inaccessible;
- (b) a person has prevented the provincial officer from doing anything set out in section 81 or 82;
- (c) there is reasonable ground to believe that a person may prevent a provincial officer from doing anything set out in section 81 or 82;
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the provincial officer to obtain an order under this section without delay if access is denied; or
- (e) there is reasonable ground to believe that an attempt by the provincial officer to do anything set out in section 81 or 82 without the order,
  - (i) might not achieve its purpose, or
  - (ii) might endanger human health or safety or might damage property. 2002, c. 32, s. 89 (1).

**Same**

(2) Subsections 81 (3), (4) and (5) apply to an inspection under an order under this section. 2002, c. 32, s. 89 (2).

**Expiry**

(3) Unless renewed, an order under this section expires on the earlier of the expiry date specified in the order and the day that is 30 days after the date on which the order is made. 2002, c. 32, s. 89 (3); 2009, c. 33, Sched. 15, s. 10 (3).

**Renewal**

(4) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 2002, c. 32, s. 89 (4).

### **When to be executed**

(5) An order under this section shall be carried out between 6 a.m. and 9 p.m., unless the order otherwise authorizes. 2002, c. 32, s. 89 (5).

### **Application without notice**

(6) An order under this section may be issued or renewed on application without notice. 2002, c. 32, s. 89 (6).

### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 15, s. 10 (3) - 15/12/2009

### **Samples and copies**

**90** A provincial officer may retain samples and copies obtained in an inspection under section 81, 82 or 89 for any period and for any purposes of this Act or the regulations. 2002, c. 32, s. 90.

### **Seizure during inspection**

**91** During an inspection under section 81, 82 or 89, a provincial officer may, without a warrant or court order, seize any thing that is produced to the provincial officer or that is in plain view, if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence under this Act;
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence; or
- (c) the provincial officer reasonably believes that a drinking water health hazard may result from the thing. 2002, c. 32, s. 91.

### **Search without warrant**

#### **Definition**

**92** (1) In this section,

“offence” means an offence under this Act for which a person may be prosecuted under Part XI. 2002, c. 32, s. 92 (1).

#### **Search by provincial officer**

(2) A provincial officer may, without a search warrant, search any place other than a room actually used as a dwelling if the provincial officer has reasonable ground to believe,

- (a) that an offence has been committed;
- (b) that there is in the place any thing that will afford evidence as to the commission of the offence; and
- (c) that there are exigent circumstances that make it impractical to obtain a search warrant. 2002, c. 32, s. 92 (2).

#### **Seizure during search**

(3) During a search under subsection (2), a provincial officer may, without warrant or court order, seize any thing if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence; or
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence and that the seizure is necessary to prevent the continuation or repetition of the offence. 2002, c. 32, s. 92 (3).

#### **Detention or removal**

**93** (1) A provincial officer who seizes any thing under 91 or 92 may remove the thing or retain it in the place where it is seized. 2002, c. 32, s. 93 (1).

#### **Receipt**

(2) Where possible, a provincial officer shall inform the person from whom a thing is seized under section 91 or 92 as to the reason for the seizure and shall give the person a receipt for the thing seized. 2002, c. 32, s. 93 (2).

#### **Report to justice**

**94** (1) A provincial officer who seizes any thing during an inspection or search under section 91 or 92 shall bring the thing seized before a justice or, if that is not reasonably possible, shall report the seizure to a justice. 2002, c. 32, s. 94 (1).

### **Procedure**

(2) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized by a provincial officer during an inspection or search under section 91 or 92. 2002, c. 32, s. 94 (2).

### **Disposal of certain things**

**95** (1) If the Director believes that given the nature of a thing seized under section 91 or 92 the thing may pose a risk to human health or safety or to property, the Director may direct the person having custody of the thing to dispose of the thing in a manner satisfactory to the Director. 2002, c. 32, s. 95 (1).

### **Non-application of provision**

(2) Section 94 does not apply to a thing disposed of in accordance with this section. 2002, c. 32, s. 95 (2).

### **Forfeiture**

(3) A thing disposed of in accordance with this section is forfeited to the Crown. 2002, c. 32, s. 95 (3).

### **Notice of disposal**

**96** (1) If a thing has been disposed of in accordance with section 95, the Director shall ensure that a provincial officer gives written notice of the seizure and disposal within 15 days of the disposal,

- (a) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized; and
- (b) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner. 2002, c. 32, s. 96 (1).

### **Contents of notice**

(2) A notice under subsection (1) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;
- (c) the date of the seizure and disposal;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure and disposal;
- (f) a reference to the statutory provision authorizing the seizure and disposal; and
- (g) a reference to the statutory provision permitting the person to apply to the Superior Court of Justice for relief against the forfeiture. 2002, c. 32, s. 96 (2).

### **Forfeiture may be ordered**

**97** (1) On the application of the Director, the Superior Court of Justice may order that a thing seized under section 91 or 92 or under a warrant issued under the *Provincial Offences Act* in connection with the commission or suspected commission of an offence under this Act be forfeited to the Crown. 2002, c. 32, s. 97 (1).

### **Where no order to be made**

(2) No order shall be made under subsection (1) unless the court is satisfied that,

- (a) the seizure was lawful; and
- (b) no later than seven days before the hearing of the application, written notice was provided by a provincial officer to every person described in clauses 96 (1) (a) and (b) and, if the thing seized is a vehicle, to,
  - (i) every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
  - (ii) every person who is registered as the owner of the vehicle under the *Highway Traffic Act*. 2002, c. 32, s. 97 (2).

### **Contents of notice**

(3) Notice under subsection (2) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;



- (c) the date of the seizure;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure;
- (f) a reference to the statutory provision authorizing the seizure;
- (g) a statement that an order for forfeiture of the thing is being sought under this section; and
- (h) a statement that the person to whom the notice is provided may make submissions to the Superior Court of Justice with respect to the issuance of an order under this section. 2002, c. 32, s. 97 (3).

#### **Disposition of things forfeited**

(4) A thing forfeited under this section may be disposed of as the Director directs. 2002, c. 32, s. 97 (4).

#### **Relief against forfeiture**

**98** (1) A person who had an interest in a thing forfeited under section 95 or 97 may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 2002, c. 32, s. 98 (1).

#### **When relief not to be ordered**

(2) The court shall not make an order for relief under subsection (1) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with an order requiring the person to pay an administrative penalty in connection with a matter that was associated with the seizure of the thing, unless the order has been revoked; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 2002, c. 32, s. 98 (2); 2019, c. 14, Sched. 8, s. 65.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 65 - 10/12/2019

#### **Use of force**

**99** (1) A provincial officer may use such force as is reasonably necessary,

- (a) to carry out an order issued under this Act, other than an order issued by a provincial officer;
- (b) to execute a warrant issued under the *Provincial Offences Act*; or
- (c) to prevent the destruction of any thing that the provincial officer reasonably believes may afford evidence of an offence under this Act. 2002, c. 32, s. 99 (1).

#### **Same**

(2) For the purposes of clause (1) (a), an order issued by the Director that confirms or amends an order issued by a provincial officer is not an order issued by a provincial officer. 2002, c. 32, s. 99 (2).

#### **Use of investigative device**

##### **Definition**

**100** (1) In this section,

“device” means a substance or tracking device that, when placed or installed in or on any place, land or thing, may be used to help ascertain, by electronic or other means, the origin, identity or location of any thing. 2002, c. 32, s. 100 (1).

##### **Order may be issued**

(2) On application without notice, a justice may issue an order in writing authorizing a provincial officer, subject to this section, to use any device, investigative technique or procedure or to do anything described in the order if the justice is satisfied by evidence under oath that there are reasonable grounds to believe that an offence under this Act has been or will

be committed and that information concerning the offence will be obtained through the use of the device, technique or procedure or the doing of the thing. 2002, c. 32, s. 100 (2).

#### **Expert help**

(3) An order under subsection (2) may authorize persons who have special, expert or professional knowledge to accompany and assist the provincial officer in the execution of the order. 2002, c. 32, s. 100 (3).

#### **Limitation**

(4) An order under this section shall not authorize the interception of any private communication. 2002, c. 32, s. 100 (4).

#### **Same**

(5) No device, technique or procedure shall be used to intercept any private communication under an order issued under this section. 2002, c. 32, s. 100 (5).

#### **Provisions of order**

(6) An order issued under this section shall contain such provisions as the justice considers advisable in the circumstances. 2002, c. 32, s. 100 (6).

#### **Activities under order**

(7) An order issued under this section may authorize a provincial officer,

(a) to place, install, maintain or remove a device in or on any land, place or thing; and

(b) to monitor, or to have monitored, a device or information from the device placed or installed in or on any land, place or thing. 2002, c. 32, s. 100 (7).

#### **Duration of order**

(8) An order issued under this section is valid for a period of 60 days or for such shorter period as may be specified in the order. 2002, c. 32, s. 100 (8).

#### **Further orders**

(9) A justice may issue further orders under subsection (2). 2002, c. 32, s. 100 (9).

#### **Restoration**

**101** A provincial officer who makes or causes the making of an excavation in the course of his or her duties under this Act shall restore the property, so far as is reasonably possible, to the condition it was in before the excavation was made. 2002, c. 32, s. 101.

#### **Police assistance**

**102** Whenever a provincial officer is required or empowered by this Act to do or direct the doing of anything, the provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in doing so, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render assistance. 2002, c. 32, s. 102.

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 102 of the Act is repealed and the following substituted: (See: 2019, c. 1, Sched. 4, s. 55)**

#### **Calling for assistance of member of police service**

**102** Whenever a provincial officer is required or empowered by this Act to do or direct the doing of anything, the provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in doing so, call for the assistance of any member of the police service in the area where the assistance is required, and it is the duty of every member of a police service to render such assistance. 2019, c. 1, Sched. 4, s. 55.

#### **Section Amendments with date in force (d/m/y)**

2018, c. 3, Sched. 5, s. 57 - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 55 - not in force

### **Additional inspection**

**103** If a provincial officer finds on an inspection or search under this Part that there is a prescribed deficiency, the Director shall direct a provincial officer to carry out a new inspection under this Part no later than 365 days after the last day of the inspection in which the deficiency was found. 2002, c. 32, s. 103.

## **PART IX COMPLIANCE AND ENFORCEMENT**

### **Interpretation**

#### **Abandonment of drinking water system**

**104** (1) For the purposes of this Part, a drinking water system or part of a drinking water system shall be deemed to be abandoned if,

- (a) the owner of the system or part of the system cannot be ascertained; or
- (b) the system or part of the system has escheated to the Crown. 2002, c. 32, s. 104 (1).

#### **Alternative supply**

(2) For the purposes of this Part, a requirement to provide users of a drinking water system with an alternative supply of drinking water shall be deemed, at a minimum, to be a requirement to provide the users with access to a supply of drinking water for daily human consumption and food preparation purposes. 2002, c. 32, s. 104 (2).

#### **Power to require response to inquiries**

**104.1** (1) For the purposes of determining compliance of a person with this Act or the regulations, a provincial officer may, at any reasonable time and with any reasonable assistance, require the person, or any person employed by or providing services to the person, to respond to reasonable inquiries. 2017, c. 2, Sched. 11, s. 6 (5).

#### **Same**

(2) For the purposes of subsection (1), a provincial officer may make inquiries by telephone or by any other means of communication. 2017, c. 2, Sched. 11, s. 6 (5).

#### **Production of document**

(3) In requiring a person to respond to an inquiry under subsection (1), a provincial officer may require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purpose of the inquiry. 2017, c. 2, Sched. 11, s. 6 (5).

#### **Records in electronic form**

(4) If a record is retained in electronic form, a provincial officer may require that a copy of it be provided to him or her on paper or electronically, or both. 2017, c. 2, Sched. 11, s. 6 (5).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 2, Sched. 11, s. 6 (5) - 22/03/2017

#### **Order by provincial officer: contraventions**

**105** (1) A provincial officer may issue an order to any person that the provincial officer reasonably believes is contravening or has contravened,

- (a) a provision of this Act or the regulations;
- (b) a provision of an order made under this Act other than an order requiring the person to pay an administrative penalty;  
or
- (c) a condition in a certificate, permit, licence or approval issued or granted under this Act. 2002, c. 32, s. 105 (1); 2019, c. 14, Sched. 8, s. 66.

#### **Information to be included in order**

(2) The order shall,

- (a) specify the provision or condition that the provincial officer believes is being or has been contravened;
- (b) briefly describe the nature and, where applicable, the location of the contravention; and
- (c) state that a review of the order may be requested in accordance with section 107. 2002, c. 32, s. 105 (2).

### **What order may require**

(3) The order may require the person to whom it is directed to comply with any directions set out in the order, within the time specified, relating to,

- (a) achieving compliance with the provision or condition;
- (b) preventing the continuation or repetition of the contravention;
- (c) the securing, whether through locks, gates, fences, security guards or other means, of any land, place or thing;
- (d) the repair, maintenance or operation of a drinking water system, water testing equipment or a laboratory in such manner and with such equipment as may be specified in the order;
- (e) the requirement to treat water in a drinking water system, including, with respect to a regulated non-municipal drinking water system, the requirement to treat water in plumbing;
- (f) sampling, testing, monitoring and reporting with respect to the quality or quantity of any waters;
- (g) providing an alternative supply of drinking water if the continued operation of the drinking water system will result in a drinking water health hazard;
- (h) submitting a plan for achieving compliance with the provision or condition, including the engagement of contractors or consultants satisfactory to a provincial officer;
- (i) the requirement to retain an accredited operating authority by the date specified in the order and no later than three months from the date the order is issued, if the order relates to a failure to have an accredited operating authority in charge of a drinking water system as required under this Act;
- (j) submitting an application for a certificate, permit, licence or approval under this Act or for an amendment to a certificate, permit, licence or approval; or
- (k) posting notice of the order. 2002, c. 32, s. 105 (3).

### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 66 - 10/12/2019

### **Order by provincial officer: drinking water system**

**106** (1) If the provincial officer considers it necessary for the purposes of this Act, the provincial officer may issue an order to any person who owns, manages or has control of,

- (a) a municipal drinking water system; or
- (b) a regulated non-municipal drinking water system. 2002, c. 32, s. 106 (1).

### **Information to be included in order**

(2) The order shall,

- (a) briefly describe the reasons for the order and the circumstances on which the reasons are based; and
- (b) state that a review of the order may be requested in accordance with section 107. 2002, c. 32, s. 106 (2).

### **What the order may require**

(3) The order may require the person to whom it is directed to comply with any directions under subsection (4), within the time specified. 2002, c. 32, s. 106 (3).

### **Same**

(4) The following directions may be specified in the order:

1. A direction to secure, whether through locks, gates, fences, security guards or other means, any land, place or thing.
2. A direction to operate, maintain and repair a drinking water system in such manner and with such equipment as may be specified in the order.
3. A direction to sample, test, monitor and report with respect to the quality or quantity of any waters.
4. A direction to disconnect or repair any thing connected to the drinking water system or plumbing, if the provincial officer reasonably believes that the thing poses a drinking water health hazard.

5. A direction to engage contractors or consultants satisfactory to the provincial officer for the purposes of preparing a plan or carrying out any work required by the order.
6. A direction to provide such information relating to a non-municipal drinking water system or conduct such tests on the system as the provincial officer may require in order to ascertain whether the system is a member of a prescribed class of regulated non-municipal drinking water systems or is a regulated non-municipal drinking water system for the purposes of any provision of this Act or the regulations.
7. A direction to post a notice of the order. 2002, c. 32, s. 106 (4).

#### **Request for review**

**107** (1) A person to whom an order under section 105 or 106 is directed may, within seven days after being served with a copy of the order, request that the Director review the order. 2002, c. 32, s. 107 (1).

#### **Manner of making request**

(2) The request may be made orally, with written confirmation served on the Director within the time specified in subsection (1), or in writing. 2002, c. 32, s. 107 (2).

#### **Contents of request for review**

(3) A written request for review under subsection (1) or a written confirmation of an oral request under subsection (2) shall include,

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the applicant for the review wishes the Director to consider; and
- (c) for the purpose of subsection (7), an address that may be used for service in accordance with the requirements under this Act. 2002, c. 32, s. 107 (3).

#### **No automatic stay**

(4) The request for review does not stay the order, unless the Director orders otherwise in writing. 2002, c. 32, s. 107 (4).

#### **Decision of Director**

(5) A Director who receives a request for review may,

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person requesting the review, confirm or amend the order of the provincial officer. 2002, c. 32, s. 107 (5).

#### **Same**

(6) For the purposes of subsection (5), the Director may substitute his or her own opinion for that of the provincial officer. 2002, c. 32, s. 107 (6).

#### **Notice of decision**

(7) The Director shall serve the person requesting the review with a copy of,

- (a) a decision to revoke the order of the provincial officer; or
- (b) an order to confirm or amend the order of the provincial officer, together with reasons. 2002, c. 32, s. 107 (7).

#### **Automatic confirmation of order**

(8) If, within seven days of receiving a written request for review or a written confirmation of an oral request for review, the Director does not make a decision under subsection (5) or does not give oral or written notice of the decision to the person requesting the review, the order in respect of which the review is sought shall be deemed to have been confirmed by order of the Director. 2002, c. 32, s. 107 (8).

#### **Same**

(9) For the purpose of an appeal to the Tribunal, a confirming order deemed to be made under subsection (8),

- (a) shall be deemed to be issued to each person to whom the order of the provincial officer was directed; and
- (b) shall be deemed to be served, on each person to whom the order of the provincial officer was directed, at the expiry of the time period referred to in subsection (8). 2002, c. 32, s. 107 (9).

### **Extension of time to retain accredited operating authority**

(10) If a provincial officer issued an order under section 105 that requires a person to retain an accredited operating authority by a date specified in the order, the Director may, under subsection (5) or by a further order that amends the Director's order under subsection (5) or (8), extend the date specified in the provincial officer's order to a date that is not later than 180 days after the date the provincial officer's order was issued. 2002, c. 32, s. 107 (10).

### **Minister's order, imminent drinking water health hazard**

**108** (1) If the Minister is of the opinion that an imminent drinking water health hazard exists in respect of one or more municipal drinking water systems or one or more regulated non-municipal drinking water systems or that the failure of one or more laboratories to do a thing in respect of a drinking water test endangers or is likely to endanger public health in one or more areas of the Province, the Minister may by written order exercise one or more of the following powers under this Act to eliminate or ameliorate the circumstances giving rise to the order:

1. If the circumstances giving rise to the order relate to the failure of a laboratory to do one or more things in respect of a drinking water test, the Minister may include one or more of the following things in the order:
  - i. A directive to one or more holders of drinking water testing licences under Part VII that a drinking water test or class of tests is to be conducted under the licence in accordance with a method specified in the directive.
  - ii. The suspension of one or more licences issued under Part VII for a period that does not exceed 90 days, unless the Minister reinstates the licence earlier.
2. If the circumstances giving rise to the order relate to the condition of one or more drinking water systems or the condition of their waters, including any thing that may be present in the waters, the Minister may,
  - i. issue any order under section 109 that the Director could issue, and
  - ii. direct the Director to issue a notice of emergency response under section 110 and to make such arrangements with the Agency or person as the Minister directs. 2002, c. 32, s. 108 (1).

### **Deemed direction**

(2) A directive described in subparagraph 1 i of subsection (1) shall be deemed to be a direction given under section 76. 2002, c. 32, s. 108 (2).

### **Notice of order**

(3) Each of the following persons shall be provided with a copy of an order issued by the Minister under this section immediately after the order is issued:

1. The person to whom the order is issued.
2. The owner of any drinking water system that is the subject of the order or, if an operating authority is in charge of the system, the operating authority.
3. The local municipality in which any drinking water system that is the subject of the order is located.
4. The Director who issued the licence or approval to the drinking water testing service or drinking water system that is the subject of the order.
5. The Chief Medical Officer of Health. 2002, c. 32, s. 108 (3).

### **Minister's order prevails**

(4) An order issued by the Minister under this section prevails over any order issued by the Director or a provincial officer under this Part or any direction issued by the Director under section 76. 2002, c. 32, s. 108 (4).

### **Director's order, imminent drinking water health hazard**

**109** (1) If the Director is of the opinion that an imminent drinking water health hazard exists in respect of a municipal drinking water system or a regulated non-municipal drinking water system, the Director may issue an order to the owner or the operating authority for the system, requiring the owner or operating authority, in accordance with the directions specified in the order, to do one or more of the following:

1. Immediately cease or restrict the operation of the system.
2. Provide the users of the system with an alternative supply of drinking water.
3. Notify the users of the system of the order.

4. Operate, maintain and repair the system in such manner and with such equipment as the Director directs in the order.
5. Sample, test, monitor and report with respect to the quality or quantity of any waters.
6. Assess and report with respect to the condition of any specified part of the drinking water system.
7. Secure, whether through locks, gates, fences, security guards or other means, any land, place or thing. 2002, c. 32, s. 109 (1).

**Requirement to comply**

(2) When a copy of an order under subsection (1) is given to an owner or operating authority of a drinking water system, the owner or operating authority shall immediately cease or restrict the provision of drinking water in accordance with the directions in the order. 2002, c. 32, s. 109 (2).

**Notice of the order**

(3) The Director shall provide a copy of an order issued under subsection (1) to the following persons:

1. The person to whom the order is issued.
2. The Chief Medical Officer of Health and the medical officer of health.
3. The local municipality in which the system that is the subject of the order is located.
4. The Minister. 2002, c. 32, s. 109 (3).

**Revocation of order**

(4) The Director may revoke an order issued under subsection (1) in one or more of the following circumstances:

1. The Director is satisfied, after consulting with the medical officer of health, that the circumstances giving rise to the order have been eliminated or ameliorated.
2. The Director has appointed an interim operating authority under section 113 to take charge of the drinking water system to which the order relates.
3. A municipality has, in accordance with a direction under section 114, taken charge of the system to which the order relates. 2002, c. 32, s. 109 (4).

**Notice of emergency response**

**110** (1) If one or more of the following circumstances exist in respect of a municipal drinking water system or a regulated non-municipal drinking water system, the Director may issue a notice of emergency response to the persons listed in subsection (3) and, in the notice, direct the Agency or such other person as the Director considers appropriate to do one or more of the things mentioned in subsection (2):

1. An order has been issued under section 108 or 109 to an owner or operating authority to immediately cease or restrict the operation of the system and the owner or operating authority, as the case may be, fails or refuses to comply with the order or the Director has reason to believe that the owner or operating authority is unlikely to comply with the order.
2. The Minister has issued an order under section 108 in respect of an imminent drinking water health hazard and has directed the Director to make an arrangement under this section with the Agency or the person specified by the Minister in the directive to eliminate or ameliorate the circumstances giving rise to the order.
3. The Director is of the opinion that unless an emergency response notice is issued under this section, a drinking water health hazard will result in respect of the system. 2002, c. 32, s. 110 (1).

**Direction**

(2) In a notice of emergency response issued under subsection (1), the Director may direct the Agency or person to do one or more of the following in accordance with the directions specified in the notice:

1. Cease or restrict the operation of the system.
2. Operate, maintain and repair the system in such manner and with such equipment as the Director specifies in the direction.
3. Provide the users of the system with an alternative supply of drinking water.
4. Assess and report on the condition of any specified part of the system.

5. Sample, test, monitor and report with respect to the quality or quantity of any waters. 2002, c. 32, s. 110 (2).

#### **Notice**

(3) The Director shall give a copy of a notice of emergency response issued under subsection (1) to the following persons:

1. The owner of the system or, if an operating authority is in charge of the system, the operating authority.
2. The Agency or person to whom a direction is given in the notice.
3. The Chief Medical Officer of Health and the medical officer of health.
4. The local municipality in which the system that is the subject of the notice is located.
5. The Minister. 2002, c. 32, s. 110 (3).

#### **Notice in respect of abandoned system**

(4) If the Director issues a notice of emergency response under subsection (1) in respect of an abandoned drinking water system, the Director may, in the notice, direct the Agency or person, as the case may be, to notify the users of the system in the form and manner specified by the Director in the notice of,

- (a) the circumstances giving rise to the drinking water health hazard; and
- (b) a summary of the contents of the notice issued under subsection (1). 2002, c. 32, s. 110 (4).

#### **Transfer of control of the system**

(5) The owner of a drinking water system to which a notice of emergency response relates and all of the owner's employees and agents, including any operating authority for the system, shall, if the notice requires, relinquish control and operation of the system to the Agency or the person named in the notice. 2002, c. 32, s. 110 (5).

#### **Same**

(6) If a notice of emergency response is issued under subsection (1) in respect of a drinking water system,

- (a) the owner of the system and all persons in charge of, managing or controlling the system or a place or thing associated with the system shall permit the Agency or the person named in the notice, as the case may be, unimpeded access to the system, place or thing;
- (b) no person shall hinder or obstruct any employee or agent of the Agency or person in the performance of their duties and responsibilities as specified in the notice; and
- (c) the owner and any operating authority of the system shall provide such assistance as the Director directs in the notice and provide the Agency or person named in the notice with access to all documents relevant to the operation of the system. 2002, c. 32, s. 110 (6).

#### **No action shall be commenced**

(7) No action or proceeding shall be commenced against the Agency or a person acting under the authority of a notice of emergency response issued under subsection (1), or against an employee or agent of either of them, for any thing the Agency, person, employee or agent does or fails to do in respect of the drinking water system to which the notice relates or for anything related to or arising from the condition of the drinking water system immediately before the notice of emergency response was issued, unless the action or proceeding arises from the failure of the Agency, person, employee or agent to comply with a direction of the Director in the notice. 2002, c. 32, s. 110 (7).

#### **Revocation of notice of emergency response**

(8) The Director may revoke a notice of emergency response if the Director is of the opinion that the circumstances giving rise to the issue of the notice have been eliminated or ameliorated. 2002, c. 32, s. 110 (8).

#### **Time limit**

(9) An arrangement made under a notice of emergency response shall not exceed 90 days and may only be extended with the approval of,

- (a) the Chief Medical Officer of Health; or
- (b) the Minister. 2002, c. 32, s. 110 (9).



### **Requirement to comply**

(10) The Agency or the person acting under the authority of a notice of emergency response shall comply with any direction the Director may specify in the notice and any further written directions the Director may give to the Agency or person from time to time by an amendment to the notice. 2002, c. 32, s. 110 (10).

### **Not an agent of the Crown**

(11) Despite the *Crown Agency Act*, no person acting under the authority of a notice of emergency response is or shall hold himself or herself out as an agent of Her Majesty for any purpose. 2002, c. 32, s. 110 (11).

### **Crown not liable**

(12) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,

- (a) for any act done by a person acting under the authority of a notice of emergency response in the execution or intended execution of a power or duty under this Act or for an alleged neglect or default in the execution of such a power or duty; or
- (b) for any tort committed by the person referred to in clause (a) or by his or her employee or agent in relation to a power or duty under this Act. 2002, c. 32, s. 110 (12); 2006, c. 35, Sched. C, s. 119 (5).

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (5) - 20/08/2007

### **Order to decommission**

#### **Application**

**111** (1) This section applies if,

- (a) a continuing drinking water health hazard exists in respect of a municipal drinking water system or a regulated non-municipal drinking water system and the circumstances giving rise to the drinking water health hazard cannot be eliminated or ameliorated by the owner of the system; or
- (b) the owner of a municipal drinking water system or a regulated non-municipal drinking water system has failed to decommission all or part of the system after taking it permanently out of service. 2002, c. 32, s. 111 (1).

#### **Director's order**

(2) The Director may, by written order served on the owner of a drinking water system referred to in subsection (1), require the owner to,

- (a) decommission all or part of the system in accordance with the directions specified in the order; or
- (b) replace all or part of the system in accordance with the directions specified in the order, if the order relates to a continuing drinking water health hazard. 2002, c. 32, s. 111 (2).

#### **Same**

(3) An order described in clause (2) (b) may include one or both of the following requirements:

1. A requirement to relocate a well or intake associated with the system.
2. A requirement to establish a new source of raw water supply for the system. 2002, c. 32, s. 111 (3).

### **Order to continue operation**

**112** If the Director becomes aware that an owner of a municipal drinking water system or a regulated non-municipal drinking water system proposes to stop supplying water to the users of the system or has already done so, the Director may, by written order served on the owner or the operating authority of the system, require the owner or operating authority to continue to operate the system for its users. 2002, c. 32, s. 112.

### **Appointment of interim operating authority**

**113** (1) The Director may issue a written notice, in any of the following circumstances, appointing an interim operating authority to take charge of a municipal drinking water system or a regulated non-municipal drinking water system:

1. There has been a failure or refusal to retain an accredited operating authority within the time specified by an order issued under this Part.
2. In the case of a municipal drinking water system, the Director has suspended the approval or municipal drinking water licence for the system.

3. There has been a failure or refusal to comply with an order issued under this Act in respect of a deficiency in a regulated non-municipal drinking water system for which an order cannot be made under section 114 and the Director is of the opinion that the continuing operation of the system will result in a drinking water health hazard.
4. In the case of an abandoned regulated non-municipal drinking water system in unorganized territory, there is a deficiency in the system and the Director is of the opinion that the continuing operation of the system will result in a drinking water health hazard.
5. A notice of emergency response has been issued under section 110 in respect of a drinking water system for which an order cannot be made under section 114 and the Minister directs the Director to appoint an interim operating authority for the system.
6. There has been a failure or refusal to comply with an order issued under section 111.
7. There has been a failure or refusal to comply with an order issued under section 112. 2002, c. 32, s. 113 (1).

**Agreement**

(2) Before issuing a notice under this section, the Director shall enter into an agreement with the person or entity that will be the interim operating authority. 2002, c. 32, s. 113 (2).

**Same**

(3) The Director shall ensure that an agreement under subsection (2) includes the prescribed terms, if any. 2002, c. 32, s. 113 (3).

**Term of appointment**

(4) The term of appointment of an interim operating authority shall not exceed 24 months unless the Minister approves the extension and the interim operating authority consents to the extension. 2002, c. 32, s. 113 (4).

**Directions to interim operating authority**

(5) In a notice issued under subsection (1), the Director may, if the Director considers it necessary for the purposes of this Act, by the notice direct the interim operating authority to do one or more of the following:

1. In the case of a drinking water system that has a deficiency, implement measures specified in the notice to correct the deficiency, including specified alterations to the system.
2. If a permit, licence or approval is required for the drinking water system, apply, on behalf of the owner, for the permit, licence or approval or for an amendment to the permit, licence or approval for the system, as specified in the notice.
3. If the drinking water system to which the notice relates requires operational plans under this Act,
  - i. prepare operational plans for the system as specified in the notice, if no plans exist, or
  - ii. revise the operational plans for the system, as specified in the notice.
4. If the notice is issued in respect of a failure or refusal to comply with an order issued under section 111, decommission or replace all or part of the drinking water system, as specified in the notice.
5. Repair, maintain and operate a drinking water system in such manner and with such equipment as the Director specifies in the notice.
6. Sample, test, monitor and report with respect to the quality or quantity of any waters.
7. Provide the users of the system with an alternative supply of drinking water.
8. Assess and report on the condition of any specified part of the drinking water system. 2002, c. 32, s. 113 (5).

**Revocation, amendment, etc.**

(6) The Director may, by further written notice,

- (a) revoke a notice issued under subsection (1); or
- (b) amend the notice to add or remove any direction described in subsection (5). 2002, c. 32, s. 113 (6).

**Requirement to comply with direction**

(7) The interim operating authority shall comply with any direction given by the notice under subsection (1), as amended under subsection (6). 2002, c. 32, s. 113 (7).

### **Termination of agreement**

- (8) If the agreement referred to in subsection (2) is terminated by the Director or the interim operating authority,
- (a) the appointment of the person or entity as the interim operating authority shall be deemed to be revoked;
  - (b) the Director may enter into an agreement with another person or body under subsection (2) to serve as an interim operating authority; and
  - (c) the Director shall, under subsection (1), issue a notice of appointment of the new interim operating authority, if the Director enters into an agreement referred to in clause (b). 2002, c. 32, s. 113 (8).

### **To whom the notice is given**

- (9) The Director shall give a notice issued under this section to,
- (a) the interim operating authority appointed in the notice;
  - (b) the owner of the drinking water system to which the notice relates;
  - (c) the medical officer of health; and
  - (d) the local municipality in which the system that is the subject of the notice is located. 2002, c. 32, s. 113 (9).

### **Requirement to notify users of abandoned system**

- (10) If a notice is issued under subsection (1) in respect of an abandoned drinking water system, the Director may, by the notice, direct the interim operating authority to notify the users of the system in a form and manner specified in the direction. 2002, c. 32, s. 113 (10).

### **Transfer of system to interim operating authority**

- (11) The owner of the drinking water system to which a notice under subsection (1) relates and all of the owner's employees and agents, including any operating authority for the system, shall, if required by the notice, relinquish control and operation of the system to the interim operating authority by the date and in the manner specified in the notice. 2002, c. 32, s. 113 (11).

### **Same**

- (12) If a notice is issued under subsection (1) in respect of a drinking water system,
- (a) the owner of the system and all persons in charge of or managing or controlling the system or a place or thing associated with the system shall permit the interim operating authority unimpeded access to the system, place or thing;
  - (b) no person shall hinder or obstruct any employee or agent of the interim operating authority in the performance of their duties and responsibilities as specified in the notice; and
  - (c) the owner or former operating authority of the system shall provide such assistance as the Director directs in the notice and provide the interim operating authority with access to all documents relevant to the operation of the system. 2002, c. 32, s. 113 (12).

### **Agreement between owner and operating authority terminated**

- (13) Upon the appointment under this section of an interim operating authority for a drinking water system, any agreement between the owner of the system and an operating authority that relates to the operation of the system shall be deemed to be terminated on the day the interim operating authority takes charge of the system. 2002, c. 32, s. 113 (13).

### **No action shall be commenced**

- (14) No action or proceeding shall be commenced against an interim operating authority or an employee or agent of the interim operating authority acting under the authority of a notice issued under subsection (1) for any thing the interim operating authority, employee or agent does or fails to do in respect of the drinking water system to which the notice relates or for anything related to or arising from the condition of the drinking water system immediately before the appointment of the interim operating authority, unless the action or proceeding arises from the failure by the interim operating authority, employee or agent to comply with a direction of the Director in the notice. 2002, c. 32, s. 113 (14).

### **Who may be appointed**

- (15) The Director shall appoint as an interim operating authority under this section only,
- (a) the Agency; or
  - (b) a person or entity that is an accredited operating authority. 2002, c. 32, s. 113 (15).

### **Not an agent of the Crown**

(16) Despite the *Crown Agency Act*, no interim operating authority is or shall hold itself out as an agent of Her Majesty for any purpose. 2002, c. 32, s. 113 (16).

### **Crown not liable**

(17) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,

- (a) for any act done by an interim operating authority in the execution or intended execution of a power or duty under this Act or for an alleged neglect or default in the execution of such a power or duty; or
- (b) for any tort committed by the interim operating authority or an employee or agent of it in relation to a power or duty under this Act. 2002, c. 32, s. 113 (17); 2006, c. 35, Sched. C, s. 119 (5).

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (5) - 20/08/2007

### **Order to provide service**

**114** (1) After complying with the requirements in subsection (2), the Director may issue a written order, in one or more of the following circumstances, requiring a municipality to provide service from a municipal drinking water system to residents in a major residential development in the municipality or to oversee the establishment or alteration of one or more non-municipal drinking water systems to serve those residents:

1. There has been a failure or refusal to comply with an order issued under this Act in respect of a deficiency in a regulated non-municipal drinking water system or privately-owned municipal drinking water system that serves the major residential development and the Director is of the opinion that the continuing use of the system will result in a drinking water health hazard.
2. There is a deficiency in an abandoned regulated non-municipal drinking water system that serves the major residential development and the Director is of the opinion that the continuing operation of the system will result in a drinking water health hazard.
3. The municipality granted a consent for a non-municipal drinking water system under section 53 in respect of the major residential development and there continues to be a deficiency in the system because,
  - i. the system is abandoned, or
  - ii. the owner of the system has failed or refused to comply with an order that relates to the deficiency.
4. The Director is of the opinion that the major residential development requires servicing by a municipal drinking water system in order to protect residents from a drinking water health hazard. 2002, c. 32, s. 114 (1).

### **Requirements for issuing order**

(2) The Director shall not issue an order under subsection (1) until the Director has done the following:

1. The Director shall consult with the medical officer of health.
2. The Director shall give notice to the municipality of his or her intention to issue an order under subsection (1) and give written reasons in the notice for the proposed order.
3. The Director shall provide the municipality with the opportunity to respond to the notice in accordance with subsection (10). 2002, c. 32, s. 114 (2).

### **Direction to operate system in certain circumstances**

(3) If the medical officer of health advises the Director in accordance with section 116 that a drinking water system that is the subject of the notice can continue to be used to supply water for a domestic purpose other than human consumption or food preparation, the Director may, by the notice under subsection (2), direct the municipality to take charge of the system and do one or more of the following things:

1. Operate, maintain and repair the drinking water system in such manner and with such equipment as the Director specifies in the direction included in the notice under subsection (2).
2. Provide the users of the system with notice of the Director's direction to the municipality in the manner specified in the notice under subsection (2).
3. Sample, test, monitor and report with respect to the quality or quantity of any waters. 2002, c. 32, s. 114 (3).

### **Requirement to comply with direction**

(4) A municipality to which a direction is given by a notice under subsection (2) in respect of a drinking water system shall comply with the direction and such further written directions as the Director may give to the municipality from time to time by an amendment to the notice. 2002, c. 32, s. 114 (4).

### **Municipality not liable**

(5) No action or proceeding shall be commenced against a municipality or an employee or agent of a municipality acting under the authority of a notice issued under subsection (2) for any thing the municipality or the employee or agent does or fails to do in respect of a drinking water system to which the notice relates or for anything related to or arising from the condition of the drinking water system immediately before the municipality took charge of it, unless the action or proceeding arises from the failure by the municipality or the employee or agent to comply with a direction specified by the Director in the notice. 2002, c. 32, s. 114 (5).

### **Transfer of system to municipality**

(6) The owner of the drinking water system to which a direction under this section relates and all of the owner's employees and agents, including any operating authority for the system, shall, if required by the direction, relinquish control and operation of the system to the municipality by the date and in the manner specified in the direction. 2002, c. 32, s. 114 (6).

### **Same**

- (7) If a notice is issued under this section directing a municipality to take charge of a drinking water system,
- (a) the owner of the system and all persons in charge of, managing or controlling the system or a place or thing associated with the system shall permit the municipality's employees and agents unimpeded access to the system, place or thing;
  - (b) no person shall hinder or obstruct any employee or agent of the municipality in the performance of their duties and responsibilities as specified in the notice;
  - (c) the owner or former operating authority of the system shall provide such assistance as the Director directs in the notice and provide the municipality with access to all documents relevant to the operation of a drinking water system;
  - (d) the municipality shall continue to operate and maintain the system in accordance with the directions until,
    - (i) the Director revokes the order issued under subsection (1) or advises the municipality that the Director no longer intends to issue the order, or
    - (ii) the municipality has fully complied with the order; and
  - (e) the municipality may make any by-law under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, imposing fees and charges it considers necessary to recover from the users of the system all costs it incurs in operating, maintaining or repairing the system in accordance with the directions issued by the Director. 2002, c. 32, s. 114 (7); 2006, c. 32, Sched. C, s. 58 (2).

### **To whom notice given**

- (8) A notice under subsection (2) shall be given to,
- (a) the medical officer of health; and
  - (b) the owner of the drinking water system to which the notice relates. 2002, c. 32, s. 114 (8).

### **Compliance methods**

- (9) A municipality must do one or more of the following to comply with an order issued under subsection (1):
1. If the order is issued under a circumstance mentioned in paragraph 1, 2 or 3 of subsection (1), assume responsibility for the regulated non-municipal drinking water system or privately-owned municipal drinking water system, as the case may be, and take all steps necessary to bring it into compliance with all requirements under this Act that relate to municipal drinking water systems.
  2. Extend an existing municipal drinking water system to serve residents of the major residential development.
  3. Establish a new municipal drinking water system to serve residents of the major residential development.
  4. Enter into an arrangement with another municipality to serve residents of the major residential development from a municipal drinking water system owned by the other municipality.
  5. Oversee the establishment or alteration of one or more non-municipal drinking water systems to serve residents of the major residential development. 2002, c. 32, s. 114 (9).

### **Municipality's response**

(10) On or before the 15th day after receiving a notice under subsection (2) or the day specified in the notice, whichever day is later, a municipality shall provide a written response to the Director and medical officer of health,

- (a) indicating which action described in subsection (9) the municipality proposes to take to comply with an order under subsection (1); or
- (b) proposing terms of reference for a study to be completed by the municipality that evaluates the advantages and disadvantages of each action described in subsection (9), having regard to the purposes of this Act. 2002, c. 32, s. 114 (10).

### **Same**

(11) If a municipality proposes terms of reference under clause (10) (b),

- (a) the Director may amend the terms of reference; and
- (b) the municipality shall prepare a study in accordance with the final terms of reference and submit it to the Director and the medical officer of health for their consideration. 2002, c. 32, s. 114 (11).

### **Review of response**

(12) After reviewing the municipality's response under subsection (10) and any study prepared under subsection (11), the Director may issue an order under subsection (1) requiring the municipality to,

- (a) implement the action proposed by the municipality in such manner and subject to such conditions as may be specified by the Director in the order; or
- (b) implement another action described in subsection (9) in such manner and subject to such conditions as the Director specifies in the order, if the Director is of the opinion that the action proposed by the municipality does not satisfy the purposes of this Act. 2002, c. 32, s. 114 (12).

### **Deemed municipal drinking water system**

(13) If, to comply with an order under subsection (1), a municipality assumes responsibility for a regulated non-municipal drinking water-system under paragraph 1 of subsection (9), the system shall be deemed to be a municipal drinking water system for the purposes of this Act. 2002, c. 32, s. 114 (13).

### **Obligation to comply**

(14) Every municipality shall forthwith do every act and thing in its power to comply with an order issued to it under subsection (1) and, despite section 24 of the *Planning Act*,

- (a) the order prevails over the provisions of the municipality's official plan and the by-laws passed by the municipality; and
- (b) in the case of a lower-tier municipality, the order prevails over the provisions of the upper-tier municipality's official plan and the by-laws passed by the upper-tier municipality. 2002, c. 32, s. 114 (14).

### **Implementation by Director**

(15) If a municipality fails to do everything in its power to comply with an order under this section and the time for appealing from the order has passed or there has been a final disposition of an appeal confirming or amending the order, the Director, with the approval of the Ontario Land Tribunal, may direct that all action necessary to comply with the order be done at the expense of the municipality and may arrange for the Agency to do it. 2002, c. 32, s. 114 (15); 2021, c. 4, Sched. 6, s. 88 (2).

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. C, s. 58 (2) - 01/01/2007

2021, c. 4, Sched. 6, s. 88 (2) - 01/06/2021

### **Water supply after order under s. 114**

**115** If a notice is issued under section 114 to a municipality of the Director's intention to issue an order under that section, the municipality shall provide residents of the area that is the subject of the order with an alternative supply of drinking water until,

- (a) the Director revokes the order or advises the municipality that the Director no longer intends to issue the order; or

(b) the municipality has complied with the order. 2002, c. 32, s. 115.

#### **Supply of water from deficient system**

**116** (1) If the medical officer of health is of the opinion that a deficient drinking water system referred to in section 110, 113 or 114 can continue to supply water for a domestic purpose other than human consumption or food preparation, the medical officer of health may,

- (a) notify the Director in writing and advise the Director of any direction the Director should include in a notice issued under this Part; and
- (b) advise users of the system in such manner as he or she considers appropriate of any domestic purpose for which the water may be used and the precautions the users should take when using the water. 2002, c. 32, s. 116 (1).

#### **Inclusion of advice**

(2) On receipt of advice under subsection (1), the Director shall include in any notice issued under this Part any directions the medical officer of health advises the Director to include. 2002, c. 32, s. 116 (2).

#### **Temporary relief from strict compliance**

**117** (1) Despite any requirements under this Act, an order issued under this Part may,

- (a) provide temporary relief from strict compliance with any requirement under this Act relating to a drinking water system;
- (b) specify a date by which a person is required to achieve compliance with a requirement; and
- (c) impose interim conditions in place of a requirement that may be less onerous than the requirement under this Act. 2002, c. 32, s. 117 (1).

#### **Same**

(2) If a person is provided with relief under subsection (1) in an order, the person shall not be subject to prosecution or a penalty under section 121 or section 121.1 for not complying with the requirement, as long as the person is complying with the terms of the order. 2002, c. 32, s. 117 (2); 2019, c. 14, Sched. 8, s. 67.

#### **Same**

(3) For greater certainty, a person remains subject to prosecution or a penalty in respect of a contravention of a requirement under this Act that occurred or was continuing to occur immediately before the order was issued. 2002, c. 32, s. 117 (3).

#### **Same**

(4) Despite any provision of this Act or the regulations, a person or entity acting under the authority of a notice issued under this Part may use or operate the drinking water system to which the notice relates or carry out an alteration to the drinking water system to which the notice relates, if the use, operation or alteration is carried out in accordance with the directions specified by the Director in the notice. 2002, c. 32, s. 117 (4).

#### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 67 - 10/12/2019

#### **Entry without judicial order**

**118** (1) A person who is responsible for carrying out a direction specified by the Director in a notice issued under this Part may, without an order and for the purposes of carrying out the direction, enter on any land or into any place on or in which any thing is to be done in carrying out the direction and any adjacent land or place if,

- (a) the entry is made with the consent of an occupier or owner of the land or place; or
- (b) the delay necessary to obtain an order under subsection (2) will result in a drinking water health hazard. 2002, c. 32, s. 118 (1).

#### **Order authorizing entry**

(2) A justice who is satisfied on evidence under oath that there is reasonable ground to believe that entry on the land or into the place is necessary for carrying out a direction specified by the Director in a notice issued under this Part may issue an order authorizing the person named in the order to make the entry for the purpose of carrying out the direction. 2002, c. 32, s. 118 (2).

### **Execution and expiry of order**

- (3) An order issued under subsection (2) shall,
- (a) specify the times, which may be 24 hours each day, during which the order may be carried out; and
  - (b) state when the order expires. 2002, c. 32, s. 118 (3).

### **Renewal**

- (4) Before or after the order or a renewed order expires, a justice may renew the order for such additional periods as the justice considers necessary. 2002, c. 32, s. 118 (4).

### **Use of force**

- (5) A person who enters on land or into a place under this section may call on police officers as necessary and may use force as necessary to make the entry and do the thing. 2002, c. 32, s. 118 (5).

### **Assistance**

- (6) A person named in an order issued under subsection (2) may call on any other persons he or she considers advisable to carry out the order. 2002, c. 32, s. 118 (6).

### **Application without notice**

- (7) A justice may receive and consider an application for an order or a renewal of an order under this section without notice to the owner or occupier of the land or place. 2002, c. 32, s. 118 (7).

### **Identification**

- (8) On the request of an owner or occupier of the land or place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry. 2002, c. 32, s. 118 (8).

### **Order for preparation of operational plans**

**119** The Director may, by order served on the owner of a municipal drinking water system or a regulated non-municipal drinking water system, appoint the Agency or a person, at the owner's expense, to prepare operational plans for the system or a part of the system or amend any plan that relates to the system if in the Director's opinion,

- (a) there has been a failure to correct, within a reasonable time, deficiencies in the operational plans that are identified in an auditor's report under Part IV or by a provincial officer in an inspection; or
- (b) the operational plans do not meet the minimum requirements in the Director's directions under Part III. 2002, c. 32, s. 119.

### **Power to restrain by action**

**120** If a provision of this Act, the regulations, any order under this Act or the conditions in a licence, permit or approval issued or granted under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Minister. 2002, c. 32, s. 120.

### **Administrative penalties**

**121** (1) The purpose of an administrative penalty issued under this Act is,

- (a) to ensure compliance with this Act; and
- (b) to prevent a person or entity from deriving, directly or indirectly, any economic benefit as a result of non-compliance with this Act. 2019, c. 14, Sched. 8, s. 68.

### **Order by Director, Provincial Officer**

(2) If the Director or, in the circumstances prescribed by the regulations, a provincial officer is of the opinion that a person has committed a contravention prescribed by the regulations, the Director or provincial officer, as the case may be, may issue an order requiring the person to pay an administrative penalty in respect of the contravention. 2019, c. 14, Sched. 8, s. 68.

### **Prescribed contraventions**

(3) For the purposes of subsection (2), a prescribed contravention may be in respect of,

- (a) a provision of this Act or the regulations;
- (b) a provision of an order under this Act; or
- (c) a term or condition of a permit, licence, certificate or approval under this Act. 2019, c. 14, Sched. 8, s. 68.



**Limitation**

(4) An order mentioned in subsection (2) shall be served not later than one year after the day on which evidence of the contravention first came to the attention of a provincial officer or the Director. 2019, c. 14, Sched. 8, s. 68.

**Orders, corporations**

(5) If the person who has contravened a provision or a term or condition referred to in subsection (3) is a corporation, the order shall not be issued to an employee, officer, director or agent of the corporation unless the circumstances prescribed by the regulations, if any, exist. 2019, c. 14, Sched. 8, s. 68.

**Amount of penalty**

(6) The amount of the administrative penalty shall be determined by the Director or the provincial officer, as the case may be, in accordance with the regulations. 2019, c. 14, Sched. 8, s. 68.

**Total penalty**

(7) Subject to subsection (8), the total amount of the administrative penalty shall not exceed \$100,000 for each contravention. 2019, c. 14, Sched. 8, s. 68.

**Same, monetary benefit**

(8) The total amount of the administrative penalty referred to in subsection (7) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the same contravention. 2019, c. 14, Sched. 8, s. 68.

**Contents of order**

(9) An order mentioned in subsection (2) shall be served on the person who is required to pay the administrative penalty and shall,

- (a) contain a description of the contravention to which the order relates, including, if appropriate, the date of the contravention;
- (b) specify the amount of the penalty;
- (c) give particulars respecting the time for paying the penalty and the manner of payment; and
- (d) provide information to the person as to the person's right to require,
  - (i) a hearing under section 129, if the order is issued by the Director, or
  - (ii) a review under section 121.1, if the order is issued by a provincial officer. 2019, c. 14, Sched. 8, s. 68.

**Absolute liability**

(10) A requirement that a person pay an administrative penalty applies even if,

- (a) the person took all reasonable steps to prevent the contravention; or
- (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent. 2019, c. 14, Sched. 8, s. 68.

**Payment prevents conviction**

(11) A person who pays an administrative penalty in respect of a contravention prescribed by the regulations for the purposes of this subsection shall not be convicted of an offence under this Act in respect of the same contravention. 2019, c. 14, Sched. 8, s. 68.

**Contraventions where conviction not prevented**

(12) With respect to a contravention, other than a contravention to which subsection (11) applies, a person may be charged, prosecuted and convicted of an offence under this Act in respect of that contravention, regardless of whether the person has paid an administrative penalty in respect of and has remedied that contravention and, for greater certainty, nothing in subsection (10) affects the prosecution of the offence. 2019, c. 14, Sched. 8, s. 68.

**No admission**

(13) If a person pays an administrative penalty in respect of a contravention, the payment is not, for the purposes of any prosecution in respect of the contravention, an admission that the person committed the contravention. 2019, c. 14, Sched. 8, s. 68.

## **Regulations**

- (14) The Lieutenant Governor in Council may make regulations,
- (a) specifying the form and content of orders under this section;
  - (b) prescribing circumstances in which a provincial officer is authorized or prohibited from issuing an order under subsection (2);
  - (c) governing the determination of the amounts of administrative penalties, for individuals and for corporations, including providing the maximum amount the Director or a provincial officer, as the case may be, may determine under subsection (6);
  - (d) prescribing circumstances in which a person is not required to pay an administrative penalty;
  - (e) prescribing procedures related to administrative penalties;
  - (f) governing the payment of interest and late payment penalties, including prescribing how the amounts of interest and late payment penalties are determined;
  - (g) respecting any matter necessary for the administration of the system of administrative penalties. 2019, c. 14, Sched. 8, s. 68.

### **Section Amendments with date in force (d/m/y)**

2002, c. 32, s. 121 - See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2012

2019, c. 14, Sched. 8, s. 68 - 10/12/2019

### **Review of administrative penalty imposed by provincial officer**

**121.1** (1) A person who is required by an order issued by a provincial officer to pay an administrative penalty may, within seven days after being served with the order, request that the Director review the order. 2019, c. 14, Sched. 8, s. 68.

#### **Request for review**

- (2) A request for a review shall be made in writing and shall include,
- (a) a statement of whether the review applies to the liability to pay the penalty, the amount of the penalty or both;
  - (b) any submissions that the person requesting the review wishes the Director to consider; and
  - (c) for the purposes of subsection (7), an address for service by mail, fax or such other means of service as the regulations may prescribe. 2019, c. 14, Sched. 8, s. 68.

#### **Stay**

(3) If a person requests a review, the requirement to pay the administrative penalty is stayed until the disposition of the matter. 2019, c. 14, Sched. 8, s. 68.

#### **Decision of Director**

- (4) A Director who receives a request for a review may,
- (a) revoke the order of the provincial officer; or
  - (b) by order directed to the person who requested the review, confirm or alter the order of the provincial officer. 2019, c. 14, Sched. 8, s. 68.

#### **Same**

(5) For the purposes of subsection (4), the Director may substitute his or her opinion for that of the provincial officer. 2019, c. 14, Sched. 8, s. 68.

#### **Amount of penalty**

(6) For greater certainty, if the review applies to the amount of the penalty, the regulations made under clause 121 (14) (c) apply for the purposes of the review. 2019, c. 14, Sched. 8, s. 68.

#### **Notice of decision**

- (7) The Director shall serve a person requesting a review with a copy of,
- (a) the Director's decision or order under subsection (4); and

(b) if the Director issues an order under clause (4) (b), the reasons for the order. 2019, c. 14, Sched. 8, s. 68.

#### **Automatic confirmation of order**

(8) If the Director does not comply with subsection (7) within seven days after receiving a request for a review, the order in respect of which the review was requested shall be deemed to have been confirmed by order of the Director. 2019, c. 14, Sched. 8, s. 68.

#### **Same**

(9) For the purposes of section 129, a deemed confirmation by order of the Director under subsection (8) shall be,

- (a) deemed to be directed to the person to whom the order of the provincial officer was directed; and
- (b) deemed to have been served on the person mentioned in clause (a) on the last day of the time period mentioned in subsection (8). 2019, c. 14, Sched. 8, s. 68.

#### **Exception**

(10) Subsections (8) and (9) do not apply if, within seven days after receiving the request for a review, the Director gives written notice to the person requesting the review stating that the Director requires additional time to make a decision. 2019, c. 14, Sched. 8, s. 68.

#### **Regulations**

(11) The Lieutenant Governor in Council may make regulations specifying the form and content of orders under this section. 2019, c. 14, Sched. 8, s. 68.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 68 - 10/12/2019

#### **Failure to pay administrative penalty when required**

**121.2** If a person who is required to pay an administrative penalty fails to comply with the requirement,

- (a) the order that requires payment may be filed with a local registrar of the Superior Court of Justice and the order may be enforced as if it were an order of the court;
- (b) the Director may, by order, suspend any permit, licence, certificate or approval issued to the person under this Act until the administrative penalty is paid; and
- (c) the Director may refuse to issue any permit, licence, certificate or approval to the person or refuse to renew any permit, licence, certificate or approval issued to the person under this Act until the administrative penalty is paid. 2019, c. 14, Sched. 8, s. 68.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 68 - 10/12/2019

#### **Special purpose account**

**121.3** Administrative penalties paid under this Act shall be deposited in the account referred to in section 182.2 of the *Environmental Protection Act*. 2019, c. 14, Sched. 8, s. 68.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 68 - 10/12/2019

#### **Order to pay**

**122** (1) If a notice of emergency response or a notice of appointment of an interim operating authority has been issued under this Part, the Director may issue an order to pay the costs of doing any thing caused to be done in connection with the notice to,

- (a) the owner of the drinking water system to which the notice relates, if the system is not abandoned; or
- (b) the class of persons prescribed by the regulations, if the drinking water system is abandoned. 2002, c. 32, s. 122 (1).

#### **Contents of order**

(2) An order under subsection (1) to pay costs shall include,

- (a) a description of things that the Director directed a person or entity to do in connection with the notice;

(b) a detailed account of the costs incurred in doing the things; and

(c) a direction that the person to whom the order is issued pay the costs to the Minister of Finance. 2002, c. 32, s. 122 (2).

#### **Order to pay may be enforced as judgment of the Superior Court of Justice**

**123** (1) An order to pay costs may be filed with the Superior Court of Justice and enforced as if it were an order of the court. 2002, c. 32, s. 123 (1).

#### **Interest**

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. 2002, c. 32, s. 123 (2).

#### **Collection of costs by tax lien**

#### **Instruction to municipality to recover amounts**

**124** (1) The Director may instruct a municipality to recover amounts specified in an order to pay costs issued under section 122 that relate to things done in connection with a drinking water system if,

(a) the person to whom the order is directed owns land in the municipality; and

(b) the drinking water system or part of the drinking water system is or was located in the municipality. 2002, c. 32, s. 124 (1).

#### **Municipal tax lien**

(2) If the Director gives an instruction to a municipality under subsection (1),

(a) the municipality shall have a lien for the amounts described in subsection (1) on all land in the municipality owned by the person to whom the order to pay costs is directed; and

(b) the amounts described in subsection (1) shall be deemed to be municipal taxes in respect of the land mentioned in clause (a) and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes. 2002, c. 32, s. 124 (2).

#### **Lien not an estate or interest of the Crown**

(3) A lien created under this section in favour of a municipality is not an estate or interest of the Crown described in clause 379 (7) (b) of the *Municipal Act, 2001* or clause 350 (7) (b) of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 32, s. 124 (3); 2006, c. 32, Sched. C, s. 58 (3).

#### **Amounts collected to be paid to Minister of Finance**

(4) Subject to subsection (6), money collected in accordance with subsection (1), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Minister of Finance. 2002, c. 32, s. 124 (4).

#### **Definition**

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

“cancellation price” has the same meaning as 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. 58 (4).

#### **Proceeds of tax sale**

(6) If there is a sale of land under Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006* and amounts are payable out of the proceeds to the Minister of Finance under this Act, the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Fire Protection and Prevention Act, 1997*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. 2002, c. 32, s. 124 (6); 2006, c. 32, Sched. C, s. 58 (5).

#### **Cancellation price**

(7) Despite the *Municipal Act, 2001* and the *City of Toronto Act, 2006*, the treasurer of a municipality may sell land under those Acts 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 *Environmental Protection Act*, the *Ontario Water Resources Act* and the *Fire Protection and Prevention Act, 1997*, and the purchaser may be declared to be the successful purchaser under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 58 (6).

### **Notice re land in territory without municipal organization**

(8) The Director may give written notice to the Minister of Finance of the amounts specified in an order to pay costs issued under section 122 that relate to things done in connection with a drinking water system, requesting collection of the amounts under the *Provincial Land Tax Act, 2006*, if,

- (a) the person to whom the order is directed owns land in unorganized territory; and
- (b) the drinking water system or part of the drinking water system to which the order relates is or was located in the same territorial district as the person's land. 2002, c. 32, s. 124 (8); 2006, c. 33, Sched. Z.3, s. 29 (1).

### **Collection**

(9) When the Minister of Finance receives the notice under subsection (8), the amounts specified in the notice may be collected under the *Provincial Land Tax Act, 2006* as if they were taxes imposed under that Act on all land owned by the person to whom the order to pay costs is directed that is located in the same territorial district as the drinking water system to which the order relates. 2006, c. 33, Sched. Z.3, s. 29 (2).

### **Instruction to specify amounts for things done**

(10) An instruction under subsection (1) or a notice under subsection (8) shall state which of the amounts specified in the order to pay under section 122 relate to things done in connection with the drinking water system. 2002, c. 32, s. 124 (10); 2006, c. 33, Sched. Z.3, s. 29 (3).

### **Interpretation**

(11) For the purposes of subsections (1), (8) and (10), a thing done in connection with a drinking water system includes any thing done to the system whether or not it is done on land owned by the person to whom the order was directed. 2002, c. 32, s. 124 (11).

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. C, s. 58 (3-6) - 01/01/2007; 2006, c. 33, Sched. Z.3, s. 29 (1-3) - 01/01/2009

### **Costs may be recovered from deposit or financial assurance**

**125** Where an order to pay costs is directed to a person who has given a deposit under a regulation made under the *Environmental Protection Act* or is in respect of works or property for which financial assurance is required under Part XII of that Act or a regulation made under clause 176 (2.4) (i) of that Act, the deposit or financial assurance may be used to recover amounts specified in the order to pay costs. 2010, c. 16, Sched. 7, s. 4.

### **Section Amendments with date in force (d/m/y)**

2010, c. 16, Sched. 7, s. 4 - 31/10/2011

## **PART X APPEALS**

### **Meaning of "Director"**

#### **Definition**

**126** In this Part,

"Director" means, in relation to a reviewable decision, the Director who made the decision. 2002, c. 32, s. 126.

#### **Reviewable decisions**

**127** (1) Each of the following decisions of a Director under this Act is a reviewable decision for the purposes of this Part:

1. A refusal to issue or amend a permit, licence, certificate or approval.
2. A refusal to grant a consent for the fragmentation of a non-municipal drinking water system.
3. A decision to impose, vary or remove conditions in a permit, licence, certificate or approval.
4. A refusal to impose a condition in a permit, licence, certificate or approval.
5. A decision to suspend a licence, certificate or approval, other than a suspension of a drinking water testing licence ordered by the Minister under section 108.
6. A decision to revoke a permit, licence, certificate or approval.
7. A refusal to extend the expiry date of a licence under subsection 44 (6) or 73 (5).

8. A refusal to renew a licence, certificate or approval.
9. A refusal to consent to the transfer of a licence.
10. A decision to issue an order, including an order to pay costs under section 122 and an order in respect of an administrative penalty.
11. A decision to confirm or amend an order made by a provincial officer, including a decision to confirm or amend an order in respect of an administrative penalty.
12. REPEALED: 2019, c. 14, Sched. 8, s. 69.

2002, c. 32, s. 127 (1); 2007, c. 10, Sched. D, s. 3 (17-22); 2019, c. 14, Sched. 8, s. 69.

### **Same**

(1.1) A decision of a Director to amend a document as described in subsection 34.7 (8) of the *Ontario Water Resources Act* is a reviewable decision for the purposes of this Part. 2007, c. 12, s. 2 (4).

### **Exception, decisions requested or consented to**

- (2) Subsections (1) and (1.1) do not apply to a decision made at the request or with the consent of,
- (a) the applicant for, or holder of, the permit, licence, certificate or approval, if the decision concerns a permit, licence, certificate or approval; or
  - (b) the person to whom the order is issued, if the decision concerns an order. 2017, c. 2, Sched. 11, s. 6 (6).

### **Exception, refusal to issue, amend or revoke order**

(3) A refusal by a Director or provincial officer to issue, amend or revoke an order is not a reviewable decision for the purposes of this Part. 2002, c. 32, s. 127 (3).

### **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (17-22) - 04/06/2007; 2007, c. 12, s. 2 (4, 5) - 01/01/2015

2017, c. 2, Sched. 11, s. 6 (6) - 22/03/2017

2019, c. 14, Sched. 8, s. 69 - 10/12/2019

### **Notice of reviewable decision**

**128** (1) The Director shall serve notice of a reviewable decision,

- (a) if the decision concerns a permit, licence, certificate or approval, on the applicant for, or the holder of, the permit, licence, certificate or approval; or
- (b) if the decision concerns an order, on the person to whom the order is issued. 2002, c. 32, s. 128 (1); 2017, c. 2, Sched. 11, s. 6 (7); 2019, c. 14, Sched. 8, s. 70.

### **Notice to include information about right of appeal**

(2) A notice of a reviewable decision shall include details of the right to appeal to the Tribunal given under this Part. 2002, c. 32, s. 128 (2).

### **Section Amendments with date in force (d/m/y)**

2017, c. 2, Sched. 11, s. 6 (7) - 22/03/2017

2019, c. 14, Sched. 8, s. 70 - 10/12/2019

### **Right to appeal to Tribunal**

**129** (1) Within 15 days after being served with a notice of a reviewable decision, the person notified may require a hearing by the Tribunal by written notice served on the Director and the Tribunal. 2002, c. 32, s. 129 (1).

### **Extension of time**

(2) On application by a person notified of a reviewable decision, the Tribunal shall extend the time in which a notice requiring a hearing may be served, if the Tribunal considers that,

- (a) service of the notice of the decision did not give the person adequate notice of the decision; or
- (b) it is otherwise just to do so. 2002, c. 32, s. 129 (2).

### **Contents of notice requiring hearing**

- (3) A person requiring a hearing shall state in the notice requiring the hearing,
- (a) the aspect of the decision, including the portion of the permit, licence, certificate, approval or order in respect of which the hearing is required; and
  - (b) the grounds for review to be relied on by the person at the hearing. 2002, c. 32, s. 129 (3); 2017, c. 2, Sched. 11, s. 6 (8); 2019, c. 14, Sched. 8, s. 71.

### **Effect of contents of notice**

- (4) Except with leave of the Tribunal, a person requiring a hearing in relation to a reviewable decision is not entitled to,
- (a) a review of an aspect of the decision other than that stated in the notice requiring the hearing; or
  - (b) a review of the decision other than on the grounds stated in the notice. 2002, c. 32, s. 129 (4).

### **Leave by Tribunal, review of matters outside notice, etc.**

- (5) The Tribunal may grant leave under subsection (4), if it considers that to do so would be proper in the circumstances, subject to such directions as the Tribunal considers proper in the circumstances. 2002, c. 32, s. 129 (5).

### **Section Amendments with date in force (d/m/y)**

2017, c. 2, Sched. 11, s. 6 (8) - 22/03/2017

2019, c. 14, Sched. 8, s. 71 - 10/12/2019

### **Parties to hearing**

**130** The following are parties to a hearing under this Part:

1. The person requiring the hearing.
2. The Director.
3. Any other person specified by the Tribunal. 2002, c. 32, s. 130.

### **Stay of decision pending hearing**

**131** (1) The commencement of a proceeding before the Tribunal does not stay the operation of the relevant reviewable decision, except in the case of,

- (a) a decision in respect of an order to pay an administrative penalty; or
- (b) a decision in relation to an order to pay costs under section 122. 2002, c. 32, s. 131 (1); 2019, c. 14, Sched. 8, s. 72.

### **Tribunal may grant stay**

(2) On the application of a party to a proceeding, the Tribunal may stay the operation of the relevant reviewable decision, except in the case of an application in respect of,

- (a) a requirement in an order that relates to the sampling, testing, monitoring or reporting with respect to the quality or quantity of any waters;
- (b) an order under section 109 in respect of an imminent drinking water health hazard;
- (c) the suspension of a licence or approval issued or granted under this Act; or
- (d) a reviewable decision in respect of a drinking water testing licence, if the Chief Medical Officer of Health advises the Tribunal, the licensee and the Director in writing that in his or her opinion the staying of the decision would endanger, or likely endanger, public health. 2002, c. 32, s. 131 (2).

### **No stay if danger to public health**

(3) The Tribunal may not stay the operation of a reviewable decision, if to do so would endanger, or likely endanger, public health. 2002, c. 32, s. 131 (3).

### **Removal of stay**

(4) The Tribunal may remove a stay of the operation of a reviewable decision,

- (a) on the application of a party to the proceedings, if circumstances have arisen that were not known to the party, or not in existence, when the stay was granted;

- (b) on the application of a party added to the proceedings after the stay was granted; or
- (c) on the application of any party, if failure to do so would endanger, or likely endanger, public health. 2002, c. 32, s. 131 (4).

**Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 72 - 10/12/2019

**Powers of Tribunal**

**132** (1) A hearing by the Tribunal is a new hearing. 2002, c. 32, s. 132 (1).

**Same**

(2) The Tribunal may do any or all of the following on a hearing in relation to a reviewable decision:

1. Confirm, vary or revoke the decision.
2. Direct the Director to take such action as the Tribunal considers necessary for the purposes of this Act.
3. Substitute its opinion for that of the Director. 2002, c. 32, s. 132 (2).

**Exceptions**

(3) Subsections (1) and (2) do not apply to a decision in relation to an order to pay an administrative penalty or an order to pay costs under section 122. 2019, c. 14, Sched. 8, s. 73.

**Order to pay an administrative penalty, powers of Tribunal**

(4) On a hearing in relation to an order to pay an administrative penalty, the Tribunal may,

- (a) confirm or revoke the order; or
- (b) subject to subsection (6), vary the order. 2019, c. 14, Sched. 8, s. 73.

**Order to pay an administrative penalty**

(5) For greater certainty, if a hearing by the Tribunal is required under this section in relation to an order to pay an administrative penalty, the regulations made under clause 121 (14) (c) governing the determination of the amounts of administrative penalties apply to the Tribunal. 2019, c. 14, Sched. 8, s. 73.

**Same**

(6) If a hearing by the Tribunal is required under this section in relation to an order to pay an administrative penalty, the Tribunal shall not substitute its opinion for that of the Director with respect to the amount of the penalty unless the Tribunal considers the amount to be unreasonable. 2019, c. 14, Sched. 8, s. 73.

**Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 73 - 10/12/2019

**Appeal from order to pay costs**

**133** (1) This section applies to a hearing before the Tribunal in relation to a decision of the Director to make an order to pay costs under section 122. 2002, c. 32, s. 133 (1).

**Tribunal's powers**

(2) The Tribunal may only confirm, vary or revoke the decision. 2002, c. 32, s. 133 (2).

**Director's request to vary decision**

(3) At any time during the hearing, the Director may, on reasonable notice to all parties, request the Tribunal to vary the Director's decision by adding new items of costs or by increasing the amounts set out in the order. 2002, c. 32, s. 133 (3).

**Matters to be considered**

(4) In making a decision in relation to the hearing, including a request under subsection (3), the Tribunal, in respect of a cost specified or to be specified in the order, may only consider,

- (a) whether the cost relates to something done in connection with a notice of emergency response under section 110 or a notice of appointment of interim operating authority under section 113; and
- (b) whether the cost is reasonable, having regard to the nature of that thing. 2002, c. 32, s. 133 (4).



### **Appeal to Divisional Court, question of law**

**134** (1) A party to a hearing before the Tribunal may appeal to the Divisional Court on a question of law from the decision or order of the Tribunal, in accordance with the rules of court. 2002, c. 32, s. 134 (1).

### **Exceptions**

(2) This section does not apply in relation to the following hearings:

1. A hearing in relation to an order to pay an administrative penalty.
2. A hearing in relation to an order to pay costs under section 122. 2002, c. 32, s. 134 (2); 2019, c. 14, Sched. 8, s. 74.

### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 74 - 10/12/2019

**135** REPEALED: 2021, c. 4, Sched. 10, s. 7 (1).

### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 75 - 10/12/2019

2021, c. 4, Sched. 10, s. 7 (1) - 01/06/2021

### **Stay of decision on appeal**

**136** (1) This section applies if an appeal is made to the Divisional Court from a decision of the Tribunal on a hearing under this Part. 2002, c. 32, s. 136 (1); 2021, c. 4, Sched. 10, s. 7 (2).

### **Tribunal may order stay**

(2) The appeal does not stay the operation of the relevant reviewable decision, unless the Tribunal orders otherwise. 2002, c. 32, s. 136 (2).

### **Court may grant stay**

(3) On application by a party to the Tribunal hearing, the Divisional Court may stay the operation of the Tribunal's decision, except in the case of an appeal from a decision of the Tribunal of an order requiring sampling, testing, monitoring or reporting with respect to the quality or quantity of any waters. 2002, c. 32, s. 136 (3); 2021, c. 4, Sched. 10, s. 7 (3).

### **No stay if danger to public health**

(4) The Divisional Court may not stay the operation of a decision of the Tribunal if to do so would endanger, or likely endanger, public health. 2002, c. 32, s. 136 (4); 2021, c. 4, Sched. 10, s. 7 (4).

### **Removal of stay**

(5) On application by a party to the Tribunal hearing, a stay imposed by order of the Tribunal, or under this section, may be removed by the Divisional Court if,

- (a) circumstances have arisen that were not known to the party, or not in existence, when the stay was granted; or
- (b) failure to do so would endanger, or likely endanger, public health. 2002, c. 32, s. 136 (5); 2021, c. 4, Sched. 10, s. 7 (5).

### **Section Amendments with date in force (d/m/y)**

2021, c. 4, Sched. 10, s. 7 (2-5) - 01/06/2021

## **PART XI OFFENCES**

### **Obstruction prohibited**

**137** No person shall hinder or obstruct any of the following persons in the performance of his or her duties under this Act:

1. A provincial officer.
2. An employee in or agent of the Ministry.
3. An employee or agent of the Agency.
4. An employee or agent of any person or entity acting under the authority of a notice issued by the Director under Part IX. 2002, c. 32, s. 137; 2006, c. 35, Sched. C, s. 119 (6).

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (6) - 20/08/2007

### **False information**

**138** (1) No person shall orally, in writing or electronically, give or submit false or misleading information in any statement or document to a provincial officer, the Minister, the Ministry, the Agency, an accreditation body, a laboratory, a person or entity acting under the authority of a notice issued by the Director under Part IX, or any employee or agent of any of them, or to any person involved in carrying out a program of the Ministry, in respect of any matter related to this Act or the regulations. 2002, c. 32, s. 138 (1).

### **Same**

(2) No person shall include false or misleading information in any document required to be created, stored or submitted under this Act. 2002, c. 32, s. 138 (2).

### **Refusal to furnish information**

**139** No person shall refuse to furnish any provincial officer, the Minister, the Ministry, an accreditation body, a person or entity acting under the authority of a notice issued by the Director under Part IX, or any employee or agent of any of them, with information required for the purposes of this Act and the regulations. 2002, c. 32, s. 139.

### **Offences**

**140** (1) Every person is guilty of an offence who contravenes a provision of this Act that is listed in subsection (2), if the person is required under this Act to comply with the provision. 2002, c. 32, s. 140 (1).

### **List of provisions**

(2) Each of the following is a provision of this Act that is listed for the purposes of subsection (1):

1. Subsections 11 (1), (3) and (7).
2. Subsection 12 (1).
3. Section 13.
4. Subsection 14 (1).
5. Subsections 16 (1), (2) and (4).
6. Subsections 17 (2) and (3).
7. Section 18.
- 7.1 Section 18.1.
8. Subsection 20 (1).
9. Subsection 25 (1).
10. Section 27.
11. Subsection 31 (1).
12. Section 33.
13. Section 43.
14. Subsections 52 (1), (2) and (3).
15. Subsection 53 (1).
16. Section 59.
17. Subsection 63 (1).
18. Section 67.
19. Section 69.
20. Subsection 81 (6).
21. Subsections 82 (3), (5) and (6).

- 22. Section 137.
- 23. Subsections 138 (1) and (2).
- 24. Section 139. 2002, c. 32, s. 140 (2); 2007, c. 10, Sched. D, s. 3 (23).

**Offence re regulation**

(3) A person who contravenes a provision of a regulation made by the Lieutenant Governor in Council is guilty of an offence. 2002, c. 32, s. 140 (3).

**Offence re order**

(4) Every person who fails to comply with an order made under this Act, other than an order under section 122 to pay costs, is guilty of an offence. 2002, c. 32, s. 140 (4).

**Offence re permit, licence, approval**

(5) Every person that contravenes a condition in an operator's certificate, permit, licence or approval issued or granted under this Act is guilty of an offence. 2002, c. 32, s. 140 (5).

**Offence re fees**

(6) Every person who fails to pay a fee that the person is required to pay under this Act is guilty of an offence. 2002, c. 32, s. 140 (6).

**Officers, directors, etc.**

(7) Every officer, director, employee and agent of a corporation who commits an offence under this Act, for which the corporation would be liable for prosecution, is guilty of an offence and on conviction is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted. 2002, c. 32, s. 140 (7).

**Act of officer, etc.**

(8) For the purposes of this Act and the regulations, an act or thing done or omitted to be done by an officer, director, employee or agent of a corporation in the course of his or her employment or in the exercise of his or her powers or the performance of his or her duties shall be deemed to be also an act or thing done or omitted to be done by the corporation. 2002, c. 32, s. 140 (8).

**Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (23) - 01/12/2008

**Amount of fine, etc.**

**Individuals**

**141** (1) Every individual convicted of an offence under this Act is liable,

- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$20,000; and
- (b) on each subsequent conviction,
  - (i) for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$50,000,
  - (ii) to imprisonment for a term of not more than one year, or
  - (iii) to both a fine under subclause (i) and imprisonment under subclause (ii). 2002, c. 32, s. 141 (1).

**Corporations**

(2) Every corporation convicted of an offence under this Act is liable,

- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$100,000; and
- (b) on each subsequent conviction, for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$200,000. 2002, c. 32, s. 141 (2).

## **Penalty for certain offences**

### **Corporations**

**142** (1) Every corporation convicted of an offence described in subsection (3) is liable, in substitution for any penalty provided in section 141, for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$250,000 on a first conviction and not more than \$500,000 on each subsequent conviction. 2002, c. 32, s. 142 (1).

### **Individuals**

(2) Every individual convicted of an offence described in subsection (3) is liable, in substitution for any penalty provided in section 141,

- (a) for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$50,000 on a first conviction and not more than \$100,000 on each subsequent conviction;
- (b) to imprisonment for a term of not more than one year; or
- (c) to both a fine under clause (a) and imprisonment under clause (b). 2002, c. 32, s. 142 (2).

### **Offences**

(3) Each of the following is an offence for the purposes of subsections (1) and (2):

1. An offence under section 137, 138 or 139 or subsection 140 (4) or (5).
2. An offence under this Act that could have resulted in a drinking water health hazard. 2002, c. 32, s. 142 (3).

## **Offences that result in drinking water health hazard**

### **Corporations**

**143** (1) Every corporation convicted of an offence described in subsection (3) is liable, in substitution for any penalty provided in section 141 or 142, for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$6,000,000 on a first conviction and not more than \$10,000,000 on each subsequent conviction. 2002, c. 32, s. 143 (1).

### **Individuals**

(2) Every individual convicted of an offence described in subsection (3) is liable, in substitution for any penalty provided in section 141 or 142,

- (a) for each day or part of a day on which the offence occurs or continues to occur, to a fine of not more than \$4,000,000 on a first conviction and not more than \$7,000,000 on each subsequent conviction;
- (b) to imprisonment for a term of not more than five years less a day; or
- (c) to both a fine under clause (a) and imprisonment under clause (b). 2002, c. 32, s. 143 (2).

### **Offences**

(3) Each of the following is an offence for the purposes of subsections (1) and (2):

1. A contravention of subsection 18 (1), (2), (3) or (4).
  - 1.1 A contravention of subsection 18.1 (1), (2) or (3).
2. An offence under this Act that results in a drinking water health hazard.
3. A contravention of a requirement described in paragraph 1 or 2 of subsection 11 (1) that involves a failure to satisfy the requirements of a water treatment standard for a drinking water system.
4. An offence under subsection 140 (4) or (5) that involves a failure to satisfy the requirements of a water treatment standard. 2002, c. 32, s. 143 (3); 2007, c. 10, Sched. D, s. 3 (24).

## **Section Amendments with date in force (d/m/y)**

2007, c. 10, Sched. D, s. 3 (24) - 01/12/2008

### **Subsequent conviction**

**144** For the purposes of determining the penalty for which a person is liable under section 141, 142 or 143, a conviction for an offence under this Act is a subsequent conviction if the person has been previously convicted of an offence under,

- (a) this Act;

- (b) the *Environmental Protection Act*, other than for an offence related to Part IX of that Act;
- (c) the *Nutrient Management Act, 2002*;
- (d) the *Ontario Water Resources Act*;
- (e) the *Pesticides Act*; or
- (f) the *Toxics Reduction Act, 2009*. 2002, c. 32, s. 144; 2009, c. 19, s. 72 (13).

**Section Amendments with date in force (d/m/y)**

2009, c. 19, s. 72 (13) - 01/01/2010

**Penalty re monetary benefit**

**145** The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed on the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided. 2002, c. 32, s. 145.

**Order to prevent damage, etc.**

**146** (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person,

- (a) to take such action, including, but not limited to, providing an alternative drinking water supply, as the court directs within the time specified in the order, to prevent or eliminate any drinking water health hazard or public health risk that results from, could result from or is in any way connected to the commission of the offence; and
- (b) to comply with any order made under this Act and directed to the person in relation to the health hazard or public health risk described in clause (a). 2002, c. 32, s. 146 (1).

**Other conditions**

(2) An order under subsection (1) may contain such other conditions relating to the circumstances of the offence, and of the person that contributed to the commission of the offence, as the court considers appropriate to prevent similar unlawful conduct, to reduce the risk of a drinking water health hazard or public health risk or to rehabilitate the natural environment. 2002, c. 32, s. 146 (2).

**Variation of order**

(3) The court that made an order under subsection (1) may make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances,

- (a) on its own initiative at any time; or
- (b) on application by counsel for the prosecutor, by the person convicted or by a person authorized under the *Law Society Act* to represent the person convicted, with notice to the other party, after a hearing or, with the consent of the parties, without a hearing. 2006, c. 21, Sched. C, s. 133.

**Conflict**

(4) Nothing in subsection (1) authorizes the making of an order that conflicts with an order previously made by a Director or the Minister under this Act, but an order made under subsection (1) may supplement the provisions of another order. 2002, c. 32, s. 146 (4).

**Continuation in force**

(5) If a person bound by an order under subsection (1) is imprisoned, the order continues in force except in so far as the imprisonment renders it impossible for the person to comply for the time being with the order. 2002, c. 32, s. 146 (5).

**Section Amendments with date in force (d/m/y)**

2006, c. 21, Sched. C, s. 133 - 01/05/2007

**Power to restrain by order upon conviction**

**147** On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other remedy and to any other penalty imposed by law, may make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. 2002, c. 32, s. 147.

### **Restitution orders**

**148** (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may make an order for restitution against the person convicted of the offence, requiring the person to pay another person for reasonable expenses actually incurred by the other person to provide an alternative drinking water supply, if the need for the alternative supply results from or is in any way connected to the commission of the offence, in such amount and on such terms and conditions as the court considers just. 2002, c. 32, s. 148 (1).

### **No restitution to person who committed offence**

(2) The court shall not make an order for restitution in favour of any person, on account of any matter that is the result of,

- (a) the commission of an offence by the person; or
- (b) a contravention in respect of which an order has been served on the person, requiring the person to pay an administrative penalty under this Act, unless the order has been revoked. 2002, c. 32, s. 148 (2); 2019, c. 14, Sched. 8, s. 76.

### **Notice of order**

(3) If a court makes an order for restitution, it shall cause a copy of the order or a notice of the content of the order to be given to the person to whom the restitution is ordered to be paid. 2002, c. 32, s. 148 (3).

### **Filing of order in court**

(4) An order for restitution may be filed with a local registrar of the Superior Court of Justice and the responsibility for filing shall be on the person to whom the restitution is ordered to be paid. 2002, c. 32, s. 148 (4).

### **Enforcement of order**

(5) An order for restitution filed under subsection (4) may be enforced as if it were an order of the court. 2002, c. 32, s. 148 (5).

### **Same**

(6) Section 129 of the *Courts of Justice Act* applies in respect of an order for restitution filed under subsection (4) and, for that purpose, the date of filing shall be deemed to be the date of the order. 2002, c. 32, s. 148 (6).

### **Civil remedy**

(7) No civil remedy for an act or omission is affected by reason only that an order for restitution under this section has been made in respect of that act or omission. 2002, c. 32, s. 148 (7).

### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 76 - 10/12/2019

### **Forfeiture on conviction**

**149** (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may, if the conviction is in relation to an offence in connection with which a thing has been seized under section 91 or 92 or under a warrant issued under the *Provincial Offences Act*, order that the thing be forfeited to the Crown. 2002, c. 32, s. 149 (1).

### **Same**

(2) The court shall not make an order under subsection (1), unless the court is satisfied that,

- (a) the seizure of the thing was lawful; and
- (b) no later than seven days before the hearing of the request, written notice was provided by a provincial officer,
  - (i) to every person whom the provincial officer knows, or has reason to believe, is an owner of the thing seized,
  - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows, or has reason to believe, is the owner,
  - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and

- (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 2002, c. 32, s. 149 (2).

#### **Contents of notice**

- (3) Notice under subsection (2) shall include,
- (a) a description of the thing seized, sufficient to enable it to be identified;
  - (b) the location at which the thing was seized;
  - (c) the date of the seizure;
  - (d) the name and telephone number of the provincial officer who seized the thing, or of his or her delegate;
  - (e) a statement of the reason for the seizure;
  - (f) a reference to the statutory provision authorizing the seizure;
  - (g) a statement that an order for forfeiture of the thing is being sought under this section; and
  - (h) a statement that the person to whom the notice is provided may make submissions to the court with respect to the issuance of an order under this section. 2002, c. 32, s. 149 (3).

#### **Disposition of things forfeited**

- (4) A thing forfeited under this section may be disposed of as the Director directs. 2002, c. 32, s. 149 (4).

#### **Relief against forfeiture**

- (5) A person who had an interest in a thing forfeited under this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 2002, c. 32, s. 149 (5).

#### **When relief not to be ordered**

- (6) The court shall not make an order for relief under subsection (5), in respect of a thing forfeited, where the person applying for the relief,
- (a) has been served with an order requiring the person to pay an administrative penalty in connection with a matter that was associated with the seizure of the thing, unless the order has been revoked; or
  - (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 2002, c. 32, s. 149 (6); 2019, c. 14, Sched. 8, s. 77.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 77 - 10/12/2019

#### **Where fine not paid**

- 150** (1) If a person is convicted of an offence under this Act and a fine is imposed,
- (a) a thing seized in connection with the offence and not forfeited to the Crown under section 91, 92 or 149 shall not be returned until the fine has been paid; or
  - (b) a justice may order that the thing referred to in clause (a) be forfeited to the Crown, if payment of the fine is in default within the meaning of section 69 of the *Provincial Offences Act*. 2002, c. 32, s. 150 (1).

#### **Application of s. 149 (2) to (6)**

- (2) Subsections 149 (2) to (6) apply with necessary modifications in relation to an order under clause (1) (b). 2002, c. 32, s. 150 (2).

### **Costs of seizure, etc.**

**151** If a person is convicted of an offence under this Act, the justice may, in addition to any other penalty, order the person to pay all or part of the expenses incurred by the Ministry, with respect to the seizure, storage or disposition of any thing seized in connection with the offence. 2002, c. 32, s. 151.

### **Suspension for default in payment of fine**

**152** (1) If a person is in default of payment of a fine imposed upon conviction for an offence under this Act, on the application of the Director, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that, until the fine is paid,

- (a) one or more of the person's permits, licences or approvals under this Act be suspended; and
- (b) no permit, licence or approval be issued to the person under this Act. 2002, c. 32, s. 152 (1).

### **Duty of Director**

(2) The Director shall,

- (a) on being informed of an outstanding order referred to in subsection (1), suspend the person's permits, licences and approvals, if they are not already suspended under another order referred to in subsection (1); and
- (b) on being informed that the fine and any fee for reinstatement are paid, reinstate the permits, licences and approvals unless the Director has been informed that,
  - (i) there is another outstanding order referred to in subsection (1) directing that they be suspended, or
  - (ii) any of them are suspended under another order or under another Act or regulation, or otherwise under this Act. 2002, c. 32, s. 152 (2).

### **Limitations**

**153** Proceedings for an offence under this Act shall not be commenced later than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a provincial officer or a Director. 2002, c. 32, s. 153.

### **Service of offence notice, etc., offences re vehicles**

#### **Definitions**

**154** (1) In this section,

“commercial motor vehicle” and “motor vehicle” have the same meanings as in the *Highway Traffic Act*; (“véhicule utilitaire”, “véhicule automobile”)

“offence notice or summons” means,

- (a) an offence notice or summons under Part I of the *Provincial Offences Act*, or
- (b) a summons under Part III of the *Provincial Offences Act*. (“avis d’infraction ou assignation”) 2002, c. 32, s. 154 (1).

#### **Service of offence notice or summons**

(2) Delivery of an offence notice or summons to the operator of a commercial motor vehicle in respect of an offence under this Act related to the use of the vehicle shall be deemed to be personal service of the offence notice or summons on the owner or lessee of the vehicle who is named in the offence notice or summons. 2002, c. 32, s. 154 (2).

#### **Employer**

(3) Delivery of an offence notice or summons to the operator of a motor vehicle in respect of an offence under this Act related to the use of the vehicle in the course of the operator's employment shall be deemed to be personal service of the offence notice or summons on the employer of the operator of the vehicle. 2002, c. 32, s. 154 (3).

#### **Exception**

(4) Subsection (2) does not apply if, at the time of the offence, the vehicle was in the possession of the operator without the consent of the owner or lessee of the vehicle, as the case may be, but the burden of proof of that shall be on the owner or lessee of the vehicle. 2002, c. 32, s. 154 (4).



### **Permit holder deemed owner**

(5) For the purposes of this section, the holder of a permit under Part II of the *Highway Traffic Act* shall be deemed to be the owner of the vehicle referred to in the permit if a number plate under that Part bearing a number that corresponds to the permit was displayed on the vehicle at the time the offence was committed. 2002, c. 32, s. 154 (5).

### **Non-application of subs. (5)**

(6) Subsection (5) does not apply if the number plate was displayed on the vehicle without the consent of the holder of the permit, but the burden of proof of that shall be on the holder of the permit. 2002, c. 32, s. 154 (6).

### **Service of offence notice or summons**

#### **Municipality**

**155** (1) Service of an offence notice or summons on a municipality may be effected by delivering the offence notice or summons personally to the mayor, warden, reeve or other chief officer of the municipality or to the clerk of the municipality. 2002, c. 32, s. 155 (1).

#### **Service on other corporations**

(2) Service of an offence notice or summons on a corporation other than a municipality may be effected by delivering the offence notice or summons personally to the manager, secretary or other officer of the corporation or to a person apparently in charge of a branch office of the corporation. 2002, c. 32, s. 155 (2).

#### **Service on partnership**

(3) Service of an offence notice or summons on a partnership may be effected by delivering the offence notice or summons personally to a partner or to a person apparently in charge of an office of the partnership. 2002, c. 32, s. 155 (3).

#### **Service on a sole proprietorship**

(4) Service of an offence notice or summons on a sole proprietorship may be effected by delivering it personally to the sole proprietor or to a person apparently in charge of an office of the sole proprietorship. 2002, c. 32, s. 155 (4).

#### **Substituted service**

(5) On application without notice, a justice, on being satisfied that service cannot be made effectively in accordance with subsections (1) to (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the municipality, other corporation, partnership or sole proprietorship. 2002, c. 32, s. 155 (5).

## **PART XII MISCELLANEOUS**

### **Service**

**156** (1) A document, other than an offence notice or summons, that is to be given or served under this Act is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry;
- (c) sent by facsimile transmission to the last fax number appearing on the records of the Ministry for the person to whom delivery or service is required to be made; or
- (d) given or served in accordance with the regulations respecting service. 2002, c. 32, s. 156 (1).

#### **Service deemed made**

(2) If service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing, unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the document until a later date. 2002, c. 32, s. 156 (2).

#### **Same**

(3) If service is made by fax, the service shall be deemed to be made on the day after the day the fax is sent, unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the faxed document until a later date. 2002, c. 32, s. 156 (3).

## **Fees**

**157** (1) The Minister may by order,

- (a) establish fees that are payable under this Act in respect of applications for permits, licences, approvals, certificates, amendments and renewals of any of them and other administrative matters; and
- (b) establish rules governing the refund of all or part of a fee paid under this Act. 2002, c. 32, s. 157 (1).

### **Payable to specified person**

(2) An order may specify the person to whom the fees are payable, and may provide for the retention of all or part of the fees by the person. 2002, c. 32, s. 157 (2).

### **Legislation Act, 2006, Part III**

(3) An order made under this section is not a regulation for the purposes of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 32, s. 157 (3); 2006, c. 21, Sched. F, s. 136 (1).

### **Section Amendments with date in force (d/m/y)**

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

### **Protection from personal liability**

**158** (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 in respect of 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 a duty or authority under this Act, against any of the following:

1. REPEALED: 2009, c. 33, Sched. 2, s. 67 (1).
2. An employee in the Ministry or of the Agency.
3. A public servant employed under Part III of the *Public Service of Ontario Act, 2006* acting under the direction of a person referred to in paragraph 2.
4. The Advisory Council on Drinking Water Quality and Testing Standards and any employee of the Council. 2002, c. 32, s. 158 (1); 2006, c. 35, Sched. C, s. 119 (7); 2009, c. 33, Sched. 2, s. 67.

### **Crown not relieved of liability**

(2) Subsection (1) does not, by reason of subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) 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. 2002, c. 32, s. 158 (2); 2019, c. 7, Sched. 17, s. 157.

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (7) - 20/08/2007

2009, c. 33, Sched. 2, s. 67 (1, 2) - 15/12/2009

2019, c. 7, Sched. 17, s. 157 - 01/07/2019

### **Official documents as evidence**

**159** (1) An official document, other than an official document mentioned in clause (c) or (d) of the definition of “official document” in subsection (3), that purports to be signed by the Minister, a Director, an employee in the Ministry or an auditor under this Act shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. 2002, c. 32, s. 159 (1); 2006, c. 35, Sched. C, s. 119 (8).

### **Same**

(2) An official document mentioned in clause (c), (d) or (e) of the definition of “official document” in subsection (3) that purports to be signed by an analyst shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. 2002, c. 32, s. 159 (2).

## **Definitions**

(3) In this section,

“analyst” means an analyst appointed under the *Environmental Protection Act*; (“analyste”)

“official document” means,

- (a) a certificate, permit, licence, approval, notice or order under this Act,
- (b) a certificate as to service of a document mentioned in clause (a),
- (c) a certificate or report as to the analysis, description, ingredients, quality, quantity or temperature of any solid, liquid or gas or any combination of any of them,
- (d) a certificate or report as to the analysis, description, quality or quantity of any odour, heat, sound, vibration, radiation or any combination of any of them,
- (e) a certificate or report as to the custody of any solid, liquid or gas or any combination of any of them,
- (f) a certificate as to the custody of any book, record or report or as to the custody of any other document, or
- (g) a certificate as to whether or not any document or notice was received or issued by the Minister or the Ministry under this Act. (“document officiel”) 2002, c. 32, s. 159 (3).

## **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 119 (8) - 20/08/2007

## **Electronic signature**

**160** (1) Despite any requirement under this Act, for the purposes of anything done under this Act, a document may be prepared and signed by electronic means in an electronic format and may be filed by direct electronic transmission, if the preparation, signature and filing are in accordance with the *Electronic Commerce Act, 2000*. 2002, c. 32, s. 160 (1).

## **Deemed filing**

(2) A printed copy of a document filed under subsection (1) shall be deemed to have been filed as the original document if it is printed in accordance with the regulations. 2002, c. 32, s. 160 (2).

## **Joint and several liability**

**161** (1) If a permit, licence or approval is issued or granted to more than one person under this Act, those persons are jointly and severally liable to comply with all conditions in the permit, licence or approval. 2002, c. 32, s. 161 (1).

## **Same**

(2) If an order is issued to more than one person under this Act, those persons are jointly and severally liable to comply with all requirements of the order. 2002, c. 32, s. 161 (2).

## **Orders and instruments, consequential authority**

### **Orders, intermediate action, etc.**

**162** (1) The authority to make an order or notice under this Act includes the authority to require the person or entity to whom the order or notice is issued to take any intermediate actions or procedural steps, specified in the order or notice, that are related to the action required or prohibited by the order or notice. 2002, c. 32, s. 162 (1).

### **Orders, authority to order access**

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing. 2002, c. 32, s. 162 (2).

### **Authority to amend or revoke included**

(3) For greater certainty, where a section in this Act gives a person the power to issue a directive, direction, order or notice and the section does not expressly provide the authority to amend or revoke the directive, direction, order or notice, the section shall be interpreted as including the authority to do so. 2002, c. 32, s. 162 (3).

## **Administrative changes to instruments**

**163** A Director may amend or revoke a permit, licence, approval, order or notice issued under this Act if,

- (a) it is desirable for administrative reasons to,

- (i) reflect changes that have occurred with respect to the identity or description of a person or place, or
  - (ii) eliminate provisions that are spent or obsolete; and
- (b) the Director is satisfied that it is in the public interest to do so. 2002, c. 32, s. 163.

#### **Binds the Crown**

**164** This Act binds the Crown. 2002, c. 32, s. 164.

#### **Binding successors, assigns, etc.**

**165** (1) A permit, licence, approval or order under this Act is binding on the executor, administrator, administrator with will annexed, guardian of property or attorney for property of the person to whom it is directed, and any other successor or assignee of the person to whom it is directed. 2002, c. 32, s. 165 (1).

#### **Extent of liability**

(2) If, pursuant to subsection (1), an order is binding on an executor, administrator, administrator with will annexed, guardian of property or attorney for property, their obligations to incur costs to comply with the order is limited to the value of assets they hold or administer, less their reasonable costs of holding or administering the assets. 2002, c. 32, s. 165 (2).

#### **Binding on receiver, etc.**

(3) A permit, licence, approval or order under this Act that relates to a drinking water system or a laboratory is binding on a receiver or trustee that holds or administers the system or laboratory. 2002, c. 32, s. 165 (3).

#### **Same**

(4) If, pursuant to subsection (3), an order is binding on a trustee, other than a trustee in bankruptcy, the trustee's obligation to incur costs to comply with the order is limited to the value of the assets held or administered by the trustee, less the trustee's reasonable costs of holding or administering the assets. 2002, c. 32, s. 165 (4).

#### **Conflict**

**166** (1) The provisions of this Act and the regulations prevail over the provisions of any other Act and any regulation made under any other Act, irrespective of when the other Act is enacted or the regulation is made under the other Act. 2002, c. 32, s. 166 (1).

#### **Exception**

(2) Subsection (1) does not apply if the other Act referred to in subsection (1) expressly states that a provision of that Act or of a regulation made under it prevails over the provisions of this Act. 2002, c. 32, s. 166 (2).

#### **Regulations, Lieutenant Governor in Council**

##### **Drinking water quality standards**

**167** (1) The Lieutenant Governor in Council may make regulations,

1. prescribing drinking water quality standards;
2. governing measures to be taken where a drinking water quality standard is not complied with;
3. providing for a person to be deemed to have complied with a drinking water quality standard for the purposes of this Act and the regulations, if the person complies with prescribed measures. 2002, c. 32, s. 167 (1).

##### **Provision of drinking water generally**

(2) The Lieutenant Governor in Council may make regulations governing the provision of drinking water for any prescribed purpose, including the provision of drinking water to any fixture attached to a plumbing system. 2002, c. 32, s. 167 (2).

##### **Drinking water systems**

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

1. prescribing standards and requirements relating to the planning, location, design, construction, installation, operation, management, maintenance, repair, replacement or alteration of drinking water systems or any works, equipment, mechanism or other thing related to a drinking water system;
2. respecting the qualifications, training and level of expertise of persons engaged in the design, construction, installation, operation, management, maintenance, repair, replacement or alteration of drinking water systems or any works, equipment, mechanism or other thing related to a drinking water system;

3. prescribing operating requirements for drinking water systems, including requirements relating to insurance, facilities, staffing, monitoring, testing, record-keeping and submission of reports in electronic form or otherwise to the Ministry;
4. prescribing reporting requirements by owners of drinking water systems, including requirements for reporting to the public and the matters on which owners are to report;
5. prescribing treatment standards and treatment requirements for drinking water systems or for water for drinking water use;
6. prescribing treatment standards and treatment, monitoring, testing and reporting requirements for water in plumbing;
7. prescribing monitoring, testing and reporting requirements for devices installed in plumbing to prevent back-flows of anything into the plumbing or a drinking water system;
8. prescribing standards and monitoring, testing and reporting requirements for treatment equipment installed in plumbing;
9. respecting operators of drinking water systems, including regulations,
  - i. prescribing criteria for the issue of operators' certificates, including particular qualifications and other requirements for the issue of an operator's certificate for different types of drinking water systems,
  - ii. prescribing procedures for applying for, issuing and amending operators' certificates,
  - iii. requiring owners or operating authorities of drinking water systems to conduct training needs assessments for operators,
  - iv. governing training, curriculum, courses or training providers,
  - v. authorizing the Director to delegate the approval of training courses, instructors or training providers to any person,
  - vi. requiring operators to undergo training as a condition of retention of the operators' certificates,
  - vii. requiring owners or operating authorities of drinking water systems to designate one or more operators as the overall responsible operator or operators, and prescribing the qualifications and training standards for that operator or operators,
  - viii. prescribing criteria for the suspension or revocation of operators' certificates;
10. prescribing standards and procedures for the collection, transport, custody, labelling and testing of drinking water samples from drinking water systems;
11. in respect of proposals under section 38, 41, 46 or 60 to include conditions in permits, licences or approvals for drinking water systems relieving the permit holder, licensee or approval holder from regulatory requirements,
  - i. prohibiting the Director, in prescribed circumstances, from including prescribed conditions,
  - ii. governing assessments to determine the effect of including the proposed conditions, including the circumstances in which an assessment must be made and requirements about public consultation and the obtaining of consent from prescribed individuals;
12. prescribing the day on or before which the owner of a particular municipal drinking water system shall apply under this Act for a municipal drinking water licence and a drinking water works permit for the system;
13. governing agreements for the transfer of ownership of municipal drinking water systems;
14. prescribing different classes of regulated non-municipal drinking water systems for the purposes of different provisions under this Act, including prescribing which classes of regulated non-municipal drinking water systems require an approval under this Act. 2002, c. 32, s. 167 (3).

### **Drinking water testing**

- (4) The Lieutenant Governor in Council may make regulations,
  1. prescribing drinking water tests for the purpose of the definition of "drinking water test" in section 2;
  2. prescribing drinking water tests to which this Act does not apply until a prescribed day or days;
  3. in respect of the provision of drinking water testing services at laboratories outside Ontario,
    - i. prescribing requirements to be met by persons providing such services,

- ii. prescribing requirements for such laboratories to be eligible for the purposes of section 11,
  - iii. governing the inspection of such laboratories;
  - 4. prescribing drinking water tests for the purposes of subsection 63 (2), together with the qualifications, training and level of expertise of persons who may conduct them and any protocols for their conduct;
  - 5. respecting the qualifications, training and level of expertise of persons who may offer or provide drinking water testing services or conduct drinking water tests;
  - 6. prescribing protocols for the conduct of drinking water tests;
  - 7. prescribing requirements in relation to drinking water testing for record-keeping;
  - 8. prescribing what constitutes an adverse result of a drinking water test for the purposes of this Act;
  - 9. governing record-keeping, the reporting of the results of drinking water tests, and the persons required to be notified of those results. 2002, c. 32, s. 167 (4).
- (5) REPEALED: 2019, c. 14, Sched. 8, s. 78.

### **General**

- (6) The Lieutenant Governor in Council may make regulations,
- 1. prescribing matters that are appropriate for inclusion in the Minister’s annual report under subsection 3 (4);
  - 2. prescribing dates and periods for the purposes of this Act;
  - 3. prescribing anything that in this Act may be or is required to be prescribed, anything that may be or is required to be determined or regulated by the regulations, or any matter referred to in this Act as prescribed by the regulations;
  - 4. prescribing the requirements for anything that is required by this Act to be in accordance with the regulations;
  - 5. defining any word or expression used in this Act that is not defined in this Act;
  - 6. exempting any class of person, activity or thing from any provision of this Act or the regulations, and prescribing conditions for such exemptions.
  - 7. governing any transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made to this Act by Schedule 10 to the *Accelerating Access to Justice Act*, 2021. 2002, c. 32, s. 167 (6); 2021, c. 4, Sched. 10, s. 7 (6).

### **Section Amendments with date in force (d/m/y)**

2019, c. 14, Sched. 8, s. 78 - 10/12/2019

2021, c. 4, Sched. 10, s. 7 (6) - 01/06/2021

### **Regulations, Minister**

#### **Drinking water systems and testing**

- 168** (1) The Minister may make regulations,
- 1. providing that despite the definition of “drinking water system” in section 2, or any provision of the *Building Code Act, 1992* or the regulations under that Act, a prescribed part of plumbing is deemed to be part of a drinking water system for the purposes of this Act;
  - 2. governing the application of the provisions of this Act and the regulations in circumstances prescribed by the Minister in which a major residential development will be served by more than one non-municipal drinking water system including,
    - i. providing that the proposed systems be deemed for the purposes of one or more provisions of this Act or the regulations to be a single regulated non-municipal drinking water system of a class prescribed by the Minister,
    - ii. prescribing how the requirements of this Act and the regulations that apply to regulated non-municipal drinking water systems of that class will apply to the deemed single system, and
    - iii. prescribing rules for determining to which class of regulated non-municipal drinking water systems the deemed single system belongs;
  - 3. prescribing classes of drinking water systems as municipal drinking water systems;

4. governing agreements between accredited operating authorities and owners of drinking water systems, including requirements for disclosing the contents of the agreements to the public;
5. respecting accreditation bodies for operating authorities for drinking water systems, and accreditation bodies for drinking water testing, including regulations,
  - i. designating or establishing such bodies,
  - ii. governing the powers and duties of such bodies,
  - iii. prescribing requirements for accreditation by such bodies;
6. authorizing accreditation bodies for operating authorities, and accreditation bodies for drinking water testing, to adopt or adapt standards and procedures established by another person;
7. prescribing requirements for financial plans, for the purposes of the definition of "financial plans" in section 30. 2002, c. 32, s. 168 (1).

#### **Permits, licences, approvals, certificates**

(2) The Minister may make regulations in respect of permits, licences, approvals or certificates under this Act, prescribing requirements for,

1. application, issue, amendment and renewal;
2. conditions that are to be included, or are not to be included, including circumstances in which a condition may or may not be included. 2002, c. 32, s. 168 (2).

#### **Inspections and Chief Inspector**

(3) The Minister may make regulations in respect of inspections under this Act,

1. respecting the qualifications, training and level of expertise of persons who may conduct inspections;
2. governing the frequency of inspections;
3. prescribing violations of this Act that constitute deficiencies for the purposes of this Act;
4. governing procedures on the finding of a deficiency in an inspection;
5. prescribing additional duties of the Chief Inspector. 2002, c. 32, s. 168 (3).

#### **Ministry functions**

(4) On or before the day Part VIII comes into force, or as soon as reasonably possible afterwards, the Minister shall make a regulation respecting the Ministry's functions in relation to compliance with and the enforcement of this Act and the regulations, including, but not limited to,

1. the frequency of inspections, and the actions required and response time in the event of a deficiency;
2. procedures and protocols for investigations and enforcement, including procedures to be followed to respond to a request from the public for an investigation of an alleged offence under this Act. 2002, c. 32, s. 168 (4).

#### **General**

(5) The Minister may make regulations prescribing anything that in this Act may be or is required to be prescribed by the Minister or any matter referred to in this Act as prescribed by the Minister. 2002, c. 32, s. 168 (5).

#### **Section Amendments with date in force (d/m/y)**

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#### **Regulations, Minister re non-municipal drinking water systems**

**169** (1) The Minister may make regulations to come into force on or after the fifth anniversary of the day Part VI comes into force,

1. requiring non-municipal drinking water systems or a class of non-municipal drinking water systems to be managed by accredited operating authorities;
2. requiring operational plans for non-municipal drinking water systems or a class of non-municipal drinking water systems and prescribing a date on or before which the Director must issue directions under section 15 in relation to the plans. 2002, c. 32, s. 169 (1).

## **Same**

- (2) If the Minister makes a regulation under paragraph 1 of subsection (1), the Minister may make regulations,
1. requiring the accreditation body for operating authorities to administer programs for the accreditation of operating authorities for non-municipal drinking water systems;
  2. prescribing provisions of Part IV that apply and governing their application. 2002, c. 32, s. 169 (2).

## **Regulations, general rules**

**170** (1) A regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any person or place from the application of the regulation. 2002, c. 32, s. 170 (1).

## **Classes**

- (2) A regulation may apply in respect of any class of activity, matter, person or thing. 2002, c. 32, s. 170 (2).

## **Same**

(3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof, and may be defined to consist of or to include or exclude any specified member, whether or not with the same attributes, qualities or characteristics. 2002, c. 32, s. 170 (3).

## **Adoption of codes in regulations**

(4) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any document, including a code, formula, standard, protocol or procedure, and may require compliance with any document so adopted. 2002, c. 32, s. 170 (4).

## **Amendments to codes**

(5) The power to adopt by reference and require compliance with a document in subsection (4) includes the power to adopt such a document as it may be amended from time to time. 2002, c. 32, s. 170 (5).

## **When effective**

(6) The adoption of an amendment to a document that has been adopted by reference comes into effect upon the Ministry publishing notice of the amendment in *The Ontario Gazette* or in the Registry. 2002, c. 32, s. 170 (6).

## **Retroactivity**

(7) If a regulation provides that a provision of the regulation shall be deemed to have come into force on a day before the regulation is filed, the provision shall be deemed to have come into force on that day. 2002, c. 32, s. 170 (7).

**171** OMITTED (AMENDS OR REPEALS OTHER ACTS). 2002, c. 32, s. 171.

**172** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2002, c. 32, s. 172.

**173** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2002, c. 32, s. 173.

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