

Electricity Act, 1998

S.O. 1998, CHAPTER 15 SCHEDULE A

Consolidation Period: From July 24, 2014 to the [e-Laws currency date](#).

Last amendment: 2014, c. 7, Sched. 7.

PART I

GENERAL

Purposes

1. The purposes of this Act are,

- (a) to ensure the adequacy, safety, sustainability and reliability of electricity supply in Ontario through responsible planning and management of electricity resources, supply and demand;
 - (b) to encourage electricity conservation and the efficient use of electricity in a manner consistent with the policies of the Government of Ontario;
 - (c) to facilitate load management in a manner consistent with the policies of the Government of Ontario;
 - (d) to promote the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources, in a manner consistent with the policies of the Government of Ontario;
 - (e) to provide generators, retailers and consumers with non-discriminatory access to transmission and distribution systems in Ontario;
- Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (e) is amended by striking out “generators, retailers and consumers” and substituting “generators, retailers, market participants and consumers”. (See: 2014, c. 7, Sched. 7, ss. 1, 17 (1))
- (f) to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service;
 - (g) to promote economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity;
 - (h) to ensure that Ontario Hydro’s debt is repaid in a prudent manner and that the burden of debt repayment is fairly distributed;
 - (i) to facilitate the maintenance of a financially viable electricity industry; and
 - (j) to protect corridor land so that it remains available for uses that benefit the public, while recognizing the primacy of transmission uses. 2004, c. 23, Sched. A, s. 1.

Interpretation

2. (1) In this Act,

“affiliate”, with respect to a corporation, has the same meaning as in the Business Corporations Act;

(“membre du même groupe”)

“alternative energy source” means a source of energy,

- (a) that is prescribed by the regulations or that satisfies criteria prescribed by the regulations, and
- (b) that can be used to generate electricity through a process that is cleaner than certain other generation technologies in use in Ontario before June 1, 2004; (“source d’énergie de remplacement”)

“ancillary services” means services necessary to maintain the reliability of the IESO-controlled grid, including frequency control, voltage control, reactive power and operating reserve services; (“services accessoires”)

“Board” means the Ontario Energy Board; (“Commission”)

“charges” means, with respect to the OPA, amounts charged by the OPA to recover amounts paid or payable by the OPA to another person with respect to electricity; (“frais”)

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, the definition of “charges” in subsection (1) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 2 (1), 17 (1))

“charges” means, with respect to the IESO, amounts charged by the IESO, or by a predecessor within the meaning of section 4, to recover amounts paid or payable by the IESO or the predecessor to another person with respect to electricity; (“frais”)

“consumer” means a person who uses, for the person’s own consumption, electricity that the person did not generate; (“consommateur”)

“corridor land” means the real property transferred to Her Majesty in right of Ontario by section 114.2; (“biens-fonds réservés aux couloirs”)

“distribute”, with respect to electricity, means to convey electricity at voltages of 50 kilovolts or less; (“distribuer”)

“distribution system” means a system for distributing electricity, and includes any structures, equipment or other things used for that purpose; (“réseau de distribution”)

“distributor” means a person who owns or operates a distribution system; (“distributeur”)

“Electrical Safety Authority” means the person or body designated by the regulations as the Electrical Safety Authority; (“Office de la sécurité des installations électriques”)

“fees” means, with respect to the OPA or the IESO, amounts charged by the OPA or the IESO, as the case may be, to recover its costs of operations; (“droits”)

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, the definition of “fees” in subsection (1) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 2 (2), 17 (1))

“fees” means, with respect to the IESO, amounts charged by the IESO, or by a predecessor within the meaning of section 4, to recover its costs of operations; (“droits”)

“Financial Corporation” means Ontario Hydro Financial Corporation, as continued under Part V; (“Société financière”)

Note: Effective April 1, 1999, the name of the Ontario Hydro Financial Corporation has been changed by regulation to Ontario Electricity Financial Corporation in English and Société financière de l’industrie de l’électricité de l’Ontario in French. See: O. Reg. 115/99, s. 1.

“generate”, with respect to electricity, means to produce electricity or provide ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system; (“produire”)

“generation facility” means a facility for generating electricity or providing ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system, and includes any structures, equipment or other things used for that purpose; (“installation de production”)

“generator” means a person who owns or operates a generation facility; (“producteur”)

“Governance and Structure By-law” means the by-law made under subsection 16 (2); (“règlement de régie”)

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, the definition of “Governance and Structure By-law” in subsection (1) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 2 (3), 17 (1))

“Governance and Structure By-law” means the by-law maintained under subsection 22 (2); (“règlement de régie”)

“Hydro One Inc.” means the corporation incorporated as Ontario Hydro Services Company Inc. under the Business Corporations Act on December 1, 1998; (“Hydro One Inc.”)

“IESO” means the Independent Electricity System Operator continued under Part II; (“SIERE”)

“IESO-administered markets” means the markets established by the market rules; (“marchés administrés par la SIERE”)

“IESO-controlled grid” means the transmission systems with respect to which, pursuant to agreements, the IESO has authority to direct operations; (“réseau dirigé par la SIERE”)

“integrated power system” means the IESO-controlled grid and the structures, equipment and other things that connect the IESO-controlled grid with transmission systems and distribution systems in Ontario and transmission systems outside Ontario; (“réseau d’électricité intégré”)

“licence” means a licence issued under Part V of the Ontario Energy Board Act, 1998; (“permis”)

“market participant” means a person who is authorized by the market rules to participate in the IESO-administered markets or to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid; (“intervenant du marché”)

“market rules” means the rules made under section 32; (“règles du marché”)

“Market Surveillance Panel” means the Market Surveillance Panel continued under Part II of the Ontario Energy Board Act, 1998; (“comité de surveillance du marché”)

“Minister” means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the Executive Council Act; (“ministre”)

“Ontario Power Generation Inc.” means the corporation incorporated as Ontario Power Generation Inc. under the Business Corporations Act on December 1, 1998; (“Ontario Power Generation Inc.”)

“OPA” means the Ontario Power Authority established under Part II.1; (“OEO”)

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, the definition of “OPA” in subsection (1) is repealed. (See: 2014, c. 7, Sched. 7, ss. 2 (4), 17 (1))

“procurement contract” means a contract referred to in subsection 25.32 (1); (“contrat d’acquisition”)

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, the definition of “procurement contract” in subsection (1) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 2 (5), 17 (1))

“procurement contract” means,

(a) a contract, entered into or assumed by the IESO pursuant to a direction of the Minister issued under section 25.32 or 25.35, for the procurement of,

(i) electricity supply or capacity,

(ii) changes in electricity demand, or

(iii) measures related to the conservation of electricity or the management of electricity demand, and

(b) a contract entered into by the IESO pursuant to a direction of the Minister issued under subsection 25.32 (4.4), (4.5), (4.6) or (4.7); (“contrat d’acquisition”)

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

“reliability standard” means a standard or criterion, including an amendment to a standard or criterion, relating to the reliable operation of the integrated power system that is approved by a standards authority; (“norme de fiabilité”)

“renewable energy generation facility” means a generation facility that generates electricity from a renewable energy source and that meets such criteria as may be prescribed by regulation and includes associated or ancillary equipment, systems and technologies as may be prescribed by regulation, but does not include an associated waste disposal site, unless the site is prescribed by regulation for the purposes of this definition; (“installation de production d’énergie renouvelable”)

“renewable energy project” has the same meaning as in the Green Energy Act, 2009; (“projet d’énergie renouvelable”)

“renewable energy source” means an energy source that is renewed by natural processes and includes wind, water, biomass, biogas, biofuel, solar energy, geothermal energy, tidal forces and such other energy sources as may be prescribed by the regulations, but only if the energy source satisfies such

criteria as may be prescribed by the regulations for that energy source; (“source d’énergie renouvelable”)

“retail”, with respect to electricity, means,

(a) to sell or offer to sell electricity to a consumer,

(b) to act as agent or broker for a retailer with respect to the sale or offering for sale of electricity, or

(c) to act or offer to act as an agent or broker for a consumer with respect to the sale or offering for sale of electricity; (“vendre au détail”)

“retailer” means a person who retails electricity; (“détaillant”)

“security” has the meaning assigned by the Securities Act; (“valeur mobilière”)

“service area”, with respect to a distributor, means the area in which the distributor is authorized by its licence to distribute electricity; (“secteur de service”)

“smart grid” means the advanced information exchange systems and equipment described in subsection (1.3); (“réseau intelligent”)

“smart metering data” means data derived from smart meters, including data related to the consumers’ consumption of electricity; (“données des compteurs intelligents”)

“Smart Metering Entity” means the corporation incorporated, the limited partnership or the partnership formed or the entity designated pursuant to section 53.7 to accomplish the government’s smart metering initiative; (“Entité responsable des compteurs intelligents”)

“smart metering initiative” means those policies of the Government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters; (“initiative des compteurs intelligents”)

“standards authority” means the North American Electric Reliability Corporation or any successor thereof, or any other agency or body designated by regulation that approves standards or criteria applicable both in and outside Ontario relating to the reliability of transmission systems; (“organisme de normalisation”)

“subsidiary”, with respect to a corporation, has the same meaning as in the Business Corporations Act; (“filiale”)

“suite meter” has the same meaning as in Part III of the Energy Consumer Protection Act, 2010; (“compteur individuel”)

“suite metering” has the same meaning as in Part III of the Energy Consumer Protection Act, 2010; (“activités liées aux compteurs individuels”)

“suite meter provider” has the same meaning as in Part III of the Energy Consumer Protection Act, 2010; (“fournisseur de compteurs individuels”)

“transmission system” means a system for transmitting electricity, and includes any structures, equipment or other things used for that purpose; (“réseau de transport”)

“transmit”, with respect to electricity, means to convey electricity at voltages of more than 50 kilovolts; (“transporter”)

“transmitter” means a person who owns or operates a transmission system; (“transporteur”)

“voting security” has the same meaning as in the Business Corporations Act; (“valeur mobilière avec droit de vote”)

“waste disposal site” has the same meaning as in section 25 of the Environmental Protection Act. (“lieu d’élimination des déchets”) 1998, c. 15, Sched. A, s. 2 (1); 2002, c. 1, Sched. A, s. 2 (1-6); 2002, c. 23, s. 3 (2); 2004, c. 23, Sched. A, s. 2 (1-10); 2006, c. 3, Sched. B, s. 1; 2008, c. 7, Sched. G, s. 1; 2009, c. 12, Sched. B, s. 1 (1-4); 2010, c. 8, s. 37 (1); 2011, c. 9, Sched. 27, s. 23 (1).

Alternative energy source, exception

(1.1) Despite the definition of “alternative energy source” in subsection (1), an energy source is not an alternative energy source for the purposes of this Act in respect of a particular generation facility or unit

if criteria prescribed by the regulations relating to the generation of electricity from the energy source are not satisfied. 2004, c. 23, Sched. A, s. 2 (11).

Renewable energy source, exception

(1.2) Despite the definition of “renewable energy source” in subsection (1), an energy source is not a renewable energy source for the purposes of this Act in respect of a particular generation facility or unit if criteria prescribed by the regulations relating to the generation of electricity from the energy source are not satisfied. 2004, c. 23, Sched. A, s. 2 (12).

Smart grid

(1.3) For the purposes of this Act, the smart grid means the advanced information exchange systems and equipment that when utilized together improve the flexibility, security, reliability, efficiency and safety of the integrated power system and distribution systems, particularly for the purposes of,

(a) enabling the increased use of renewable energy sources and technology, including generation facilities connected to the distribution system;

(b) expanding opportunities to provide demand response, price information and load control to electricity customers;

(c) accommodating the use of emerging, innovative and energy-saving technologies and system control applications; or

(d) supporting other objectives that may be prescribed by regulation. 2009, c. 12, Sched. B, s. 1 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 2 is amended by adding the following subsection: (See: 2010, c. 8, ss. 37 (2), 40)

Exception, “security”

(1.4) The definition of “security” in subsection (1) does not apply in respect of section 30.1. 2010, c. 8, s. 37 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, section 2 is amended by adding the following subsections: (See: 2014, c. 7, Sched. 7, ss. 2 (6), 17 (1))

Procurement contracts, transition

(1.5) For the purposes of this Act, a procurement contract includes,

(a) a contract entered into pursuant to section 25.32 as it read immediately before the day subsection 7 (3) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force; and

(b) a contract entered into pursuant to section 25.35 as it read immediately before the day subsection 10 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force. 2014, c. 7, Sched. 7, s. 2 (6).

Procurement contracts, exceptions

(1.6) A transaction, arrangement or agreement entered into by the IESO based on the market rules is deemed not to be a procurement contract for the purposes of this Act. 2014, c. 7, Sched. 7, s. 2 (6).

Determinations of Board

(2) The definitions of “distribute”, “distribution system”, “distributor”, “transmission system”, “transmit” and “transmitter” in subsection (1) are subject to any determination made under section 84 of the Ontario Energy Board Act, 1998. 1998, c. 15, Sched. A, s. 2 (2).

References to Ontario Hydro

(3) Subject to the regulations, a reference in this or any other Act or in the regulations made under this or any other Act to Ontario Hydro shall be deemed, after section 54 comes into force, to be a reference to the Financial Corporation, unless the context requires otherwise. 1998, c. 15, Sched. A, s. 2 (3).

References to Financial Corporation

(4) A reference in this or any other Act or in the regulations made under this or any other Act to the Financial Corporation shall be deemed, before section 54 comes into force, to be a reference to Ontario Hydro, unless the context requires otherwise. 1998, c. 15, Sched. A, s. 2 (4).

References to Generation Corporation

(5) A reference to the Generation Corporation in the regulations made under this or any other Act, an order made under Part X or a statement made under section 124 shall be deemed to be a reference to Ontario Power Generation Inc. 2002, c. 1, Sched. A, s. 2 (7).

References to Services Corporation

(6) A reference to the Services Corporation in the regulations made under this or any other Act, an order made under Part X or a statement made under section 124 shall be deemed to be a reference to Hydro One Inc. 2002, c. 1, Sched. A, s. 2 (7).

References to Independent Electricity Market Operator

(7) A reference in a statement mentioned in section 124 or in a regulation, order or rule made under this or any other Act,

(a) to the Independent Electricity Market Operator shall be deemed to be a reference to the Independent Electricity System Operator, unless the context requires otherwise, and to the IMO shall be deemed to be a reference to the IESO, unless the context requires otherwise;

(b) to the IMO-administered markets shall be deemed to be a reference to the IESO-administered markets;

(c) to the IMO-controlled grid shall be deemed to be a reference to the IESO-controlled grid; and

(d) to the members of the Market Surveillance Panel of the Independent Electricity Market Operator in the Table to section 6 of Ontario Regulation 91/02 (General) made under the Civil Remedies Act, 2001 shall be deemed to be a reference to the members of the Market Surveillance Panel of the Ontario Energy Board or, if the Market Surveillance Panel has been dissolved under the Ontario Energy Board Act, 1998, to the members of the Ontario Energy Board. 2004, c. 23, Sched. A, s. 2 (13); 2007, c. 13, s. 42.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (d) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 2 (7), 17 (1))

Corporations Tax Act references

(8) Any reference to the Corporations Tax Act in this Act shall be deemed to be a reference to that Act as it applied to corporations for taxation years under that Act ending on or before December 31, 2008. 2008, c. 19, Sched. V, s. 3.

Municipal Act, 2001

3. (1) This Act applies despite the provisions of the Municipal Act, 2001 relating to the production, manufacture, distribution or supply of a public utility by a municipality or a municipal service board. 1998, c. 15, Sched. A, s. 3; 2002, c. 17, Sched. F, Table.

City of Toronto Act, 2006

(2) This Act applies despite the provisions of the City of Toronto Act, 2006 relating to the production, manufacture, distribution or supply of a public utility by the City or by a city board as defined in subsection 3 (1) of that Act. 2006, c. 11, Sched. B, s. 4 (1).

Minister's advisory committee

3.1 (1) The Minister shall establish an advisory committee to provide advice to the Minister on such matters relating to electricity as the Minister may specify. 2004, c. 23, Sched. A, s. 3.

Appointment

(2) The Minister shall appoint the members of the advisory committee. 2004, c. 23, Sched. A, s. 3.

PART II

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

Independent Electricity System Operator

4. (1) The Independent Electricity Market Operator is continued as a corporation without share capital under the name Independent Electricity System Operator in English and Société indépendante d'exploitation du réseau d'électricité in French. 2004, c. 23, Sched. A, s. 4 (1).

Composition

(2) The IESO is composed of those persons who, from time to time, comprise its board of directors. 1998, c. 15, Sched. A, s. 4 (2); 2004, c. 23, Sched. A, s. 4 (2).

Objects and character

5. (1) The objects of the IESO are,

(a) to exercise the powers and perform the duties assigned to the IESO under this Act, the market rules and its licence;

(b) to enter into agreements with transmitters giving the IESO authority to direct the operation of their transmission systems;

(c) to direct the operation and maintain the reliability of the IESO-controlled grid to promote the purposes of this Act;

(d) to participate in the development by any standards authority of standards and criteria relating to the reliability of transmission systems;

(e) to work with the responsible authorities outside Ontario to co-ordinate the IESO's activities with their activities;

(f) to collect and provide to the OPA and the public information relating to the current and short-term electricity needs of Ontario and the adequacy and reliability of the integrated power system to meet those needs; and

(g) to operate the IESO-administered markets to promote the purposes of this Act. 2004, c. 23, Sched. A, s. 5 (1).

Not for profit

(2) The business and affairs of the IESO shall be carried on without the purpose of gain and any profits shall be used by the IESO for the purpose of carrying out its objects. 1998, c. 15, Sched. A, s. 5 (2); 2004, c. 23, Sched. A, s. 5 (2).

Capacity

(3) The IESO has the capacity and the rights, powers and privileges of a natural person for the purpose of carrying out its objects. 1998, c. 15, Sched. A, s. 5 (3); 2004, c. 23, Sched. A, s. 5 (2).

Dissolution

(4) Upon the dissolution of the IESO and after the payment of all debts and liabilities, the remaining property of the IESO is vested in Her Majesty in right of Ontario. 2004, c. 23, Sched. A, s. 5 (3).

Not Crown agent

6. The IESO is not an agent of Her Majesty for any purpose, despite the Crown Agency Act. 1998, c. 15, Sched. A, s. 6; 2004, c. 23, Sched. A, s. 6.

Board of directors

7. (1) The IESO's board of directors shall manage and supervise the management of the IESO's business and affairs. 2004, c. 23, Sched. A, s. 7.

Composition

(2) The board of directors shall be composed of,

(a) the chief executive officer of the IESO; and

(b) 10 additional individuals who are appointed as directors by the Minister. 2004, c. 23, Sched. A, s. 7.

Directors to be independent

(3) Each director shall hold office as an independent director and not as a representative of any class of persons. 2004, c. 23, Sched. A, s. 7.

Restriction on persons who may be directors

(4) No person who is a member of a class of persons prescribed by the regulations may hold office as a director of the IESO. 2004, c. 23, Sched. A, s. 7.

Term of office and reappointment

(5) A director appointed in accordance with clause (2) (b) shall hold office at pleasure for an initial term not exceeding two years and, subject to subsection (4), may be reappointed for successive terms not exceeding five years each. 2004, c. 23, Sched. A, s. 7.

Quorum

(6) A majority of the members of the board of directors constitute a quorum of the board. 2004, c. 23, Sched. A, s. 7.

Chair

(7) The board of directors shall appoint one of the directors as chair of the board. 2004, c. 23, Sched. A, s. 7.

Ceasing to hold office

(8) A director ceases to hold office in the circumstances specified in the Governance and Structure By-law. 2004, c. 23, Sched. A, s. 7.

Vacancy in board

(9) If there are one or more vacancies in the board of directors, the remaining directors may exercise all the powers of the board if they would constitute a quorum of the board if there were no vacancies. 2004, c. 23, Sched. A, s. 7.

Former directors cease to hold office

(10) A person who was a member of the board of directors immediately before this subsection comes into force ceases to be a member of the board of directors when this subsection comes into force, but nothing in this subsection prevents the person from being reappointed. 2004, c. 23, Sched. A, s. 7.

No claim for compensation

(11) A director who ceases to hold office as director by reason of subsection (10) has no right of recourse against the Crown or any person. 2004, c. 23, Sched. A, s. 7.

Chief executive officer

8. (1) The board of directors of the IESO shall appoint a chief executive officer of the IESO. 1998, c. 15, Sched. A, s. 8; 2004, c. 23, Sched. A, s. 8 (1).

Exception

(2) Despite subsection (1), the first chief executive officer appointed on or after the day this subsection comes into force shall be appointed by the Minister, but nothing in this subsection prevents the board of directors of the IESO from appointing any subsequent chief executive officer. 2004, c. 23, Sched. A, s. 8 (2).

Director duties

9. Every director of the IESO shall, in exercising and performing his or her powers and duties,
(a) act honestly and in good faith in the best interests of the IESO; and
(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 1998, c. 15, Sched. A, s. 9; 2004, c. 23, Sched. A, s. 9.

Conflict of interest

10. The directors and officers of the IESO shall comply with the provisions of the Governance and Structure By-law relating to conflict of interest. 1998, c. 15, Sched. A, s. 10; 2004, c. 23, Sched. A, s. 10.

Codes of conduct

11. (1) The board of directors of the IESO may establish codes of conduct applicable to the directors, officers, employees and agents of the IESO and to members of panels established by the IESO. 1998, c. 15, Sched. A, s. 11 (1); 2004, c. 23, Sched. A, s. 11 (1).

Conflict

(2) Any provision of a code of conduct that conflicts with this Act or the IESO's by-laws is void. 1998, c. 15, Sched. A, s. 11 (2); 2004, c. 23, Sched. A, s. 11 (2).

Delegation

12. Subject to the Governance and Structure By-law, the board of directors of the IESO may delegate any of the IESO's powers or duties to a committee of the board, to a panel established by the board of directors or to any other person or body, subject to such conditions and restrictions as may be specified by the board of directors. 2004, c. 23, Sched. A, s. 12.

Panels

13. (1) The board of directors of the IESO may establish one or more panels for the purposes of this Act. 2004, c. 23, Sched. A, s. 13.

Testimony

(2) A member of a panel established for the purpose of resolving or attempting to resolve a dispute between market participants, or a dispute between one or more market participants and the IESO, shall not be required in any civil proceeding to give testimony with respect to information obtained in the course of resolving or attempting to resolve the dispute. 2004, c. 23, Sched. A, s. 13.

Staff and assistance

13.1 Subject to the by-laws of the IESO, a panel established by the board of directors may use the services of,

(a) the IESO's employees, with the consent of the IESO; and

(b) persons other than the IESO's employees who have technical or professional expertise that is considered necessary. 2004, c. 23, Sched. A, s. 14.

Stakeholder input

13.2 The IESO shall establish one or more processes by which consumers, distributors, generators, transmitters and other persons who have an interest in the electricity industry may provide advice and recommendations for consideration by the IESO. 2004, c. 23, Sched. A, s. 14.

Liability

14. (1) No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the IESO, a member of the advisory committee or a member of a panel established by the board of directors of the IESO for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under any Act, the regulations under any Act, the IESO's licence, the IESO's by-laws or the market rules, or for any neglect or default in the exercise or performance in good faith of such a power or duty. 2004, c. 23, Sched. A, s. 15 (1).

Same

(2) Subsection (1) does not relieve the IESO of any liability to which it would otherwise be subject in respect of a cause of action arising from any act, neglect or default referred to in subsection (1). 1998, c. 15, Sched. A, s. 14 (2); 2004, c. 23, Sched. A, s. 15 (2).

Confidential information relating to market participant

14.1 A record that contains information provided to or obtained by the IESO relating to a market participant and that is designated by the IESO as confidential or highly confidential shall be deemed, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization. 2002, c. 1, Sched. A, s. 4; 2004, c. 23, Sched. A, s. 16.

Liability of directors under the Employment Standards Act, 2000

15. Part XX of the Employment Standards Act, 2000 does not apply to a director of the IESO. 2004, c. 23, Sched. A, s. 17.

By-laws

16. (1) The board of directors of the IESO may make by-laws regulating the business and affairs of the IESO. 1998, c. 15, Sched. A, s. 16 (1); 2004, c. 23, Sched. A, s. 18 (1).

Governance and Structure By-Law

(2) The board of directors shall make a by-law under subsection (1) dealing with matters of corporate governance and structure, including,

(a) Repealed: 2004, c. 23, Sched. A, s. 18 (2).

(b) the appointment of the chief executive officer of the IESO;

(c) the circumstances in which a director ceases to hold office;

(c.1) the remuneration and benefits of the chair and the other members of the board;

(d) conflict of interest;

(e) the delegation of the IESO's powers and duties;

(f) the establishment, composition and functions of panels. 1998, c. 15, Sched. A, s. 16 (2); 2004, c. 23, Sched. A, s. 18 (2-5).

Same

(3) The Governance and Structure By-law may be made only with the approval in writing of the Minister. 1998, c. 15, Sched. A, s. 16 (3).

Amendment or repeal of Governance and Structure By-Law

(4) A by-law that amends or repeals the Governance and Structure By-law shall be filed with the Minister by the board of directors. 1998, c. 15, Sched. A, s. 16 (4).

Disallowance

(5) The Minister may disallow a by-law to which subsection (4) applies by written notice to the board of directors given within 60 days after the by-law is filed with the Minister. 1998, c. 15, Sched. A, s. 16 (5).

Effective date

(6) A by-law to which subsection (4) does not apply comes into force on the day it is made or on such later date as may be specified in the by-law. 1998, c. 15, Sched. A, s. 16 (6).

Same

(7) Subject to subsections (5) and (8), a by-law to which subsection (4) applies comes into force on the earlier of the following dates:

1. The expiry of the 60-day period referred to in subsection (5).

2. The date on which the Minister notifies the board of directors in writing that he or she will not disallow the by-law. 1998, c. 15, Sched. A, s. 16 (7).

Same

(8) Subject to subsection (5), a by-law to which subsection (4) applies may specify that it comes into force on a date later than the date determined under subsection (7). 1998, c. 15, Sched. A, s. 16 (8).

Conflict between by-laws

(9) In the event of a conflict between the Governance and Structure By-law and another by-law, the Governance and Structure By-law prevails. 1998, c. 15, Sched. A, s. 16 (9).

Legislation Act, 2006, Part III

(10) Part III (Regulations) of the Legislation Act, 2006 does not apply to by-laws made under this section. 1998, c. 15, Sched. A, s. 16 (10); 2006, c. 21, Sched. F, s. 136 (1).

Transition

(11) For greater certainty, all by-laws made by the board of directors before subsection 4 (1) of Schedule A to the Electricity Restructuring Act, 2004 comes into force remain in effect until amended or revoked in accordance with this Act. 2004, c. 23, Sched. A, s. 18 (6).

Province may purchase securities, etc.

17. (1) The Lieutenant Governor in Council may by order authorize the Minister of Finance to purchase securities of or make loans to the IESO at such times and on such terms and conditions as the Minister may determine subject to the maximum principal amount and to any other terms and conditions that are specified by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 17 (1); 2004, c. 23, Sched. A, s. 19.

Payment from C.R.F.

(2) The Minister of Finance may pay out of the Consolidated Revenue Fund any amount required for the purposes of subsection (1). 1998, c. 15, Sched. A, s. 17 (2).

Delegation

(3) In an order under subsection (1), the Lieutenant Governor in Council may delegate to an officer or employee of the Crown or an agency of the Crown or to a solicitor engaged to act for the Minister of Finance, any or all of the powers of the Minister of Finance under this section. 1998, c. 15, Sched. A, s. 17 (3).

Fees payable to Minister of Finance

(4) The IESO shall pay to the Minister of Finance such fees as are prescribed by the regulations in respect of securities purchased and sums loaned under this section. 1998, c. 15, Sched. A, s. 17 (4); 2004, c. 23, Sched. A, s. 19.

Fees

18. The IESO may establish and charge fees for anything done in connection with the IESO-controlled grid or the IESO-administered markets. 2004, c. 23, Sched. A, s. 20.

Review of requirements and fees

19. (1) The IESO shall, at least 60 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Board for review, but shall not do so until after the Minister approves or is deemed to approve the IESO's proposed business plan for the fiscal year under section 19.1. 2004, c. 23, Sched. A, s. 21.

Board's powers

(2) The Board may approve the proposed requirements and the proposed fees or may refer them back to the IESO for further consideration with the Board's recommendations. 2004, c. 23, Sched. A, s. 21.

Same

(3) In reviewing the IESO's proposed requirements and proposed fees, the Board shall not take into consideration the remuneration and benefits of the chair and other members of the board of directors of the IESO. 2004, c. 23, Sched. A, s. 21.

Changes in fees

(4) The IESO shall not establish, eliminate or change any fees without the approval of the Board. 2004, c. 23, Sched. A, s. 21.

Hearing

(5) The Board may hold a hearing before exercising its powers under this section, but it is not required to do so. 2004, c. 23, Sched. A, s. 21.

(6), (7) Repealed: 2009, c. 33, Sched. 14, s. 2 (1).

Business plan

19.1 (1) At least 90 days before the beginning of its 2006 and each subsequent fiscal year, the IESO shall submit its proposed business plan for the fiscal year to the Minister for approval. 2004, c. 23, Sched. A, s. 22.

Minister's approval

(2) The Minister may approve the proposed business plan or refer it back to the IESO for further consideration. 2004, c. 23, Sched. A, s. 22.

Deemed approval

(3) If the Minister does not approve the proposed business plan and does not refer it back to the IESO for further consideration at least 70 days before the beginning of the fiscal year to which it relates, the Minister shall be deemed to approve the IESO's proposed business plan for the fiscal year. 2004, c. 23, Sched. A, s. 22.

(4) Repealed: 2009, c. 33, Sched. 14, s. 2 (2).

Auditor

20. The board of directors of the IESO shall appoint one or more auditors licensed under the Public Accounting Act, 2004 to audit annually the accounts and transactions of the IESO. 1998, c. 15, Sched. A, s. 20; 2004, c. 8, s. 46; 2004, c. 23, Sched. A, s. 23.

Auditor General

20.1 The Auditor General may audit the accounts and transactions of the IESO. 2004, c. 23, Sched. A, s. 24; 2008, c. 7, Sched. G, s. 2.

Annual report

21. (1) The IESO shall, within 90 days after the end of every fiscal year, submit to the Minister an annual report on its affairs during that fiscal year, signed by the chair of its board of directors. 1998, c. 15, Sched. A, s. 21 (1); 2004, c. 23, Sched. A, s. 25.

Financial statements

(2) The audited financial statements of the IESO shall be included in the annual report. 1998, c. 15, Sched. A, s. 21 (2); 2004, c. 23, Sched. A, s. 25.

Tabling

(3) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 1998, c. 15, Sched. A, s. 21 (3).

Other persons

(4) The IESO may give its annual report to other persons before the Minister complies with subsection (3). 1998, c. 15, Sched. A, s. 21 (4); 2004, c. 23, Sched. A, s. 25.

Other reports

22. (1) The IESO shall submit to the Minister such reports and information as the Minister may require from time to time. 2004, c. 23, Sched. A, s. 26.

Same

(2) The IESO shall submit to the Minister of Finance and the Minister such reports and information as the Minister of Finance may require from time to time. 2004, c. 23, Sched. A, s. 26.

Information to Board, OPA, etc.

23. The IESO shall provide the Board, the OPA and the Market Surveillance Panel with such information as the Board, OPA or Panel may require from time to time. 2004, c. 23, Sched. A, s. 27.

Application of corporations statutes

24. Except as otherwise provided by the regulations, the Corporations Act and the Corporations Information Act do not apply to the IESO. 1998, c. 15, Sched. A, s. 24; 2004, c. 23, Sched. A, s. 28.

Statutory Powers Procedure Act

25. The Statutory Powers Procedure Act does not apply to a proceeding before the IESO, its board of directors or any committee, panel, person or body to which a power or duty has been delegated under this Part. 1998, c. 15, Sched. A, s. 25; 2004, c. 23, Sched. A, s. 28.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, Part II is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 3 (1), 17 (1))

PART II

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

Definitions

4. In this Part,

“Independent Electricity System Operator” means, unless the context requires otherwise, the corporation continued under subsection 5 (1); (“Société indépendante d’exploitation du réseau d’électricité”)

“Ontario Power Authority” means the corporation established under subsection 25.1 (1) as that subsection read immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and

Securing Our Future Act (Budget Measures), 2014 comes into force and “OPA” has a corresponding meaning; (“Office de l’électricité de l’Ontario”, “OEO”)

“predecessor” means either the predecessor Independent Electricity System Operator or the Ontario Power Authority; (“entité remplacée”)

“predecessor Independent Electricity System Operator” means the Independent Electricity System Operator as the corporation was continued under subsection 4 (1) as that subsection read immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force. (“ancienne Société indépendante d’exploitation du réseau d’électricité”) 2014, c. 7, Sched. 7, s. 3 (1).

Amalgamation of IESO and OPA

5. (1) The predecessor Independent Electricity System Operator and the Ontario Power Authority are amalgamated and shall continue as one corporation without share capital in accordance with this Part. 2014, c. 7, Sched. 7, s. 3 (1).

Name of corporation

(2) The name of the corporation formed under subsection (1) is the Independent Electricity System Operator in English and Société indépendante d’exploitation du réseau d’électricité in French. 2014, c. 7, Sched. 7, s. 3 (1).

Composition

(3) The IESO is composed of the members of its board of directors. 2014, c. 7, Sched. 7, s. 3 (1).

Separation of functions

(4) The board of directors shall take such steps as it considers advisable and appropriate to ensure that there is an effective separation of functions and activities of the IESO relating to,

(a) its market operations; and

(b) its procurement and contract management activities. 2014, c. 7, Sched. 7, s. 3 (1).

Prohibition

(5) The IESO shall not conduct the operations of the IESO-administered markets in any manner that,

(a) unjustly advantages or disadvantages any market participant or class of market participants; or

(b) is inconsistent with this Act. 2014, c. 7, Sched. 7, s. 3 (1).

Transmission-related information

(6) The IESO shall provide transmission-related information on an equal basis and in the same manner to all market participants. 2014, c. 7, Sched. 7, s. 3 (1).

Confidentiality

(7) The board of directors shall ensure that appropriate procedures are established and maintained so that confidential information that is in the possession or control of any officers or employees of the IESO, or any agent or third party working on its behalf, is not inappropriately communicated. 2014, c. 7, Sched. 7, s. 3 (1).

Objects

6. (1) The objects of the IESO are,

(a) to exercise the powers and perform the duties assigned to it under this Act, the regulations, directions, the market rules and its licence;

(b) to enter into agreements with transmitters to give it authority to direct the operation of their transmission systems;

(c) to direct the operation and maintain the reliability of the IESO-controlled grid to promote the purposes of this Act;

(d) to participate in the development by any standards authority of criteria and standards relating to the reliability of the integrated power system;

(e) to establish and enforce criteria and standards relating to the reliability of the integrated power system;

- (f) to work with the responsible authorities outside of Ontario to co-ordinate the IESO's activities with the activities of those authorities;
- (g) to operate the IESO-administered markets to promote the purposes of this Act;
- (h) to engage in activities related to contracting for the procurement of electricity supply, electricity capacity and conservation resources;
- (i) to engage in activities related to settlements, payments under a contract entered into under the authority of this Act and payments provided for under this Act or the Ontario Energy Board Act, 1998;
- (j) to engage in activities in support of the goal of ensuring adequate, reliable and secure electricity supply and resources in Ontario;
- (k) to forecast electricity demand and the adequacy and reliability of electricity resources for Ontario for the short term, medium term and long term;
- (l) to conduct independent planning for electricity generation, demand management, conservation and transmission;
- (m) to engage in activities to facilitate the diversification of sources of electricity supply by promoting the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources;
- (n) to engage in activities in support of system-wide goals for the amount of electricity to be produced from different energy sources;
- (o) to engage in activities that facilitate load management;
- (p) to engage in activities that promote electricity conservation and the efficient use of electricity;
- (q) to assist the Board by facilitating stability in rates for certain types of consumers;
- (r) to collect and make public information relating to the short term, medium term and long term electricity needs of Ontario and the adequacy and reliability of the integrated power system to meet those needs; and
- (s) to engage in such other objects as may be prescribed by the regulations. 2014, c. 7, Sched. 7, s. 3 (1).

Not for profit

(2) The business and affairs of the IESO shall be carried on without the purpose of gain and any profits shall be used by the IESO for the purpose of carrying out its objects. 2014, c. 7, Sched. 7, s. 3 (1).

Capacity

(3) The IESO has the capacity, rights, powers and privileges of a natural person for the purpose of carrying out its objects, except as otherwise limited by this Act. 2014, c. 7, Sched. 7, s. 3 (1).

Limitation on powers, financial

(4) The IESO's powers to borrow, to invest its funds and to manage its financial assets, liabilities and risks are subject to such rules and restrictions as may be prescribed by the regulations. 2014, c. 7, Sched. 7, s. 3 (1).

Dissolution

7. If the IESO is dissolved, any property of the IESO remaining after the payment of all of its debts and liabilities is vested in the Crown in right of Ontario. 2014, c. 7, Sched. 7, s. 3 (1).

Not Crown agent

8. The IESO is not an agent of the Crown for any purpose, despite the Crown Agency Act. 2014, c. 7, Sched. 7, s. 3 (1).

Obligation to provide information in French

9. (1) The IESO shall make information that is directed to the general public available in French, including information with respect to programs, services and general communications. 2014, c. 7, Sched. 7, s. 3 (1).

Board to ensure compliance

(2) The IESO's board of directors shall take all reasonable measures and make all reasonable plans to ensure that the obligation placed on the IESO to make information directed to the general public available in French is met. 2014, c. 7, Sched. 7, s. 3 (1).

Limitation, general

(3) The IESO's obligation to make information available in French is subject to the limits that are reasonable in the circumstances. 2014, c. 7, Sched. 7, s. 3 (1).

Limitations, rules, manuals, etc.

(4) The IESO's obligation to make information available in French does not apply to the following:

1. Rules, manuals, standards, procedures or communications relating to the operation of the IESO-administered markets or the IESO-controlled grid.

2. Rules, contracts or other program information related to the procurement of,

i. electricity supply or capacity,

ii. changes in electricity demand,

iii. measures related to the conservation of electricity, or

iv. the management of electricity demand. 2014, c. 7, Sched. 7, s. 3 (1).

Application to microFIT program, etc.

(5) The exception in paragraph 2 of subsection (4) does not apply to information with respect to,

(a) the microFIT Program; and

(b) the rights and obligations of low-volume consumers under a conservation or demand management program. 2014, c. 7, Sched. 7, s. 3 (1).

Definitions

(6) In this section,

"low-volume consumer" has the same meaning as in section 56 of the Ontario Energy Board Act, 1998, as the definition reads on the day subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force; ("petit consommateur")

"microFIT Program" means the micro Feed-in Tariff Program that is authorized by a direction issued to the IESO under section 25.35 and that permits certain consumers of electricity to develop very small renewable energy projects. ("Programme de TRG pour les micro-projets") 2014, c. 7, Sched. 7, s. 3 (1).

Board of directors

10. (1) The IESO's board of directors shall manage and supervise the management of the IESO's business and affairs. 2014, c. 7, Sched. 7, s. 3 (1).

Composition

(2) The board of directors shall be composed of,

(a) the chief executive officer of the IESO; and

(b) at least eight and not more than 10 additional individuals appointed by the Minister. 2014, c. 7, Sched. 7, s. 3 (1).

Directors to be independent

(3) Each director shall hold office as an independent director and not as a representative of any class of persons. 2014, c. 7, Sched. 7, s. 3 (1).

Restriction on persons who may be directors

(4) For the purposes of clause (2) (b), no person who is a member of a class of persons prescribed by the regulations may hold office as a director of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Term of office and appointment

(5) A director appointed in accordance with clause (2) (b) shall hold office at pleasure for an initial term not exceeding two years and, subject to subsection (4), may be reappointed for successive terms not exceeding two years each. 2014, c. 7, Sched. 7, s. 3 (1).

Quorum

(6) A majority of the members of the board of directors constitutes a quorum of the board. 2014, c. 7, Sched. 7, s. 3 (1).

Chair

(7) The board of directors shall appoint one of its members as chair of the board. 2014, c. 7, Sched. 7, s. 3 (1).

Ceasing to hold office

(8) A director ceases to hold office in the circumstances specified in the Governance and Structure By-law. 2014, c. 7, Sched. 7, s. 3 (1).

Vacancy on board

(9) If there are one or more vacancies on the board of directors, the remaining directors may exercise all the powers of the board if they would constitute a quorum of the board, if there were no vacancies. 2014, c. 7, Sched. 7, s. 3 (1).

Chief executive officer

11. The board of directors shall appoint a chief executive officer of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Director's duties

12. Every director of the IESO shall, in exercising and performing his or her powers and duties as a director,

(a) act honestly and in good faith in the best interests of the IESO; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 2014, c. 7, Sched. 7, s. 3 (1).

Conflict of interest

13. The directors, officers, employees and agents of the IESO shall comply with any provisions relating to conflict of interest contained in the Governance and Structure By-law or any procedures, rules or codes established pursuant to the By-law. 2014, c. 7, Sched. 7, s. 3 (1).

Board may establish policies, rules, etc.

14. (1) The board of directors may establish policies, rules, guidelines and codes, including codes of conduct, applicable to the directors, officers, employees and agents of the IESO and to members of panels established by the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Conflict

(2) Any provision of a policy, rule, guideline or code that conflicts with this Act, the regulations or the IESO's by-laws is void. 2014, c. 7, Sched. 7, s. 3 (1).

Delegation of board's powers

15. (1) The board of directors may, in accordance with the Governance and Structure By-law,

(a) delegate any of its powers or duties to a committee of the board or a panel established by the board or to one or more directors; and

(b) delegate any of its powers to manage the business and affairs of the IESO to one or more officers of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Terms, conditions and restrictions

(2) A delegation under subsection (1) is subject to any terms, conditions and restrictions set out in the delegation. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(3) A delegation under subsection (1) may be general or specific. 2014, c. 7, Sched. 7, s. 3 (1).

Exceptions

(4) The board of directors shall not delegate its power to make by-laws or to approve the financial statements or annual reports of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Panels

16. (1) The board of directors may establish such panels as the board considers necessary for the purposes of this Act. 2014, c. 7, Sched. 7, s. 3 (1).

Testimony

(2) A member of a panel established for the purpose of resolving or attempting to resolve a dispute between market participants, or a dispute between one or more market participants and the IESO, shall not be required in any civil proceeding to give testimony with respect to information obtained in the course of resolving or attempting to resolve the dispute. 2014, c. 7, Sched. 7, s. 3 (1).

Staff and assistance re panels

17. Subject to the by-laws of the IESO, a panel established by the board of directors may use the services of,

(a) the IESO's employees, with the consent of the IESO; and

(b) persons other than the IESO's employees who have technical or professional expertise that is considered necessary. 2014, c. 7, Sched. 7, s. 3 (1).

Stakeholder input

18. (1) The IESO shall establish one or more processes by which consumers, distributors, generators, transmitters and other persons who have an interest in the electricity industry may provide advice and recommendations for consideration by the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Same, direction by Minister

(2) The Minister may direct the IESO to establish specific processes under subsection (1) and the IESO shall comply with such a direction. 2014, c. 7, Sched. 7, s. 3 (1).

Liability

19. (1) No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the IESO or a member of a committee or panel established by the board of directors of the IESO for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under any Act, the regulations under any Act, the IESO's licence, the IESO's by-laws or the market rules, or for any neglect or default in the exercise or performance in good faith of such a power or duty. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(2) Subsection (1) does not relieve the IESO of any liability to which it would otherwise be subject in respect of a cause of action arising from any act, neglect or default referred to in subsection (1). 2014, c. 7, Sched. 7, s. 3 (1).

Confidential information relating to market participants

20. (1) A record that contains information provided to or obtained by the IESO or a predecessor relating to a market participant and that is designated by the head of the IESO as confidential or highly confidential is deemed for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization. 2014, c. 7, Sched. 7, s. 3 (1).

Definition

(2) In this section,

"head" means the person designated as the head of the IESO in the regulations made under the Freedom of Information and Protection of Privacy Act. 2014, c. 7, Sched. 7, s. 3 (1).

Liability of directors under the Employment Standards Act, 2000

21. Part XX of the Employment Standards Act, 2000 does not apply to a director of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

By-laws

22. (1) The board of directors of the IESO may make by-laws regulating the business and affairs of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Governance and Structure By-law

(2) The board of directors shall ensure that it maintains a by-law dealing with matters of corporate governance and structure, including,

- (a) the appointment of the chief executive officer of the IESO;
- (b) the circumstances in which a director ceases to hold office;
- (c) the remuneration and benefits of the chair and the other members of the board;
- (d) conflict of interest;
- (e) the delegation of the IESO's powers and duties;
- (f) the establishment, composition and functions of panels;
- (g) such other matters as are prescribed by regulation or as are appropriate to the governance and structure of the corporation. 2014, c. 7, Sched. 7, s. 3 (1).

Amendment or repeal of Governance and Structure By-law

(3) A by-law that amends or repeals the Governance and Structure By-law shall be filed with the Minister by the board of directors. 2014, c. 7, Sched. 7, s. 3 (1).

Disallowance

(4) The Minister may disallow a by-law to which subsection (3) applies by written notice to the board of directors given within 60 days after the by-law is filed with the Minister. 2014, c. 7, Sched. 7, s. 3 (1).

Effective date

(5) A by-law to which subsection (3) does not apply comes into force on the day it is made or on such later date as may be specified in the by-law. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(6) Subject to subsections (4) and (7), a by-law to which subsection (3) applies comes into force on the earlier of the following dates:

1. The expiry of the 60-day period referred to in subsection (4).
2. The day on which the Minister notifies the board of directors in writing that he or she will not disallow the by-law. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(7) Subject to subsection (4), a by-law to which subsection (3) applies may specify that it comes into force on a day later than the day determined under subsection (6). 2014, c. 7, Sched. 7, s. 3 (1).

Conflict between by-laws

(8) In the event of a conflict between the Governance and Structure By-law and another by-law, the Governance and Structure By-law prevails. 2014, c. 7, Sched. 7, s. 3 (1).

Legislation Act, 2006, Part III

(9) Part III (Regulations) of the Legislation Act, 2006 does not apply to by-laws made under this section. 2014, c. 7, Sched. 7, s. 3 (1).

Province may purchase securities, etc.

23. (1) The Lieutenant Governor in Council may by order authorize the Minister of Finance to purchase securities of or make loans to the IESO in the amounts, at the times and on the terms and conditions as the Minister of Finance may determine subject to the maximum principal amount specified by the Lieutenant Governor in Council that may be purchased or advanced or that may be outstanding at any time and subject to any other terms and conditions that are specified by the Lieutenant Governor in Council. 2014, c. 7, Sched. 7, s. 3 (1).

Payment from C.R.F.

(2) The Minister of Finance may pay out of the Consolidated Revenue Fund any amount required for the purposes of subsection (1). 2014, c. 7, Sched. 7, s. 3 (1).

Delegation

(3) In an order under subsection (1), the Lieutenant Governor in Council may delegate any or all of the powers of the Minister of Finance under this section to,

- (a) a public servant employed under Part III of the Public Service of Ontario Act, 2006 who works in the Ministry of Finance, other than in the office of the Minister of Finance;
- (b) the chief executive officer of the Ontario Financing Authority;
- (c) a public servant employed under Part III of the Public Service of Ontario Act, 2006 who works in the Ontario Financing Authority;
- (d) a solicitor engaged to act for the Minister of Finance; or
- (e) a solicitor engaged to act for the Ontario Financing Authority. 2014, c. 7, Sched. 7, s. 3 (1).

Fees payable to Minister of Finance

(4) The IESO shall pay to the Minister of Finance such fees as are prescribed by the regulations in respect of securities purchased and sums loaned under this section. 2014, c. 7, Sched. 7, s. 3 (1).

Business plan

24. (1) At least 120 days before the beginning of each fiscal year, the IESO shall submit its proposed business plan for the fiscal year to the Minister for approval. 2014, c. 7, Sched. 7, s. 3 (1).

Minister's approval

(2) The Minister may approve the proposed business plan or refer it back to the IESO for further consideration. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, business plan

(3) Despite subsection (1) and when requested to do so by the Minister, the IESO shall submit a business plan in respect of its first full or partial fiscal year that occurs after subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force within 30 days after the Minister requests the plan and the Minister may approve the proposed business plan or refer it back to the IESO for further consideration. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, Minister's discretion

(4) The Minister shall exercise his or her discretion to request that the IESO submit a business plan under subsection (3), solely where, in the Minister's opinion, there is insufficient time for the IESO to comply with subsection (1). 2014, c. 7, Sched. 7, s. 3 (1).

Review of requirements and fees

25. (1) The IESO shall, at least 60 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Board for review, but shall not do so until after the Minister approves the IESO's proposed business plan for the fiscal year under section 24. 2014, c. 7, Sched. 7, s. 3 (1).

Previous fees continued

(2) Until the Board approves the proposed expenditure and revenue requirements for the fiscal year and the fees the IESO proposes to charge during the fiscal year, the fees approved for the previous fiscal year remain in effect unless the Board orders otherwise. 2014, c. 7, Sched. 7, s. 3 (1).

Exception

(3) Where the IESO is unable to make its submission under subsection (1) within the time required under that subsection, the IESO shall file its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Board for review as soon as possible after the Minister has approved its business plan under section 24. 2014, c. 7, Sched. 7, s. 3 (1).

Board's powers

(4) The Board may approve the proposed expenditure and revenue requirements and the proposed fees or may refer them back to the IESO for further consideration with the Board's recommendations. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(5) In reviewing the IESO's proposed expenditure and revenue requirements and proposed fees, the Board shall not take into consideration the remuneration and benefits of the chair and other members of the board of directors of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Changes in fees

- (6) The IESO shall not, without the approval of the Board,
- (a) establish, eliminate or change any fees it has established; or
 - (b) eliminate or change any fees established by a predecessor that remain in effect. 2014, c. 7, Sched. 7, s. 3 (1).

Hearing

- (7) The Board may hold a hearing before exercising its powers under this section, but is not required to do so. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, initial fiscal year

- (8) Despite subsection (1), the IESO shall submit its proposed expenditure and revenue requirements for its first full or partial fiscal year that occurs after subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force and the fees it proposes to charge during that full or partial fiscal year to the Board for review not later than 30 days after the Minister approves the IESO's proposed business plan for that full or partial fiscal year under subsection 24 (3), but shall not submit its proposed expenditure and revenue requirements until after the Minister approves the proposed business plan. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, fees

- (9) Until the Board approves the proposed expenditure and revenue requirements for the IESO's first full or partial fiscal year that occurs after subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force and the fees the IESO proposes to charge during that full or partial fiscal year, the IESO shall continue to charge the fees that were approved by the Board and that applied to its predecessors immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, orders

- (10) For greater certainty, the Board's orders relating to the predecessors' expenditure and revenue requirements and fees for their fiscal year that applied immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force continue to be in effect until the Board approves the first expenditure and revenue requirement and fees for the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Fees

25.1 (1) The IESO may establish and charge fees to recover,

- (a) the costs of anything done in connection with the IESO-controlled grid or the IESO-administered markets;
- (b) the costs of doing anything the IESO is required or permitted to do under this or any other Act; and
- (c) any other type of expenditure the recovery of which is permitted by the regulations, subject to any limitations and restrictions set out in the regulations. 2014, c. 7, Sched. 7, s. 3 (1).

May recover costs of procurement contracts

- (2) For greater certainty, the IESO may, subject to the regulations, establish and impose charges to recover from consumers its costs and payments related to procurement contracts. 2014, c. 7, Sched. 7, s. 3 (1).

Board deemed to approve recovery

- (3) The IESO's recovery of its costs and payments related to procurement contracts is deemed to be approved by the Board. 2014, c. 7, Sched. 7, s. 3 (1).

Auditor

- 25.2 (1) The board of directors of the IESO shall appoint one or more auditors licensed under the Public Accounting Act, 2004 to audit annually the accounts and transactions of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Auditor General

(2) The Auditor General may audit the accounts and transactions of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Annual report

25.3 (1) The IESO shall, within 90 days after the end of every fiscal year, submit to the Minister an annual report on its affairs during that fiscal year, signed by the chair of its board of directors. 2014, c. 7, Sched. 7, s. 3 (1).

Financial statements

(2) The audited financial statements of the IESO shall be included in the annual report. 2014, c. 7, Sched. 7, s. 3 (1).

Tabling

(3) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then table the report before the Assembly if it is in session or, if not, deposit the report with the Clerk of the Assembly. 2014, c. 7, Sched. 7, s. 3 (1).

Other persons

(4) The IESO may give its annual report to other persons before the Minister complies with subsection (3). 2014, c. 7, Sched. 7, s. 3 (1).

Transition, annual reports

(5) The board of directors shall prepare and deliver the annual report for the last fiscal year of each of the predecessor Independent Electricity System Operator and the Ontario Power Authority within 90 days after the day subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force. 2014, c. 7, Sched. 7, s. 3 (1).

Other reports

25.4 (1) The IESO shall submit to the Minister such reports and information as the Minister may require from time to time. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(2) The IESO shall submit to the Minister of Finance such reports and information as the Minister of Finance may require from time to time. 2014, c. 7, Sched. 7, s. 3 (1).

Information to Board, etc.

25.5 (1) The IESO shall provide the Board and the Market Surveillance Panel with such information as the Board or Panel may require from time to time. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(2) Without limiting the generality of subsection (1), the IESO shall provide the Board and the Market Surveillance Panel with such information relating to any actual or potential conflict of interest related to the actions, operations or functions of the IESO as the Board or Panel may require from time to time. 2014, c. 7, Sched. 7, s. 3 (1).

Application of corporations statutes

25.6 Except as otherwise provided by the regulations, the Business Corporations Act, the Corporations Act and the Corporations Information Act do not apply to the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Note: On the later of the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force and the day subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force, section 25.6 is amended by striking out “the Corporations Act” and substituting “the Not-for-Profit Corporations Act, 2010”. (See: 2014, c. 7, Sched. 7, ss. 3 (2), 17 (2))

Statutory Powers Procedure Act

25.7 The Statutory Powers Procedure Act does not apply to a proceeding before the IESO, its board of directors or any committee, panel, person or body to which a power or duty has been delegated under this Part. 2014, c. 7, Sched. 7, s. 3 (1).

Transitional Matters

Transition, corporate matters

25.8 (1) The following occur when subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force:

1. The predecessor Independent Electricity System Operator and the Ontario Power Authority cease to exist as entities separate from the IESO.
2. All rights, property and assets that belong to the predecessor Independent Electricity System Operator and the Ontario Power Authority immediately before the subsection comes into force become the rights, property and assets of the IESO.
3. All outstanding debts, liabilities and obligations of the predecessor Independent Electricity System Operator and the Ontario Power Authority immediately before the subsection comes into force become the debts, liabilities and obligations of the IESO.
4. The members of the boards of directors of the predecessor Independent Electricity System Operator and the Ontario Power Authority holding office immediately before the subsection comes into force cease to be members of their respective board of directors when the subsection comes into force, but nothing in this paragraph prevents them from being appointed to the board of directors of the IESO.
5. An individual who ceases to hold office as director by reason of paragraph 4 has no right of recourse against the Crown or any person.
6. The by-laws of the predecessor Independent Electricity System Operator in effect immediately before the subsection comes into force become the by-laws of the IESO.
7. Any licence issued by the Board to the predecessor Independent Electricity System Operator or the Ontario Power Authority in effect immediately before the subsection comes into force is deemed to be a licence issued by the Board to the IESO and remains in effect until amended or revoked.
8. An agreement, security, licence, approval, permit or other instrument to which the predecessor Independent Electricity System Operator or the Ontario Power Authority is a party immediately before the subsection comes into force has effect after the subsection comes into force as if,
 - i. the IESO were substituted for the predecessor Independent Electricity System Operator or the Ontario Power Authority, as the case requires, as a party to the agreement, security, licence, approval, permit or other instrument, and
 - ii. any reference in the agreement, security, licence, approval, permit or other instrument to the predecessor Independent Electricity System Operator or the Ontario Power Authority were a reference to the IESO.
9. The IESO is a party to each on-going proceeding to which the predecessor Independent Electricity System Operator or the Ontario Power Authority is a party immediately before the subsection comes into force, replacing the predecessor Independent Electricity System Operator or the Ontario Power Authority, as the case may be.
10. Any direction issued by the Minister under section 25.32 or 25.35, as those provisions read immediately before the subsection comes into force, remains in full force and in effect in respect of the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Same, par. 3 of subs. (1)

(2) The operation of paragraph 3 of subsection (1),

(a) does not constitute a breach, termination or repudiation of the debt, liability or obligation or the frustration of any agreement related to the debt, liability or obligation or an event of default or force majeure; and

(b) does not constitute or give rise to any estoppel or any right to terminate or repudiate an agreement related to the debt, liability or obligation. 2014, c. 7, Sched. 7, s. 3 (1).

Same, par. 8 of subs. (1)

(3) The operation of paragraph 8 of subsection (1),

(a) does not constitute a breach, termination or repudiation of the agreement, security, licence, approval, permit or other instrument or the frustration of the agreement or an event of default or force majeure; and

(b) does not constitute or give rise to any estoppel or any right to terminate or repudiate an agreement, security, licence, approval, permit or other instrument. 2014, c. 7, Sched. 7, s. 3 (1).

Same, references

(4) A reference to the predecessor Independent Electricity System Operator or the Ontario Power Authority in any by-law, resolution, agreement or other document shall be read as if it were a reference to the IESO. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, employment matters

25.9 (1) All individuals who were employees of the predecessor Independent Electricity System Operator or the Ontario Power Authority immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force become employees of the IESO when the subsection comes into force. 2014, c. 7, Sched. 7, s. 3 (1).

Agreements

(2) All employment agreements to which the predecessor Independent Electricity System Operator or the Ontario Power Authority was a party and that were in effect immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force continue in effect after the subsection comes into force as if the IESO were substituted for the predecessor Independent Electricity System Operator or the Ontario Power Authority, as the case may be, as a party to the agreement. 2014, c. 7, Sched. 7, s. 3 (1).

Same

(3) The operation of subsections (1) and (2) does not constitute a breach, termination, repudiation or the frustration of an employment agreement. 2014, c. 7, Sched. 7, s. 3 (1).

Transition, governance and other matters

25.10 (1) This section applies in respect of the governance of the IESO and other matters concerning the IESO on the day subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force. 2014, c. 7, Sched. 7, s. 3 (1).

Chief executive officer

(2) Despite sections 11 and 25.9, the chief executive officers of the predecessors cease to hold office on the day subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force and the Minister shall appoint the first chief executive officer of the IESO, but nothing in this subsection prevents the board of directors of the IESO from appointing any subsequent chief executive officer. 2014, c. 7, Sched. 7, s. 3 (1).

Panels

(3) A panel established under section 13 or 25.10 as they read immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force is continued after that subsection comes into force and is deemed to be a panel established by the IESO board of directors under subsection 16 (1). 2014, c. 7, Sched. 7, s. 3 (1).

Stakeholder input

(4) Any process established under section 13.2 or 25.12 as they read immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force is continued after that subsection comes into force and is deemed to be a process established by the IESO under section 18. 2014, c. 7, Sched. 7, s. 3 (1).

Fees

(5) Any fee payable to a predecessor that remains unpaid on the day subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force is

payable to the IESO at the same time and on the same terms as if the IESO were the predecessor. 2014, c. 7, Sched. 7, s. 3 (1).

Market rules

(6) Any market rule established under section 32 as it read immediately before subsection 3 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force remains in effect after that subsection comes into force and is deemed to be a market rule established by the IESO until it is amended or revoked in accordance with this Act. 2014, c. 7, Sched. 7, s. 3 (1).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, Part II.1 is repealed. (See: 2014, c. 7, Sched. 7, ss. 3 (1), 17 (1))

PART II.1

ONTARIO POWER AUTHORITY

Ontario Power Authority

25.1 (1) A corporation without share capital to be known in English as the Ontario Power Authority and in French as Office de l'électricité de l'Ontario is hereby established. 2004, c. 23, Sched. A, s. 29.

Composition

(2) The OPA is composed of those persons who, from time to time, comprise its board of directors. 2004, c. 23, Sched. A, s. 29.

Objects and character

25.2 (1) The objects of the OPA are,

- (a) to forecast electricity demand and the adequacy and reliability of electricity resources for Ontario for the medium and long term;
- (b) to conduct independent planning for electricity generation, demand management, conservation and transmission and develop integrated power system plans for Ontario;
- (c) to engage in activities in support of the goal of ensuring adequate, reliable and secure electricity supply and resources in Ontario;
- (d) to engage in activities to facilitate the diversification of sources of electricity supply by promoting the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources;
- (e) to establish system-wide goals for the amount of electricity to be produced from alternative energy sources and renewable energy sources;
- (f) to engage in activities that facilitate load management;
- (g) to engage in activities that promote electricity conservation and the efficient use of electricity;
- (h) to assist the Ontario Energy Board by facilitating stability in rates for certain types of consumers;
- (i) to collect and provide to the public and the Ontario Energy Board information relating to medium and long term electricity needs of Ontario and the adequacy and reliability of the integrated power system to meet those needs. 2004, c. 23, Sched. A, s. 29.

Not for profit

(2) The business and affairs of the OPA shall be carried on without the purpose of gain and any profits shall be used by the OPA for the purpose of carrying out its objects. 2004, c. 23, Sched. A, s. 29.

Dissolution

(3) Upon the dissolution of the OPA and after the payment of all debts and liabilities, the remaining property of the OPA is vested in Her Majesty in right of Ontario. 2004, c. 23, Sched. A, s. 29.

Capacity

(4) The OPA has the capacity, rights, powers and privileges of a natural person for the purpose of carrying out its objects, except as limited under subsection (6). 2004, c. 23, Sched. A, s. 29.

Powers

(5) Without limiting the generality of subsection (4), the OPA has the power,

- (a) to enter into contracts relating to the adequacy and reliability of electricity supply;
- (b) to enter into contracts relating to the procurement of electricity supply and capacity in or outside Ontario;
- (c) to enter into contracts relating to the procurement of electricity supply and capacity using alternative energy sources or renewable energy sources to assist the Government of Ontario in achieving goals in the development and use of alternative or renewable energy technology and resources;
- (d) to enter into contracts relating to the procurement of reductions in electricity demand and the management of electricity demand to assist the Government of Ontario in achieving goals in electricity conservation;
- (e) to take such steps as it considers advisable to facilitate the provision of services relating to,
 - (i) electricity conservation and the efficient use of electricity,
 - (ii) electricity load management, or
 - (iii) the use of cleaner energy sources, including alternative energy sources and renewable energy sources;
- (f) to take such steps as it considers advisable to ensure there is adequate transmission capacity as identified in the integrated power system plan;
- (g) to enter into contracts with distributors to provide services referred to in clause (e);
- (h) to act as a settlement agent for amounts determined under sections 78.1, 78.2 and 78.5 of the Ontario Energy Board Act, 1998 and to contract with the IESO or another entity to perform or assist in performing the settlements;
- (i) to create a security interest in any property currently owned or subsequently acquired by the OPA, including fees receivable, rights, powers and undertakings, in order to secure any debt, obligation or liability of the OPA. 2004, c. 23, Sched. A, s. 29; 2009, c. 12, Sched. B, s. 2.

Limitation

(6) The OPA's power to borrow and to invest its funds and to manage its financial assets, liabilities and risks is subject to such rules and restrictions as may be prescribed. 2004, c. 23, Sched. A, s. 29.

Not a Crown agent

25.3 The OPA is not an agent of Her Majesty for any purpose, despite the Crown Agency Act. 2004, c. 23, Sched. A, s. 29.

Board of directors

25.4 (1) The OPA's board of directors shall manage and supervise the management of the OPA's business and affairs. 2004, c. 23, Sched. A, s. 29.

Composition

(2) The board of directors shall be composed of,

- (a) the chief executive officer of the OPA; and
- (b) 10 additional individuals appointed by the Minister. 2004, c. 23, Sched. A, s. 29.

Directors to be independent

(3) Every director shall hold office as an independent director and not as a representative of any class of persons. 2004, c. 23, Sched. A, s. 29.

Directors

(4) No person who is a member of a class of persons prescribed by the regulations may hold office as a director of the OPA. 2004, c. 23, Sched. A, s. 29.

Term of office and reappointment

(5) A director appointed in accordance with clause (2) (b) shall hold office at pleasure for an initial term not exceeding two years and, subject to subsection (4), may be reappointed for successive terms not exceeding five years each. 2004, c. 23, Sched. A, s. 29.

Quorum

(6) A majority of the members of the board of directors constitute a quorum of the board. 2004, c. 23, Sched. A, s. 29.

Chair

(7) The board of directors shall appoint one of the directors as chair of the board. 2004, c. 23, Sched. A, s. 29.

Ceasing to hold office

(8) A director ceases to hold office in the circumstances specified in the Governance and Structure By-law. 2004, c. 23, Sched. A, s. 29.

Vacancy in board

(9) If there are one or more vacancies in the board of directors, the remaining directors may exercise all the powers of the board if they would constitute a quorum of the board if there were no vacancies. 2004, c. 23, Sched. A, s. 29.

Director duties

25.5 Every director of the OPA shall, in exercising and performing his or her powers and duties,

(a) act honestly and in good faith in the best interests of the OPA; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 2004, c. 23, Sched. A, s. 29.

Chief executive officer

25.6 (1) The board of directors of the OPA shall appoint a chief executive officer of the OPA. 2004, c. 23, Sched. A, s. 29.

Exception

(2) Despite subsection (1), the Minister shall appoint the first chief executive officer of the OPA, but nothing in this subsection prevents the board of directors of the OPA from appointing any subsequent chief executive officer. 2004, c. 23, Sched. A, s. 29.

Conflict of interest

25.7 The directors and officers of the OPA shall comply with the provisions of the Governance and Structure By-law relating to conflict of interest. 2004, c. 23, Sched. A, s. 29.

Codes of conduct

25.8 (1) The board of directors of the OPA may establish codes of conduct applicable to the directors, officers, employees and agents of the OPA and to members of panels established by the OPA. 2004, c. 23, Sched. A, s. 29.

Conflict

(2) Any provision of a code of conduct that conflicts with this Act or the OPA's by-laws is void. 2004, c. 23, Sched. A, s. 29.

Delegation

25.9 Subject to the Governance and Structure By-law, the board of directors of the OPA may delegate any of the OPA's powers or duties to a committee of the board, to a panel established by the board or to any other person or body, subject to such conditions and restrictions as may be specified by the board of directors. 2004, c. 23, Sched. A, s. 29.

Panels

25.10 The board of directors of the OPA shall establish such panels as the board considers necessary for the purposes of this Act. 2004, c. 23, Sched. A, s. 29.

25.11 Repealed: 2009, c. 12, Sched. B, s. 3.

Stakeholder input

25.12 The OPA shall establish one or more processes by which consumers, distributors, generators, transmitters and other persons who have an interest in the electricity industry may provide advice and recommendations for consideration by the OPA. 2004, c. 23, Sched. A, s. 29.

Staff and assistance

25.13 (1) Subject to the by-laws of the OPA, a panel established by the board of directors may use the services of,

(a) the OPA's employees, with the consent of the OPA; and

(b) persons other than the OPA's employees who have technical or professional expertise that is considered necessary. 2004, c. 23, Sched. A, s. 29.

Provision of information to the IESO

(2) The OPA shall provide the IESO with such information as the IESO may require from time to time. 2004, c. 23, Sched. A, s. 29.

Confidential information relating to a market participant

(3) A record that contains information provided to or obtained by the OPA relating to a market participant and that is designated by the OPA as confidential or highly confidential shall be deemed, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization. 2004, c. 23, Sched. A, s. 29.

Liability

25.14 (1) No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the OPA or a member of the Advisory Committee or a panel established by the board for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under this or any other Act, the regulations, the OPA's licence, the OPA's by-laws or the market rules, or for any neglect or default in the exercise or performance in good faith of such a power or duty. 2004, c. 23, Sched. A, s. 29.

Same

(2) Subsection (1) does not relieve the OPA of any liability to which it would otherwise be subject in respect of a cause of action arising from any act, neglect or default referred to in subsection (1). 2004, c. 23, Sched. A, s. 29.

Liability of directors under the Employment Standards Act, 2000

25.15 Part XX of the Employment Standards Act, 2000 does not apply to a director of the OPA. 2004, c. 23, Sched. A, s. 29.

By-laws

25.16 (1) The board of directors of the OPA may make by-laws regulating the business and affairs of the OPA. 2004, c. 23, Sched. A, s. 29.

Governance and Structure By-law

(2) The board of directors shall make a by-law under subsection (1) dealing with matters of corporate governance and structure, including,

(a) the appointment of the chief executive officer of the OPA;

(b) Repealed: 2009, c. 12, Sched. B, s. 4.

(c) the circumstances in which a director ceases to hold office;

(d) the remuneration and benefits of the chair and the other members of the board;

(e) conflict of interest;

(f) the delegation of the OPA's powers and duties;

(g) the establishment, composition and functions of panels. 2004, c. 23, Sched. A, s. 29; 2009, c. 12, Sched. B, s. 4.

Same

(3) The Governance and Structure By-law may be made only with the approval in writing of the Minister. 2004, c. 23, Sched. A, s. 29.

Amendment or repeal of Governance and Structure By-law

(4) A by-law that amends or repeals the Governance and Structure By-law shall be filed with the Minister by the board of directors. 2004, c. 23, Sched. A, s. 29.

Disallowance

(5) The Minister may disallow a by-law to which subsection (4) applies by written notice to the board of directors given within 60 days after the by-law is filed with the Minister. 2004, c. 23, Sched. A, s. 29.

Effective date

(6) A by-law to which subsection (4) does not apply comes into force on the day it is made or on such later date as may be specified in the by-law. 2004, c. 23, Sched. A, s. 29.

Same

(7) Subject to subsections (5) and (8), a by-law to which subsection (4) applies comes into force on the earlier of the following dates:

1. The expiry of the 60-day period referred to in subsection (5).
2. The date on which the Minister notifies the board of directors in writing that he or she will not disallow the by-law. 2004, c. 23, Sched. A, s. 29.

Same

(8) Subject to subsection (5), a by-law to which subsection (4) applies may specify that it comes into force on a date later than the date determined under subsection (7). 2004, c. 23, Sched. A, s. 29.

Conflict between by-laws

(9) In the event of a conflict between the Governance and Structure By-law and another by-law, the Governance and Structure By-law prevails. 2004, c. 23, Sched. A, s. 29.

Legislation Act, 2006, Part III

(10) Part III (Regulations) of the Legislation Act, 2006 does not apply to by-laws made under this section. 2004, c. 23, Sched. A, s. 29; 2006, c. 21, Sched. F, s. 136 (1).

Province may purchase securities, etc.

25.17 (1) The Lieutenant Governor in Council may by order authorize the Minister of Finance to purchase securities of or make loans to the OPA at such times and on such terms and conditions as the Minister of Finance may determine subject to the maximum principal amount and to any other terms and conditions that are specified by the Lieutenant Governor in Council. 2004, c. 23, Sched. A, s. 29.

Payment from C.R.F.

(2) The Minister of Finance may pay out of the Consolidated Revenue Fund any amount required for the purposes of subsection (1). 2004, c. 23, Sched. A, s. 29.

Delegation

(3) In an order under subsection (1), the Lieutenant Governor in Council may delegate to an officer or employee of the Crown or an agency of the Crown or to a solicitor engaged to act for the Minister of Finance, any or all of the powers of the Minister of Finance under this section. 2004, c. 23, Sched. A, s. 29.

Fees payable to Minister of Finance

(4) The OPA shall pay to the Minister of Finance such fees as are prescribed by the regulations in respect of securities purchased and sums loaned under this section. 2004, c. 23, Sched. A, s. 29.

Reimbursement of costs incurred by the Crown

25.18 (1) The OPA shall reimburse the Crown or, if so directed by the Minister of Finance, an agency of the Crown for costs relating to the OPA, a procurement contract, an initiative described in clause 25.32

(4) (a) or a matter within the objects of the OPA, if,

(a) the costs were incurred by the Crown or an agency of the Crown after January 20, 2004 and before the Board's first approval of the OPA's procurement process under subsection 25.31 (4); or

(b) the liability of the Crown or an agency of the Crown for the costs arose during the period described in clause (a). 2004, c. 23, Sched. A, s. 29.

Payment of reimbursement

(2) The OPA shall make the reimbursement by making one or more payments in such amount or amounts at such time or times as may be determined by the Minister of Finance. 2004, c. 23, Sched. A, s. 29.

Minister's determinations final

(3) The determinations of the Minister under subsection (2) are final and conclusive and shall not be stayed, varied or set aside by any court. 2004, c. 23, Sched. A, s. 29.

25.19 Repealed: 1998, c. 15, Sched. A, s. 25.19 (3). See: 2004, c. 23, Sched. A, s. 30.

Fees and charges

25.20 (1) The OPA may establish and impose fees and charges to recover,

- (a) the costs of doing anything the OPA is required or permitted to do under this or any other Act; and
- (b) any other type of expenditure the recovery of which is permitted by the regulations, subject to any limitations and restrictions set out in the regulations. 2004, c. 23, Sched. A, s. 31 (1).

Collection

(2) The IESO shall, in accordance with the regulations, collect and pay to the OPA all fees and charges payable to the OPA. 2004, c. 23, Sched. A, s. 31 (1).

May recover costs of procurement contracts

(3) For greater certainty, the OPA may, subject to the regulations, establish and impose charges to recover from consumers its costs and payments under procurement contracts. 2004, c. 23, Sched. A, s. 31 (2).

Board deemed to approve recovery

(4) The OPA's recovery of its costs and payments related to procurement contracts shall be deemed to be approved by the Board. 2004, c. 23, Sched. A, s. 31 (2).

Review of requirements and fees

25.21 (1) The OPA shall, at least 60 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Board for review, but shall not do so until after the Minister approves or is deemed to approve the OPA's proposed business plan for the fiscal year under section 25.22. 2004, c. 23, Sched. A, s. 32.

Board's powers

(2) The Board may approve the proposed requirements and the proposed fees or may refer them back to the OPA for further consideration with the Board's recommendations. 2004, c. 23, Sched. A, s. 32.

Same

(3) In reviewing the OPA's proposed requirements and proposed fees, the Board shall not take into consideration the remuneration and benefits of the chair and other members of the board of directors of the OPA. 2004, c. 23, Sched. A, s. 32.

Changes in fees

(4) The OPA shall not establish, eliminate or change any fees without the approval of the Board. 2004, c. 23, Sched. A, s. 32.

Hearing

(5) The Board may hold a hearing before exercising its powers under this section, but it is not required to do so. 2004, c. 23, Sched. A, s. 32.

(6), (7) Repealed: 2009, c. 33, Sched. 14, s. 2 (3).

Business plan

25.22 (1) At least 90 days before the beginning of its 2006 and each subsequent fiscal year, the OPA shall submit its proposed business plan for the fiscal year to the Minister for approval. 2004, c. 23, Sched. A, s. 32.

Minister's approval

(2) The Minister may approve the proposed business plan or refer it back to the OPA for further consideration. 2004, c. 23, Sched. A, s. 32.

Deemed approval

(3) If the Minister does not approve the proposed business plan and does not refer it back to the OPA for further consideration at least 70 days before the beginning of the fiscal year to which it relates, the Minister shall be deemed to have approved the OPA's proposed business plan for the fiscal year. 2004, c. 23, Sched. A, s. 32.

(4) Repealed: 2009, c. 33, Sched. 14, s. 2 (4).

Auditor

25.23 The board of directors of the OPA shall appoint one or more auditors licensed under the Public Accountancy Act to audit annually the accounts and transactions of the OPA. 2004, c. 23, Sched. A, s. 32.

Auditor General

25.24 The Auditor General may audit the accounts and transactions of the OPA. 2004, c. 23, Sched. A, s. 32; 2008, c. 7, Sched. G, s. 3.

Annual report

25.25 (1) The OPA shall, within 90 days after the end of every fiscal year, submit to the Minister an annual report on its affairs during that fiscal year, signed by the chair of its board of directors. 2004, c. 23, Sched. A, s. 32.

Financial statements

(2) The audited financial statements of the OPA shall be included in the annual report. 2004, c. 23, Sched. A, s. 32.

Tabling

(3) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 2004, c. 23, Sched. A, s. 32.

Other persons

(4) The OPA may give its annual report to other persons before the Minister complies with subsection (3). 2004, c. 23, Sched. A, s. 32.

Other reports

25.26 (1) The OPA shall submit to the Minister such reports and information as the Minister may require from time to time. 2004, c. 23, Sched. A, s. 32.

Same

(2) The OPA shall submit to the Minister of Finance and the Minister such reports and information as the Minister of Finance may require from time to time. 2004, c. 23, Sched. A, s. 32.

Information to Board

25.27 The OPA shall provide the Board with such information as the Board may require from time to time. 2004, c. 23, Sched. A, s. 32.

Application of corporations statutes

25.28 Except as otherwise provided by the regulations, the Corporations Act and the Corporations Information Act do not apply to the OPA. 2004, c. 23, Sched. A, s. 32.

PART II.2

MANAGEMENT OF ELECTRICITY SUPPLY, CAPACITY AND DEMAND

Assessment of electricity resources

25.29 (1) The OPA shall make an assessment of the adequacy and reliability of electricity resources with respect to anticipated electricity supply, capacity, reliability and demand for each assessment period prescribed by the regulations. 2004, c. 23, Sched. A, s. 33.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "The OPA" at the beginning and substituting "The IESO". (See: 2014, c. 7, Sched. 7, ss. 4 (1), 17 (1))

Same

(2) As part of an assessment under subsection (1), the OPA shall consider generation and transmission capacities and technologies and conservation measures. 2004, c. 23, Sched. A, s. 33.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 4 (2), 17 (1))

Integrated power system plan

25.30 (1) Once during each period prescribed by the regulations, or more frequently if required by the Minister or the Board, the OPA shall develop and submit to the Board an integrated power system plan,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “the OPA” in the portion before clause (a) and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 5 (1), 17 (1))

(a) that is designed to assist, through effective management of electricity supply, transmission, capacity and demand, the achievement by the Government of Ontario of,

(i) its goals relating to the adequacy and reliability of electricity supply, including electricity supply from alternative energy sources and renewable energy sources, and

(ii) its goals relating to demand management; and

(b) that encompasses such other related matters as may be prescribed by the regulations. 2004, c. 23, Sched. A, s. 34.

Minister’s directives

(2) The Minister may issue, and the OPA shall follow in preparing its integrated power system plans, directives that have been approved by the Lieutenant Governor in Council that set out the goals to be achieved during the period to be covered by an integrated power system plan, including goals relating to,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out “the OPA” in the portion before clause (a) and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 5 (2), 17 (1))

(a) the production of electricity from particular combinations of energy sources and generation technologies;

(b) increases in generation capacity from alternative energy sources, renewable energy sources or other energy sources;

(c) the phasing-out of coal-fired generation facilities; and

(d) the development and implementation of conservation measures, programs and targets on a system-wide basis or in particular service areas. 2004, c. 23, Sched. A, s. 34.

Publication

(3) A directive issued under subsection (2) shall be published in The Ontario Gazette. 2004, c. 23, Sched. A, s. 34.

Review of integrated power system plan

(4) The Board shall review each integrated power system plan submitted by the OPA to ensure it complies with any directions issued by the Minister and is economically prudent and cost effective.

2004, c. 23, Sched. A, s. 34.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 5 (3), 17 (1))

Board’s powers

(5) After review, the Board may approve a plan or refer it back with comments to the OPA for further consideration and resubmission to the Board. 2004, c. 23, Sched. A, s. 34.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (5) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 5 (4), 17 (1))

Deadline for review

(6) The Board shall carry out the review of an integrated power system plan under subsection (4) within such time as the Minister directs. 2004, c. 23, Sched. A, s. 34.

Procurement process for electricity supply, etc.

25.31 (1) The OPA shall develop appropriate procurement processes for managing electricity supply, capacity and demand in accordance with its approved integrated power system plans. 2004, c. 23, Sched. A, s. 35.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “The OPA” at the beginning and substituting “The IESO”. (See: 2014, c. 7, Sched. 7, ss. 6 (1), 17 (1))

Same

(2) The OPA’s procurement processes must provide for simpler procurement processes for electricity supply or capacity to be generated using alternative energy sources or renewable energy sources, or both, where the supply or capacity or the generation facility or unit satisfies the prescribed conditions. 2004, c. 23, Sched. A, s. 35.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out “The OPA’s” at the beginning and substituting “The IESO’s”. (See: 2014, c. 7, Sched. 7, ss. 6 (2), 17 (1))

Application for approval

(3) The OPA shall apply to the Board for approval of its proposed procurement processes, and any amendments it proposes. 2004, c. 23, Sched. A, s. 35.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (3) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 6 (3), 17 (1))

Application for approval

(3) The IESO shall apply to the Board for approval of its proposed procurement processes, and any amendments it proposes. 2014, c. 7, Sched. 7, s. 6 (3).

Board approval

(4) The Board shall review the OPA’s proposed procurement processes and any proposed amendments and may approve the procurement processes or refer all or part of them back with comments to the OPA for further consideration and resubmission to the Board. 2004, c. 23, Sched. A, s. 35.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 6 (4), 17 (1))

Board approval

(4) The Board shall review the IESO’s proposed procurement processes and any proposed amendments and may approve the procurement processes or refer all or part of them back with comments to the IESO for further consideration and resubmission to the Board. 2014, c. 7, Sched. 7, s. 6 (4).

Deadline for review

(5) The Board shall carry out the review of the proposed procurement processes and any proposed amendments within such time as the Minister directs. 2004, c. 23, Sched. A, s. 35.

Procurement contracts

25.32 (1) When the OPA considers it advisable, it shall enter into contracts in accordance with procurement processes approved under section 25.31 for the procurement of,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out the portion before clause (a) and substituting the following: (See: 2014, c. 7, Sched. 7, ss. 7 (1), 17 (1))

Procurement contracts

(1) When the IESO considers it advisable, it shall enter into contracts in accordance with procurement processes approved under section 25.31 for the procurement of,

(a) electricity supply or capacity, including supply or capacity to be generated using alternative energy sources, renewable energy sources or both; or

(b) measures that will manage electricity demand or result in the improved management of electricity demand on an on-going or emergency basis. 2004, c. 23, Sched. A, s. 36.

Contract to comply with regulations and directions

(2) The OPA shall not enter into a procurement contract that does not comply with,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out "The OPA" at the beginning of the portion before clause (a) and substituting "The IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (2), 17 (1))

(a) the regulations; or

(b) a direction issued under subsection (4), (4.1), (4.4), (4.5), (4.6) or (4.7) or section 25.35. 2009, c. 12, Sched. B, s. 5 (1).

Resolution of procurement contract disputes

(3) The parties to a procurement contract shall ensure that the contract provides a mechanism to resolve any disputes between them with respect to the contract. 2004, c. 23, Sched. A, s. 36.

Transition

(4) Despite subsection (2), the Minister may direct the OPA to assume, as of such date as the Minister considers appropriate, responsibility for exercising all powers and performing all duties of the Crown, including powers and duties to be exercised and performed through an agency of the Crown,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out "the OPA" in the portion before clause (a) and substituting "the IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (3), 17 (1))

(a) under any request for proposals, draft request for proposals, another form of procurement solicitation issued by the Crown or through an agency of the Crown or any other initiative pursued by the Crown or through an agency of the Crown,

(i) that was issued or pursued after January 1, 2004 and before the Board's first approval of the OPA's procurement process under subsection 25.31 (4), and

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (i) is amended by striking out "the OPA's" and substituting "the IESO's". (See: 2014, c. 7, Sched. 7, ss. 7 (4), 17 (1))

(ii) that relates to the procurement of electricity supply or capacity or reductions in electricity demand or to measures for the management of electricity demand; and

(b) under any contract entered into by the Crown or an agency of the Crown pursuant to a procurement solicitation or other initiative referred to in clause (a). 2004, c. 23, Sched. A, s. 36.

Same

(4.1) The Minister may direct the OPA to undertake any request for proposal, any other form of procurement solicitation or any other initiative or activity that relates to,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.1) is amended by striking out "the OPA" in the portion before clause (a) and substituting "the IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (5), 17 (1))

(a) the procurement of electricity supply or capacity derived from renewable energy sources;

(b) reductions in electricity demand; or

(c) measures related to conservation or the management of electricity demand. 2009, c. 12, Sched. B, s. 5 (2).

Direction re process

(4.2) The Minister may, as part of a direction under subsection (4.1), specify that the OPA is to use a competitive or a non-competitive process as part of the initiative or activity. 2009, c. 12, Sched. B, s. 5 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.2) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 7 (6), 17 (1))

Direction re pricing

(4.3) A direction issued by the Minister under subsection (4.1) may allow the Minister to specify the pricing or other economic factors to be used or achieved by the OPA. 2009, c. 12, Sched. B, s. 5 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.3) is amended by striking out “the OPA” at the end and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 7 (7), 17 (1))

Directions re consultation

(4.4) The Minister may direct the OPA to implement procedures for consulting aboriginal peoples and other persons or groups as may be specified in the direction, on the planning, development or procurement of electricity supply, capacity, transmission systems and distribution systems and the direction may specify the manner or method by which such consultations shall occur and the timing within which such consultations shall occur. 2009, c. 12, Sched. B, s. 5 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.4) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 7 (8), 17 (1))

Direction re programs for aboriginal participation

(4.5) The Minister may direct the OPA to establish measures to facilitate the participation of aboriginal peoples in the development of renewable energy generation facilities, transmission systems and distribution systems and such measures may include programs or funding for, or associated with, aboriginal participation in the development of such facilities or systems. 2009, c. 12, Sched. B, s. 5 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.5) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 7 (9), 17 (1))

Direction re programs for participation of groups

(4.6) The Minister may direct the OPA to establish measures to facilitate the development of renewable energy generation facilities, transmission systems and distribution systems and the measures may include programs or funding for or associated with the participation of groups and organizations, including but not limited to municipalities, in the development of the facilities or systems. 2009, c. 12, Sched. B, s. 5 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.6) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 7 (10), 17 (1))

Direction re municipal programs

(4.7) The Minister may direct the OPA to develop programs that are designed to reimburse the direct costs incurred by a municipality in order to facilitate the development of renewable energy generation facilities, transmission systems and distribution systems and the funding may include funding for infrastructure associated with or affected by the development of the facilities or systems. 2009, c. 12, Sched. B, s. 5 (2).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4.7) is amended by striking out “the OPA” and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 7 (11), 17 (1))

Release of the Crown, etc.

(5) As of the day specified in the Minister's direction under subsection (4), the OPA shall assume responsibility in accordance with that subsection and the Crown and any Crown agency referred to in that subsection are released from any and all liabilities and obligations with respect to the matters for which the OPA has assumed responsibility. 2004, c. 23, Sched. A, s. 36.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (5) is amended by striking out "the OPA" wherever it appears and substituting in each case "the IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (12), 17 (1))

Deemed compliance

(6) The following contracts shall be deemed to be procurement contracts entered into in accordance with any integrated power system plan and procurement process approved by the Board:

1. A contract entered into by the OPA following a procurement solicitation or other initiative referred to in clause (4) (a).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, paragraph 1 is amended by striking out "the OPA" and substituting "the IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (13), 17 (1))

2. A contract referred to in clause (4) (b).

3. A contract entered into by the OPA following a procurement solicitation or other initiative referred to in subsection (4.1), (4.4), (4.5) or (4.6) or section 25.35 or an expenditure made under subsection (4.7). 2004, c. 23, Sched. A, s. 36; 2009, c. 12, Sched. B, s. 5 (3).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, paragraph 3 is amended by striking out "the OPA" and substituting "the IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (14), 17 (1))

Same

(7) The OPA shall enter into any contract following a procurement solicitation or other initiative referred to in clause (4) (a) if directed to do so by the Minister of Energy, and that contract shall be deemed to be a procurement contract that was entered into in accordance with any integrated power system plan and procurement process approved by the Board. 2004, c. 23, Sched. A, s. 36.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (7) is amended by striking out "The OPA" at the beginning and substituting "The IESO". (See: 2014, c. 7, Sched. 7, ss. 7 (15), 17 (1))

Electricity pricing to reflect costs

IESO to make adjustments

25.33 (1) The IESO shall, through its billing and settlement systems, make adjustments in accordance with the regulations that ensure that, over time, payments by classes of market participants in Ontario that are prescribed by regulation reflect amounts paid, in accordance with the regulations, to generators, distributors, the OPA and the Financial Corporation, whether the amounts are determined under the market rules or under sections 78.1 to 78.5 of the Ontario Energy Board Act, 1998. 2009, c. 12, Sched. B, s. 6 (1).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 8 (1), 17 (1))

Electricity pricing to reflect costs

IESO to make adjustments

(1) The IESO shall, through its billing and settlement systems, make adjustments in accordance with the regulations that ensure that, over time, payments by classes of market participants in Ontario that are prescribed by regulation reflect,

(a) amounts paid to generators, the Financial Corporation and distributors, whether the amounts are determined under the market rules or under section 78.1, 78.2 or 78.5 of the Ontario Energy Board Act, 1998; and

(b) amounts paid to entities with whom the IESO has a procurement contract, as determined under the procurement contract. 2014, c. 7, Sched. 7, s. 8 (1).

Distributors and retailers to make adjustments

(2) Distributors and retailers shall, through their billing systems, make adjustments in accordance with the regulations that ensure that, over time, payments by classes of consumers in Ontario that are prescribed by regulation reflect amounts paid, in accordance with the regulations, to generators, distributors, the OPA and the Financial Corporation, whether the amounts are determined under the market rules or under sections 78.1 to 78.5 of the Ontario Energy Board Act, 1998. 2009, c. 12, Sched. B, s. 6 (1).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 8 (2), 17 (1))

Distributors and retailers to make adjustments

(2) Distributors and retailers shall, through their billing systems, make adjustments in accordance with the regulations that ensure that, over time, payments by classes of consumers in Ontario that are prescribed by regulation reflect,

(a) amounts paid to generators, the Financial Corporation and distributors, whether the amounts are determined under the market rules or under section 78.1, 78.2 or 78.5 of the Ontario Energy Board Act, 1998; and

(b) amounts paid to entities with whom the IESO has a procurement contract, as determined under the procurement contract. 2014, c. 7, Sched. 7, s. 8 (2).

Exception

(3) Any adjustment that would otherwise be made under subsection (1) or (2) and that relates to electricity that is consumed by any of the following types of consumers shall instead be made in accordance with the regulations to one or more variance accounts established and maintained by the OPA:

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (3) is amended by striking out “the OPA” in the portion before paragraph 2 and substituting “the IESO”. (See: 2014, c. 7, Sched. 7, ss. 8 (3), 17 (1))

1. Repealed: 2009, c. 12, Sched. B, s. 6 (2).

2. A consumer whose rates are determined by the Board under section 79.16 of the Ontario Energy Board Act, 1998.

3. A consumer who is a member of a class of consumers prescribed by the regulations. 2004, c. 23, Sched. A, s. 37; 2009, c. 12, Sched. B, s. 6 (2).

Adjustments, payments, set-offs and credits

(4) The OPA, the IESO, distributors and retailers shall,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “The OPA, the IESO” at the beginning and substituting “The IESO”. (See: 2014, c. 7, Sched. 7, ss. 8 (4), 17 (1))

(a) make such adjustments in their accounts as may be required or permitted by the regulations to record adjustments described in subsections (1), (2) and (3); and

(b) make and receive such payments, set-offs and credits as may be required or permitted by the regulations with respect to consumers described in subsection (3). 2004, c. 23, Sched. A, s. 37.

Variance accounts

(5) The OPA shall establish and maintain such variance accounts as may be necessary to record all amounts payable or receivable by it under this section. 2004, c. 23, Sched. A, s. 37.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (5) is amended by striking out “The OPA” at the beginning and substituting “The IESO”. (See: 2014, c. 7, Sched. 7, ss. 8 (5), 17 (1))

Compliance

(6) The Board shall ensure that adjustments, payments, set-offs and credits required or permitted under this section are made in accordance with the regulations. 2004, c. 23, Sched. A, s. 37.

Adjustment not assignable

(7) An adjustment made under subsection (1) or (2) is not assignable by a consumer in a contract with a retailer, whether the contract is entered into before or after this section comes into force. 2004, c. 23, Sched. A, s. 37.

No cause of action

(8) No cause of action against a consumer, a retailer or the Crown arises as the result of a contract or a term of a contract ceasing to have effect because of the operation of subsection (7). 2004, c. 23, Sched. A, s. 37.

Payments with respect to certain retail contracts

25.34 (1) The OPA shall make and receive such payments as may be required by the regulations with respect to contracts prescribed by the regulations that were in effect on November 11, 2002 between retailers and consumers. 2004, c. 23, Sched. A, s. 38.

Payments

(2) The OPA, the IESO, distributors and retailers shall make and receive such payments, set-offs and credits relating to payments referred to in subsection (1) as may be required by the regulations. 2004, c. 23, Sched. A, s. 38.

Compliance

(3) The Board shall ensure that payments, set-offs and credits required under this section are made in accordance with the regulations. 2004, c. 23, Sched. A, s. 38.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, section 25.34 is repealed. (See: 2014, c. 7, Sched. 7, ss. 9, 17 (1))

Feed-in tariff program

25.35 (1) The Minister may direct the OPA to develop a feed-in tariff program that is designed to procure energy from renewable energy sources under such circumstances and conditions, in consideration of such factors and within such period as the Minister may require. 2009, c. 12, Sched. B, s. 7.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "the OPA" and substituting "the IESO". (See: 2014, c. 7, Sched. 7, ss. 10 (1), 17 (1))

Minister's directions

(2) Where the Minister has issued a direction under subsection (1), the Minister may issue, and the OPA shall follow in preparing its feed-in tariff program, directions that set out the goals to be achieved during the period to be covered by the program, including goals relating to,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out "the OPA shall follow" in the portion before clause (a) and substituting "the IESO shall follow". (See: 2014, c. 7, Sched. 7, ss. 10 (2), 17 (1))

(a) the participation by aboriginal peoples in the development and establishment of renewable energy projects; and

(b) the involvement of members of the local community in the development and establishment of renewable energy projects. 2009, c. 12, Sched. B, s. 7.

(3) Repealed: 2014, c. 7, Sched. 7, s. 10 (3).

Definition

(4) In this section,

"feed-in tariff program" means a program for procurement, including a procurement process, providing standard program rules, standard contracts and standard pricing regarding classes of generation

facilities differentiated by energy source or fuel type, generator capacity and the manner by which the generation facility is used, deployed, installed or located. 2009, c. 12, Sched. B, s. 7.

PART III

THE ELECTRICITY MARKETS

Access to Transmission and Distribution Systems

Mandatory connection to transmission or distribution system

25.36 (1) A transmitter or distributor shall connect a renewable energy generation facility to its transmission system or distribution system in accordance with the regulations, the market rules and any licence issued by the Board if,

(a) the generator requests the connection in writing; and

(b) the applicable technical, economic and other requirements prescribed by regulation or mandated by the market rules or by an order or code issued by the Board have been met in respect of the connection.

2009, c. 12, Sched. B, s. 8.

Conflicts

(2) In the event of a conflict between a regulation referred to in subsection (1) and an order or code issued by the Board, the regulation prevails. 2009, c. 12, Sched. B, s. 8.

Regulations

(3) A regulation referred to in subsection (1) may specify requirements which must be met in relation to the connection of renewable energy generation facilities to a transmitter's transmission system or a distributor's distribution system. 2009, c. 12, Sched. B, s. 8.

Information re connections

25.37 (1) A distributor, transmitter, the OPA and the IESO shall provide such information as may be prescribed by regulation about the distribution system's or transmission system's ability to accommodate generation from a renewable energy generation facility and the information shall be current and prospective in nature and be made available to the public. 2009, c. 12, Sched. B, s. 9.

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "A distributor, transmitter, the OPA and the IESO" at the beginning and substituting "A distributor, transmitter and the IESO". (See: 2014, c. 7, Sched. 7, ss. 11, 17 (1))

Completion time re connection assessments

(2) Connection assessments described in the Board's Distribution System Code and the IESO market rules shall be completed in the time prescribed by regulation. 2009, c. 12, Sched. B, s. 9.

Providing information and reports

(3) The IESO, a transmitter or a distributor shall file with the Board, on a quarterly basis, the information and reports that are prescribed by regulation relating to their ability to meet the prescribed time requirements referred to in subsection (2). 2009, c. 12, Sched. B, s. 9.

Immediate publication

(4) The Board may publish the information and reports referred to in subsection (3) immediately upon their receipt. 2009, c. 12, Sched. B, s. 9.

Non-discriminatory access

26. (1) A transmitter or distributor shall provide generators, retailers and consumers with non-discriminatory access to its transmission or distribution systems in Ontario in accordance with its licence. 1998, c. 15, Sched. A, s. 26 (1).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "generators, retailers and consumers" and substituting "generators, retailers, market participants and consumers". (See: 2014, c. 7, Sched. 7, ss. 12, 17 (1))

Priority access re renewable energy generation facilities

(1.1) Despite subsection (1), a transmitter or distributor shall provide, in accordance with its licence, priority connection access to its transmission system or distribution system for a renewable energy generation facility that meets the requirements prescribed by regulation. 2009, c. 12, Sched. B, s. 10.

Conflicts

(1.2) In the event of a conflict between a regulation referred to in subsection (1.1) and a market rule or licence issued by the Board, the regulation prevails. 2009, c. 12, Sched. B, s. 10.

Regulations

(1.3) A regulation referred to in subsection (1.1) may specify criteria related to the renewable energy generation facility which must be met in order for the facility to receive priority connection access.

2009, c. 12, Sched. B, s. 10.

Same

(2) Until subsection (1) comes into force, a transmitter or distributor prescribed by the regulations shall provide a generator, retailer or consumer prescribed by the regulations with non-discriminatory access to its transmission or distribution systems in Ontario in accordance with its licence. 1998, c. 15, Sched. A, s. 26 (2).

Previous contracts with Ontario Hydro

(3) Any contract entered into between Ontario Hydro and a municipal corporation or any other person before December 11, 1998 for the supply of electricity to the municipal corporation or other person ceases to have effect on the day subsection (1) comes into force. 1998, c. 15, Sched. A, s. 26 (3); 2002, c. 1, Sched. A, s. 5 (1).

Previous contracts with municipal corporation

(4) Any contract entered into between a municipal corporation and any person before December 11, 1998 for the supply of electricity to the person ceases to have effect on the day subsection (1) comes into force. 1998, c. 15, Sched. A, s. 26 (4); 2002, c. 1, Sched. A, s. 5 (2).

Low-volume consumers

(5) Subsections (3) and (4) do not apply to a contract for the supply of electricity to a low-volume consumer. 1998, c. 15, Sched. A, s. 26 (5).

Same

(6) A contract for the sale of electricity between a low-volume consumer and a person who, at the time the contract was entered into, was not authorized under the Ontario Energy Board Act, 1998 to retail electricity ceases to have effect on the date subsection (1) comes into force unless, after the person becomes authorized under the Ontario Energy Board Act, 1998 to retail electricity and before the date subsection (1) comes into force, the low-volume consumer re-affirms the contract in writing. 1998, c. 15, Sched. A, s. 26 (6).

No cause of action

(7) No cause of action arises as a result of a contract ceasing to have effect under subsection (3), (4) or (6). 1998, c. 15, Sched. A, s. 26 (7).

Return of prepayment

(8) Despite subsection (7), a person to whom electricity was to be supplied under a contract referred to in subsection (3) or (4), or a low-volume consumer to whom electricity was to be sold under a contract referred to in subsection (6), may recover any amount paid under the contract before the day the contract ceased to have effect in respect of electricity that was to be supplied on or after that day. 1998, c. 15, Sched. A, s. 26 (8).

Application of subss. (3), (4) and (6)

(9) Subsections (3), (4) and (6) do not apply to contracts prescribed by the regulations. 1998, c. 15, Sched. A, s. 26 (9).

Definition

(10) In this section,

“low-volume consumer” means a person who annually uses less than the amount of electricity prescribed by the regulations. 1998, c. 15, Sched. A, s. 26 (10).

Use of IESO-controlled grid

27. A person shall not cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid except in accordance with this Act and the market rules. 2004, c. 23, Sched. A, s. 39.

Distributor’s obligation to connect

28. A distributor shall connect a building to its distribution system if,

- (a) the building lies along any of the lines of the distributor’s distribution system; and
- (b) the owner, occupant or other person in charge of the building requests the connection in writing.

1998, c. 15, Sched. A, s. 28.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Manner of connection

28.1 A distributor to whom section 28 applies shall connect a building to its distribution system in such manner as may be prescribed by regulation, under such circumstances as may be prescribed by regulation, for such properties or classes of properties as may be prescribed by regulation, and for such consumers or classes of consumers as may be prescribed by regulation. 2010, c. 8, s. 37 (3).

See: 2010, c. 8, ss. 37 (3), 40.

Distributor’s obligation to sell electricity

29. (1) A distributor shall sell electricity to every person connected to the distributor’s distribution system, except a person who advises the distributor in writing that the person does not wish to purchase electricity from the distributor. 1998, c. 15, Sched. A, s. 29 (1).

Same

(2) If, under subsection (1), a person has advised a distributor that the person does not wish to purchase electricity from the distributor, the person may at any time thereafter request the distributor in writing to sell electricity to the person and the distributor shall comply with the request in accordance with its licence. 1998, c. 15, Sched. A, s. 29 (2).

Same

(3) If a person connected to a distributor’s distribution system purchases electricity from a retailer other than the distributor and the retailer is unable for any reason to sell electricity to the person, the distributor shall sell electricity to the person. 1998, c. 15, Sched. A, s. 29 (3).

Exemptions

(4) The Board may exempt a distributor from any provision of this section if, after holding a hearing, the Board is satisfied that there is sufficient competition among retailers in the distributor’s service area. 1998, c. 15, Sched. A, s. 29 (4).

Same

(5) An exemption under subsection (4) may be subject to such conditions and restrictions as may be specified by the Board. 1998, c. 15, Sched. A, s. 29 (5).

Same

(6) The Board shall not exempt a distributor entirely from all the provisions of this section unless, after holding a hearing, the Board is satisfied that consumers in the distributor’s service area will continue to have access to electricity. 1998, c. 15, Sched. A, s. 29 (6).

Conservation measures

29.1 (1) Subject to section 71 of the Ontario Energy Board Act, 1998 and such limits and criteria as may be prescribed by the regulations, a transmitter, distributor or the OPA may provide services that would assist the Government of Ontario in achieving its goals in electricity conservation, including services related to,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “or the OPA” in the portion before clause (a) and substituting “or the IESO”.

(See: 2014, c. 7, Sched. 7, ss. 13, 17 (1))

(a) the promotion of electricity conservation and the efficient use of electricity;

(b) electricity load management; or

(c) the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources. 2004, c. 23, Sched. A, s. 40.

Same

(2) Nothing in subsection (1) allows a distributor or transmitter to generate electricity by any means except through an affiliate approved by the Board under section 71 of the Ontario Energy Board Act, 1998. 2004, c. 23, Sched. A, s. 40.

Allocation during emergencies, etc.

30. (1) If the supply of electricity to a distributor is interrupted or reduced as a result of an emergency or a breakdown, repair or extension of a transmission or distribution system, the distributor may allocate the available electricity among the consumers in its service area. 1998, c. 15, Sched. A, s. 30 (1).

No breach of contract

(2) An allocation of electricity under subsection (1) shall be deemed not to be a breach of any contract. 1998, c. 15, Sched. A, s. 30 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Security criteria

30.1 (1) Where a distributor or suite meter provider requires security for the payment of charges related to electricity by or on behalf of a prescribed consumer or a member of a prescribed class of consumers, the distributor or suite meter provider shall,

(a) meet the criteria or requirements prescribed by regulation; and

(b) satisfy the criteria or requirements in any order made by the Board or code issued by the Board.

2010, c. 8, s. 37 (4).

Security, requirements, etc.

(2) If required to do so by regulation, a distributor or suite meter provider shall,

(a) meet specific requirements in relation to any security being required by it in respect of consumers or members of a class of consumers;

(b) accept forms of security prescribed by regulation and, in circumstances prescribed by regulation, shall forego any requirement for security; and

(c) provide consumers or classes of consumers prescribed by regulation with alternative security arrangements, which meet the criteria prescribed by regulation, where the conditions or circumstances prescribed by regulation are satisfied by the consumers or classes of consumers. 2010, c. 8, s. 37 (4).

Additional requirements

(3) In addition to the matters referred to in subsection (2), a distributor or suite meter provider shall comply with such other requirements with respect to security as may be prescribed. 2010, c. 8, s. 37 (4).

Definition

(4) For the purposes of this section,

“security” has the meaning as may be prescribed by regulation. 2010, c. 8, s. 37 (4).

See: 2010, c. 8, ss. 37 (4), 40.

Termination of service

31. (1) A distributor may shut off the distribution of electricity to a property if any amount payable by a person for the distribution or retail of electricity to the property pursuant to section 29 is overdue. 1998, c. 15, Sched. A, s. 31 (1).

Notice

(2) A distributor shall provide reasonable notice of the proposed shut-off to the person who is responsible for the overdue amount by personal service or prepaid mail or by posting the notice on the property in a conspicuous place. 1998, c. 15, Sched. A, s. 31 (2).

Recovery of amount

(3) A distributor may recover all amounts payable despite shutting off the distribution of electricity. 1998, c. 15, Sched. A, s. 31 (3).

Exception

(4) A distributor shall not shut off the distribution of electricity to a property under subsection (1) during the period that begins on the day this subsection comes into force and ends on March 31, 2003 or during any other period prescribed by the regulations. 2002, c. 23, s. 3 (7).

Restoration of electricity

(5) If a distributor shuts off the distribution of electricity to a property under subsection (1) after November 11, 2002 and before April 1, 2003, or during a period prescribed by the regulations, the distributor shall, as soon as possible,

(a) restore, without charge, the distribution of electricity to the property; and

(b) compensate any person who suffered a loss as a result of the shut-off of electricity. 2002, c. 23, s. 3 (7).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 31 is repealed and the following substituted:

Termination of service

31. (1) A distributor or suite meter provider may shut off the distribution of electricity to a property,
(a) if any amount payable by a person for the distribution or retail of electricity to the property pursuant to section 29 or Part III of the Energy Consumer Protection Act, 2010 is overdue; and
(b) if the shutting off of the distribution of electricity to the property complies with any condition of a licence of the distributor or suite-meter provider included in the licence under clause 70 (2) (d.1) of the Ontario Energy Board Act, 1998. 2010, c. 8, s. 37 (5).

Notice, to whom

(2) A distributor or suite meter provider shall provide reasonable notice of the proposed shut-off of the distribution of electricity to,

(a) the person who is responsible for the overdue amount; and

(b) any other person who resides at the property who meets the criteria prescribed by regulation. 2010, c. 8, s. 37 (5).

Notice, means

(3) The notice of the proposed shut-off of the distribution of electricity shall be provided,

(a) by personal service, prepaid mail or posting the notice in a conspicuous place on the property where the electricity is distributed; or

(b) by such other means or in such manner as is prescribed by regulation. 2010, c. 8, s. 37 (5).

Notice, information and manner of presentation

(4) The notice of the proposed shut-off of the distribution of electricity shall contain such information as may be prescribed by regulation and the information shall be presented in such manner as may be prescribed by regulation. 2010, c. 8, s. 37 (5).

Recovery of amount

(5) A distributor or suite meter provider may recover all amounts payable despite shutting off the distribution of electricity. 2010, c. 8, s. 37 (5).

Exception

(6) A distributor or suite meter provider shall not shut off the distribution of electricity to a property where it has received by the time prescribed by regulation such information as may be prescribed by

regulation about the consumer or member of a class of consumers prescribed by regulation who resides at the property under such circumstances as may be prescribed by regulation,

(a) where the consumer does such things, or takes such steps or actions as may be prescribed by the regulations or provides such information as may be prescribed by the regulations to the distributor, the suite meter provider, the Board or such other entity as may be prescribed by regulation; or

(b) during any period prescribed by the regulations. 2010, c. 8, s. 37 (5).

Same

(7) For the purposes of subsection (6), where a regulation requires that a thing be done, a step be taken or information be provided by a certain date, a distributor shall not shut off the distribution of electricity to the property before the time prescribed by regulation has elapsed. 2010, c. 8, s. 37 (5).

Same, different steps

(8) For the purposes of subsection (6), a prescribed consumer or a member of a prescribed class of consumers may be required to take different prescribed steps during the different prescribed periods provided for under that subsection. 2010, c. 8, s. 37 (5).

Restoration of electricity

(9) If a distributor or suite meter provider shuts off the distribution of electricity to a property in contravention of this section, the distributor or suite meter provider shall, as soon as possible,

(a) restore, without charge, the distribution of electricity to the property; and

(b) compensate any person who suffered a loss as a result of the shut-off of electricity. 2010, c. 8, s. 37 (5).

See: 2010, c. 8, ss. 37 (5), 40.

Emergency termination of service

31.1 (1) A distributor may shut off the distribution of electricity to a property without notice if the distributor has reason to believe that a condition exists in respect of the property that threatens or is likely to threaten,

(a) the safety of any person; or

(b) the reliability of all or part of the distribution system. 2005, c. 33, s. 5.

Notice

(2) The distributor shall,

(a) give the Electrical Safety Authority written notice of the shut-off under subsection (1) as soon as possible afterwards; and

(b) post a notice of the shut-off under subsection (1) in a conspicuous place on the property within 10 days afterwards. 2005, c. 33, s. 5.

Same

(3) The notices under subsection (2) shall set out the reasons for the shut-off and the notice posted under clause (2) (b) shall describe the right to a review by the Board, as provided by subsection (6). 2005, c. 33, s. 5.

Restoration of electricity

(4) At the request of the owner or occupier of the property to have the distribution of electricity to the property restored, the distributor shall assess the conditions existing in respect of the property and, subject to any requirements under Part VIII, shall restore the distribution of electricity to the property as soon as possible after the distributor is satisfied that neither of the conditions described in clauses (1)

(a) and (b) exists in respect of the property. 2005, c. 33, s. 5.

Limit

(5) Despite subsection (4), the distributor is not required to assess the conditions existing in respect of the property more than once every five days. 2005, c. 33, s. 5.

Application for review

(6) The owner or occupier of the property may file an application in writing to the Board to have the distribution of electricity to the property restored, but may not file an application with the Board without first making a request to the distributor under subsection (4). 2005, c. 33, s. 5.

Same

(7) The Board shall forward a copy of an application filed under subsection (6) to the distributor before commencing its review. 2005, c. 33, s. 5.

Review by Board

(8) Upon receipt of an application under subsection (6), the Board shall review the matter and, upon the completion of its review, if it finds that the distributor acted unreasonably in shutting off the distribution of electricity to the property or in failing to restore the distribution of electricity to the property, may make an order directing the distributor to restore the distribution of electricity to the property, subject to any requirements under Part VIII. 2005, c. 33, s. 5.

Termination not a breach of contract

(9) If the Board finds that the distributor did not act unreasonably in shutting off the distribution of electricity to a property under subsection (1), the shut-off of the distribution of electricity to the property shall be deemed not to be a breach of any contract. 2005, c. 33, s. 5.

Market Rules

Market rules

32. (1) The IESO may make rules,

- (a) governing the IESO-controlled grid;
- (b) establishing and governing markets related to electricity and ancillary services; and
- (c) establishing and enforcing standards and criteria relating to the reliability of electricity service or the IESO-controlled grid, including standards and criteria relating to electricity supply generated from sources connected to a distribution system that alone or in aggregate could impact the reliability of electricity service or the IESO-controlled grid. 1998, c. 15, Sched. A, s. 32 (1); 2004, c. 23, Sched. A, s. 41 (1, 2); 2009, c. 12, Sched. B, s. 11 (1).

Examples

(2) Without limiting the generality of subsection (1), the market rules may include provisions,

- (a) governing the making and publication of market rules;
- (b) governing the conveying of electricity into, through or out of the IESO-controlled grid and the provision of ancillary services;
- (c) governing standards and procedures to be observed in system emergencies;
- (d) authorizing and governing the giving of directions by the IESO, including,
 - (i) for the purpose of maintaining the reliability of electricity service or the IESO-controlled grid, directions requiring persons, including persons providing electricity supply generated from sources connected to a distribution system, within such time as may be specified in the direction, to synchronize, desynchronize, increase, decrease or maintain electrical output, to take such other action as may be specified in the direction or to refrain from such action as may be specified in the direction, and
 - (ii) other directions requiring market participants, within such time as may be specified in the direction, to take such action or refrain from such action as may be specified in the direction, including action related to a system emergency; and
- (e) authorizing and governing the making of orders by the IESO, including orders,
 - (i) imposing financial penalties on market participants,
 - (ii) authorizing a person to participate in the IESO-administered markets or to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid, or

(iii) terminating, suspending or restricting a person's rights to participate in the IESO-administered markets or to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid. 1998, c. 15, Sched. A, s. 32 (2); 2004, c. 23, Sched. A, s. 41 (2-6); 2009, c. 12, Sched. B, s. 11 (2).

General or particular

(3) A market rule may be general or particular in its application. 1998, c. 15, Sched. A, s. 32 (3).

Legislation Act, 2006, Part III

(4) Part III (Regulations) of the Legislation Act, 2006 does not apply to the market rules or to any directions or orders made under the market rules. 1998, c. 15, Sched. A, s. 32 (4); 2006, c. 21, Sched. F, s. 136 (1).

Publication and inspection of market rules

(5) The IESO shall publish the market rules in accordance with the market rules and shall make the market rules available for public inspection during normal business hours at the offices of the IESO.

1998, c. 15, Sched. A, s. 32 (5); 2004, c. 23, Sched. A, s. 41 (7).

Notice to Board

(6) The IESO shall not make a rule under this section unless it first gives the Board an assessment of the impact of the rule on the interests of consumers with respect to prices and the reliability and quality of electricity service. 2004, c. 23, Sched. A, s. 41 (8).

Transition

(7) All rules made before subsection 4 (1) of Schedule A to the Electricity Restructuring Act, 2004 comes into force remain in effect until amended or revoked in accordance with this Act. 2004, c. 23, Sched. A, s. 41 (8).

(8), (9) Repealed: 2004, c. 23, Sched. A, s. 41 (8).

Amendment of market rules

33. (1) The IESO shall, in accordance with the market rules, publish any amendment to the market rules at least 22 days before the amendment comes into force. 2004, c. 23, Sched. A, s. 42.

Notice to the Board

(2) The IESO shall give the Board a copy of the amendment and such other information as is prescribed by the regulations on or before the date the IESO publishes the amendment under subsection (1). 2004, c. 23, Sched. A, s. 42.

Board's power to revoke

(3) Despite section 4.1 of the Statutory Powers Procedure Act and section 35.1 of this Act, the Board may, not later than 15 days after the amendment is published under subsection (1) and without holding a hearing, revoke the amendment on a date specified by the Board and refer the amendment back to the IESO for further consideration. 2004, c. 23, Sched. A, s. 42.

Application for review

(4) Any person may apply to the Board for review of an amendment to the market rules by filing an application with the Board within 21 days after the amendment is published under subsection (1). 2004, c. 23, Sched. A, s. 42.

Application of Ontario Energy Board Act, 1998

(5) Subsection 19 (4) of the Ontario Energy Board Act, 1998 applies to an application under subsection (4). 2004, c. 23, Sched. A, s. 42.

Review by Board

(6) The Board shall issue an order that embodies its final decision within 60 days after receiving an application for review of an amendment. 2004, c. 23, Sched. A, s. 42.

Stay of amendment

(7) No application for review of an amendment under this section shall stay the operation of the amendment pending the completion of the Board's review of the amendment unless the Board orders otherwise. 2004, c. 23, Sched. A, s. 42.

Same

(8) In determining whether to stay the operation of an amendment, the Board shall consider,

- (a) the public interest;
- (b) the merits of the application;
- (c) the possibility of irreparable harm to any person;
- (d) the impact on consumers; and
- (e) the balance of convenience. 2004, c. 23, Sched. A, s. 42.

Order

(9) If, on completion of its review, the Board finds that the amendment is inconsistent with the purposes of this Act or unjustly discriminates against or in favour of a market participant or class of market participants, the Board shall make an order,

- (a) revoking the amendment on a date specified by the Board; and
- (b) referring the amendment back to the IESO for further consideration. 2004, c. 23, Sched. A, s. 42.

Urgent amendments

34. (1) Section 33 does not apply if the IESO files a statement with the Board indicating that, in its opinion, an amendment to the market rules is urgently required for one or more of the following reasons:

1. To avoid, reduce the risk of or mitigate the effects of conditions that affect the ability of the integrated power system to function normally.
2. To avoid, reduce the risk of or mitigate the effects of the abuse of market power.
3. To implement standards or criteria of a standards authority.
4. To avoid, reduce the risk of or mitigate the effects of an unintended adverse effect of a market rule.
5. A reason prescribed by the regulations. 1998, c. 15, Sched. A, s. 34 (1); 2002, c. 23, s. 3 (14); 2004, c. 23, Sched. A, s. 43 (1).

Publication of urgent amendment

(2) The IESO shall publish the amendment in accordance with the market rules at the same time or as soon as reasonably possible after the statement referred to in subsection (1) is filed. 1998, c. 15, Sched. A, s. 34 (2); 2004, c. 23, Sched. A, s. 43 (2).

Notice to the Board

(2.1) The IESO shall give the Board a copy of the amendment and such other information as may be prescribed by the regulations on or before the date the IESO publishes the amendment under subsection (2). 2004, c. 23, Sched. A, s. 43 (3).

Board's power to revoke

(2.2) Despite section 4.1 of the Statutory Powers Procedure Act and section 35.1 of this Act, the Board may, not later than 15 days after the amendment is published under subsection (2) and without holding a hearing, revoke the amendment on a date specified by the Board and refer the amendment back to the IESO for further consideration. 2004, c. 23, Sched. A, s. 43 (3).

Review by Board

(3) On application by a person who is directly affected by the amendment, the Board shall review the amendment. 1998, c. 15, Sched. A, s. 34 (3); 2002, c. 23, s. 3 (17).

Time for application

(4) The application must be filed within 21 days after the amendment is published under subsection (2). 1998, c. 15, Sched. A, s. 34 (4).

Effect of revocation by Board

(4.1) If the Board revokes the amendment under subsection (2.2),

- (a) subsection (3) ceases to apply to the amendment; and
- (b) the Board shall not proceed with any review that arises from an application that was made under subsection (3) before it revoked the amendment. 2009, c. 33, Sched. 14, s. 2 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4.1) is repealed.
See: 2009, c. 33, Sched. 14, s. 2 (6), 4 (2).

Stay of amendment

(5) An application under this section does not stay the operation of the amendment pending the completion of the review. 1998, c. 15, Sched. A, s. 34 (5).

Referral back to IMO

(6) If, on completion of its review, the Board finds that the amendment is inconsistent with the purposes of this Act or unjustly discriminates against or in favour of a market participant or class of market participants, the Board,

(a) shall make an order referring the amendment back to the IESO for further consideration; and

(b) may make an order revoking the amendment on a date specified by the Board. 1998, c. 15, Sched. A, s. 34 (6); 2004, c. 23, Sched. A, s. 43 (4).

Other reviews of market rules

35. (1) On application by a person who is directly affected by a provision of the market rules, the Board may review the provision. 2002, c. 23, s. 3 (20).

Exception

(2) Subsection (1) does not apply to a provision of the market rules that was reviewed by the Board under section 33 or 34 within the 24 months before the application. 1998, c. 15, Sched. A, s. 35 (2).

Review of market rule made by the Minister

(3) Subsection (1) does not apply to a provision of the market rules that was made by the Minister before May 1, 2002 unless the application is made before May 1, 2005. 2004, c. 23, Sched. A, s. 44 (1).

Restriction

(4) An application shall not be made under this section by a market participant unless the applicant has made use of the provisions of the market rules relating to the review of market rules. 1998, c. 15, Sched. A, s. 35 (4).

Stay of provision

(5) An application under this section does not stay the operation of the provision pending the completion of the review. 1998, c. 15, Sched. A, s. 35 (5).

Referral back to IMO

(6) If, on completion of a review under this section, the Board finds that the provision is inconsistent with the purposes of this Act or unjustly discriminates against or in favour of a market participant or class of market participants, the Board shall make an order directing the IESO to amend the market rules in a manner and within the time specified by the Board. 1998, c. 15, Sched. A, s. 35 (6); 2004, c. 23, Sched. A, s. 44 (2).

Publication

(7) The IESO shall, in accordance with the market rules, publish any amendment made pursuant to an order under subsection (6). 1998, c. 15, Sched. A, s. 35 (7); 2004, c. 23, Sched. A, s. 44 (2).

Further reviews

(8) Sections 33 and 34 do not apply to an amendment made in accordance with an order under subsection (6). 1998, c. 15, Sched. A, s. 35 (8).

Statutory powers of decision

35.1 The powers of the Board to make orders under sections 33, 34 and 35 shall be deemed to be statutory powers of decision for the purpose of the Statutory Powers Procedure Act. 2000, c. 26, Sched. D, s. 1 (1).

Appeals from orders

36. (1) A person who is subject to an order made under the market rules may appeal the order to the Board if the order,

- (a) requires the person to pay a financial penalty or other amount of money that exceeds the amount prescribed by the regulations;
- (b) denies the person authorization to participate in the IESO-administered markets or to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid; or
- (c) terminates, suspends or restricts the person's rights to participate in the IESO-administered markets or to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid. 1998, c. 15, Sched. A, s. 36 (1); 2004, c. 23, Sched. A, s. 45 (1).

Other methods of resolution

- (2) An appeal shall not be commenced under subsection (1) unless the appellant has made use of the provisions of the market rules relating to dispute resolution. 1998, c. 15, Sched. A, s. 36 (2).

Time for appeal

- (3) The appeal must be filed within the time prescribed by the rules of the Board. 1998, c. 15, Sched. A, s. 36 (3).

Stay of order

- (4) An appeal does not stay the operation of the order pending the determination of the appeal unless the Board orders otherwise. 1998, c. 15, Sched. A, s. 36 (4).

Same

- (5) In determining whether to stay the operation of an order, the Board shall consider,

- (a) the public interest;
- (b) the merits of the appeal;
- (c) the possibility of irreparable harm to any person; and
- (d) the balance of convenience. 1998, c. 15, Sched. A, s. 36 (5).

Powers of Board

- (6) After considering the appeal, the Board may make an order,

- (a) dismissing the appeal;
- (b) revoking or amending the order appealed from; or
- (c) making any other order or decision that the IESO could have made. 1998, c. 15, Sched. A, s. 36 (6); 2004, c. 23, Sched. A, s. 45 (2).

Same

- (7) In addition to its powers under subsection (6), the Board may also make an order revoking, suspending or adding or amending a condition of the appellant's licence. 1998, c. 15, Sched. A, s. 36 (7).

- (8) Repealed: 2000, c. 26, Sched. D, s. 1 (2).

Exemptions from market rules

- 36.1 (1) A person may apply to the IESO for an exemption from any provision of the market rules. 2001, c. 9, Sched. F, s. 1 (2); 2004, c. 23, Sched. A, s. 46 (1).

Notice of application

- (2) The IESO shall, in accordance with the market rules, publish notice of the application. 2001, c. 9, Sched. F, s. 1 (2); 2004, c. 23, Sched. A, s. 46 (1).

Determined by panel of directors

- (3) The application shall be determined by a panel of at least two directors of the IESO assigned to the application by the chair of the IESO's board of directors. 2004, c. 23, Sched. A, s. 46 (2).

Written submissions

- (4) The panel is not required to hold a hearing but shall consider all written submissions made in accordance with the market rules in respect of the application. 2001, c. 9, Sched. F, s. 1 (2).

Exemption requires approval of two-thirds of panel

- (5) An exemption shall not be granted unless the exemption is approved by at least two-thirds of the directors on the panel. 2004, c. 23, Sched. A, s. 46 (3).

Terms of exemption

(6) An exemption,

(a) may be granted in whole or in part; and

(b) may be granted subject to conditions or restrictions. 2001, c. 9, Sched. F, s. 1 (2).

Expiry of exemption

(7) If an exemption is granted, it shall specify that it expires,

(a) on a date fixed by the panel; or

(b) on the occurrence of an event specified by the panel. 2001, c. 9, Sched. F, s. 1 (2).

Same

(8) A date fixed for the expiry of an exemption under clause (7) (a) shall not be later than five years after the exemption takes effect, unless the panel is satisfied that the circumstances justify a later date. 2001, c. 9, Sched. F, s. 1 (2).

Reasons

(9) When the panel decides to grant or refuse to grant an exemption, it shall give written reasons for its decision. 2001, c. 9, Sched. F, s. 1 (2).

Notice of decision

(10) When the panel decides to grant or refuse to grant an exemption, the IESO shall, in accordance with the market rules, publish notice of the decision. 2001, c. 9, Sched. F, s. 1 (2); 2004, c. 23, Sched. A, s. 46 (4).

Appeal

(11) A person who is directly affected by the panel's decision to grant or refuse to grant an exemption and who made written submissions to the panel may appeal to the Board within 14 days after publication of the notice of the decision. 2001, c. 9, Sched. F, s. 1 (2).

Short-term exemptions

(12) Subsection (11) does not apply to a decision to grant an exemption that expires less than 60 days after it is granted. 2001, c. 9, Sched. F, s. 1 (2).

Stay

(13) An appeal does not stay the decision of the panel pending the determination of the appeal. 2001, c. 9, Sched. F, s. 1 (2).

Powers of Board

(14) After considering the appeal, the Board may make an order,

(a) dismissing the appeal; or

(b) if the Board finds that the decision of the panel is inconsistent with the purposes of this Act,

(i) referring the application for the exemption back to the panel for further consideration,

(ii) revoking or amending the decision of the panel, or

(iii) making any decision that the panel could have made. 2001, c. 9, Sched. F, s. 1 (2).

Removal of exemption

(15) If the board of directors proposes to remove an exemption, subsections (2), (3), (4), (6), (9), (10), (11), (13) and (14) apply, with necessary modifications, and subsection (16) applies without modification. 2004, c. 23, Sched. A, s. 46 (5).

Appeal of removal of exemption

(16) If a decision is made to remove an exemption, the only person who may appeal under subsection (11) is the person in whose favour the exemption was granted. 2001, c. 9, Sched. F, s. 1 (2).

Previous exemptions

(17) An exemption from a provision of the market rules that was granted by the IESO before the day this subsection came into force in respect of a metering installation that was in service before April 17, 2000 or in respect of which the major components were ordered or procured before or within 30 days following April 17, 2000 shall be deemed to have been authorized by law and shall continue until it

expires pursuant to its terms or until it is removed under subsection (15). 2001, c. 9, Sched. F, s. 1 (2); 2004, c. 23, Sched. A, s. 46 (6).

Rules

(18) The IESO's directors may make rules governing the practice and procedure before panels of directors under this section. 2004, c. 23, Sched. A, s. 46 (7).

Report

(19) The IESO shall, not later than May 1, 2007, submit a report to the Minister on the need for and operation of this section. 2004, c. 23, Sched. A, s. 46 (8).

Extension

(20) The Lieutenant Governor in Council may, before May 1, 2007, extend by not more than six months the date by which the report referred to in subsection (19) must be submitted. 2004, c. 23, Sched. A, s. 46 (8).

Tabling of report

(21) The Minister shall submit the report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 2001, c. 9, Sched. F, s. 1 (2).

Reliability Standards

Reliability standards

Posting the standard

36.2 (1) Within seven days after the IESO receives notification of the approval of a reliability standard by a standards authority, the IESO shall post the standard on its public website together with any other information and materials that may be prescribed by regulation. 2008, c. 7, Sched. G, s. 4.

Other notice

(2) If required by regulation, the IESO shall give additional notice of the standard and of any information and materials that may be prescribed by regulation in such other manner and at the time or times prescribed by regulation. 2008, c. 7, Sched. G, s. 4.

Application for review

(3) Any person may apply to the Board for review of a reliability standard by filing an application with the Board within 21 days after the standard is posted under subsection (1). 2008, c. 7, Sched. G, s. 4.

Board-initiated review

(4) The Board on its own motion may initiate a review of a reliability standard within 21 days, or such longer period of time as may be prescribed by regulation, after the standard is posted under subsection (1). 2008, c. 7, Sched. G, s. 4.

Stay pending Board review

(5) No application for review under subsection (3) or initiation of a review by the Board under subsection (4) shall stay the operation of the reliability standard pending the completion of the Board's review of the standard unless the Board orders otherwise. 2008, c. 7, Sched. G, s. 4.

Same

(6) In determining whether to stay the operation of a reliability standard, the Board shall consider,

(a) the public interest;

(b) the merits of the application;

(c) the possibility of irreparable harm to any person;

(d) the impact on consumers;

(e) the balance of convenience;

(f) the need to co-ordinate the implementation of the standard in Ontario with other jurisdictions;

(g) the need to co-ordinate the review of the standard in Ontario with regulatory bodies in other jurisdictions that have reviewed, are reviewing or may review the standard and that have the authority to refer the standard back to the standards authority for further consideration; and

(h) any other matter that may be prescribed by regulation. 2008, c. 7, Sched. G, s. 4.

Order re inconsistency or discrimination

(7) If, on completion of its review, the Board finds that the standard is inconsistent with the purposes of this Act or unjustly discriminates against or in favour of a market participant or class of market participants, the Board shall make an order,

- (a) revoking the operation of the standard in Ontario, if it is already operational, or disallowing the future operation of the standard in Ontario, on a date specified by the Board; and
- (b) referring the standard back to the standards authority for further consideration. 2008, c. 7, Sched. G, s. 4.

Order re co-ordination with other jurisdictions

(8) The Board may also make the order described in subsection (7) if, on completion of its review, the Board finds that there is a need to co-ordinate with other jurisdictions or with regulatory bodies in other jurisdictions regarding the reliability standard. 2008, c. 7, Sched. G, s. 4.

Order on prescribed grounds

(9) The Lieutenant Governor in Council may make regulations prescribing additional grounds on which the Board shall or may make the order described in subsection (7). 2008, c. 7, Sched. G, s. 4.

Application

(10) This section does not apply to a reliability standard approved by a standards authority before the day this section comes into force, but does apply to an amendment to a reliability standard, whether the reliability standard being amended was approved before, on or after the day this section comes into force, if the amendment to the reliability standard is approved on or after the day this section comes into force. 2008, c. 7, Sched. G, s. 4.

Appeals from sanction orders

36.3 (1) The IESO may appeal to the Board an order, finding or remedial action made or taken by a standards authority in respect of a violation of a reliability standard in Ontario, subject to such limitations as may be prescribed by regulation. 2008, c. 7, Sched. G, s. 4.

Other options to appeal

(2) An appeal shall not be commenced under subsection (1) unless the IESO has commenced all other reviews and appeals available to it and such reviews and appeals have been finally determined. 2008, c. 7, Sched. G, s. 4.

Time for appeal

(3) The appeal must be filed within the time prescribed by the rules of the Board. 2008, c. 7, Sched. G, s. 4.

Stay of order

(4) An appeal does not stay the operation of the order, finding or remedial action pending the determination of the appeal unless the Board orders otherwise. 2008, c. 7, Sched. G, s. 4.

Same

(5) In determining whether to stay the operation of an order, finding or remedial action, the Board shall consider,

- (a) the public interest;
- (b) the merits of the appeal;
- (c) the possibility of irreparable harm to any person; and
- (d) the balance of convenience. 2008, c. 7, Sched. G, s. 4.

Powers of Board

(6) After considering the appeal, the Board may make an order,

- (a) dismissing the appeal;
- (b) revoking or amending the order, finding or remedial action appealed from; or
- (c) making any other order, finding or decision or taking any other remedial action that the standards authority could have made or taken. 2008, c. 7, Sched. G, s. 4.

Same

(7) In addition to its powers under subsection (6), the Board may also make an order,

(a) revoking or suspending a condition of the IESO's licence;

(b) amending a condition of the IESO's licence; or

(c) adding a condition to the IESO's licence. 2008, c. 7, Sched. G, s. 4.

Statutory powers of decision

36.4 The powers of the Board to make orders under sections 36.2 and 36.3 shall be deemed to be statutory powers of decision for the purpose of the Statutory Powers Procedure Act. 2008, c. 7, Sched. G, s. 4.

Investigations

Investigation by Market Surveillance Panel

37. (1) The Market Surveillance Panel may investigate any activity related to the IESO-administered markets or the conduct of a market participant. 2002, c. 1, Sched. A, s. 6; 2004, c. 23, Sched. A, s. 47 (1).

Right to examine

(2) For the purposes of an investigation under this section, the Panel may examine any documents or other things, whether they are in the possession or control of the person whose activities are being investigated or any other person. 2002, c. 1, Sched. A, s. 6.

Power to compel testimony

(3) For the purposes of an investigation under this section, the Panel has the same power to summon and enforce the attendance of any person and to compel him or her to testify on oath or otherwise, and to summon and compel any person to produce documents and other things, as is vested in the Superior Court of Justice for the trial of civil actions. 2002, c. 1, Sched. A, s. 6.

Contempt

(4) The Superior Court of Justice has the same power to punish for contempt a person who refuses to attend, testify or produce documents or other things when required to do so by the Panel under this section as it would if the person had disobeyed an order of the Court. 2002, c. 1, Sched. A, s. 6.

Rights of witness

(5) A person giving evidence under subsection (3) may be represented by counsel and may claim any privilege to which the person is entitled. 2002, c. 1, Sched. A, s. 6.

Inspection

(6) A person authorized in writing by the Panel may, on production of the authorization, enter any business premises, other than premises used as a dwelling, during business hours for the purposes of conducting an investigation under this section, where the person reasonably believes that relevant documents, records or other things may be found in the business premises. 2002, c. 1, Sched. A, s. 6.

Copies

(7) On giving a receipt, a person mentioned in subsection (6) may remove documents, records or other things for the purpose of making copies or extracts, and shall promptly return them to the person who produced them. 2002, c. 1, Sched. A, s. 6.

Documents in electronic form

(8) If a document, record or other thing is kept in electronic form, the person mentioned in subsection (6) may require that a copy of it be provided on paper or in a machine-readable medium or both. 2002, c. 1, Sched. A, s. 6.

Authorization to search

(9) For the purposes of an investigation under this section, a person authorized in writing by the Panel may apply to a judge of the Ontario Court of Justice in the absence of the public and without notice for a warrant authorizing the person or persons named in the warrant to enter and search any building, receptacle or place specified and to seize anything described in the authorization that is found in the

building, receptacle or place and to bring it before the judge granting the authorization or another judge to be dealt with according to law. 2002, c. 1, Sched. A, s. 6.

Grounds

(10) No authorization shall be granted under subsection (9) unless the judge to whom the application is made is satisfied on information under oath that there are reasonable grounds to believe that there is in the building, receptacle or place to be searched anything that may reasonably relate to an investigation under this section. 2002, c. 1, Sched. A, s. 6.

Power to enter, search and seize

(11) A person named in a warrant under subsection (9) may, on production of the warrant, enter any building, receptacle or place specified in the warrant between 6 a.m. and 9 p.m. and search for and seize anything specified in the warrant. 2002, c. 1, Sched. A, s. 6.

Expiration

(12) Every warrant under subsection (9) shall name the day that it expires, which shall not be later than 15 days after the warrant is granted. 2002, c. 1, Sched. A, s. 6.

Dwellings

(13) For the purposes of subsections (9), (10) and (11), “building, receptacle or place” does not include premises used as a dwelling. 2002, c. 1, Sched. A, s. 6.

Application

(14) Sections 159 and 160 of the Provincial Offences Act apply to searches and seizures under this section with such modifications as the circumstances require. 2002, c. 1, Sched. A, s. 6.

Report and recommendations

(15) On completion of an investigation, the Panel shall prepare a report that may include recommendations for amendment of the market rules or other recommendations. 2002, c. 1, Sched. A, s. 6.

Submission of report

(16) The Panel shall submit the report to the IESO, the Board and any other person that the Panel considers appropriate. 2004, c. 23, Sched. A, s. 47 (2).

Same

(17) The report shall be deemed, for the purpose of section 14 of the Freedom of Information and Protection of Privacy Act, to be a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law. 2002, c. 1, Sched. A, s. 6.

Review of materials by Panel

37.1 (1) Every market participant shall deliver to the Market Surveillance Panel, at any time required by the Panel, any books, records or documents that are required to be kept by the market participant under the market rules or Ontario law. 2002, c. 1, Sched. A, s. 6.

Same

(2) The Panel may review and keep copies of any books, records or documents provided under subsection (1) for the purposes of market surveillance. 2002, c. 1, Sched. A, s. 6.

Inspection

(3) A person authorized in writing by the Panel may enter the business premises of any market participant, other than premises used as a dwelling, during business hours, and may examine and make copies of any books, records or documents mentioned in subsection (1) for the purposes of market surveillance. 2002, c. 1, Sched. A, s. 6.

No obstruction

37.2 (1) No person shall obstruct, hinder or interfere with a person who is acting pursuant to an authorization granted under subsection 37 (6) or (9) or 37.1 (3). 2002, c. 1, Sched. A, s. 6.

Penalty

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine not exceeding \$50,000. 2002, c. 1, Sched. A, s. 6.

Confidentiality

37.3 (1) All information and material that is not otherwise public and that is furnished to or received or obtained by the Panel or anyone acting on behalf of the Panel pursuant to section 37 or 37.1 is confidential, and no person shall communicate the information or allow access to or inspection of the material except in the ordinary course of his or her duties, unless,

(a) the Panel has made an order under subsection (3);

(b) the information or material was considered by the Panel in preparing a report under subsection 37 (15) and communication of the information or access to or inspection of the material is required by a summons or direction of the Board; or

(c) the information is communicated to or access to or inspection of the material is allowed to a police force or other investigatory agency or to a regulatory agency. 2002, c. 1, Sched. A, s. 6.

Not evidence in proceedings

(2) No document, record, copy or other thing obtained pursuant to section 37 or 37.1 is admissible in evidence in any proceeding, except a review by the Board under section 38, unless the Panel has made an order under subsection (3). 2002, c. 1, Sched. A, s. 6.

Disclosure by Panel

(3) The Panel shall make an order permitting the disclosure of information or material obtained pursuant to section 37 or 37.1 if, after giving the person from whom the information or material was obtained and any other person who, in the opinion of the Panel, is an interested party an opportunity to be heard, the Panel is of the opinion that disclosure is in the public interest. 2002, c. 1, Sched. A, s. 6.

Abuse of Market Power

Abuse of market power

38. (1) If the Market Surveillance Panel submits a report to the IESO and the Board under section 37 that contains recommendations relating to the abuse or possible abuse of market power, the IESO shall, within 30 days after receiving the report, inform the Board what action the IESO has taken or intends to take in response to the report. 1998, c. 15, Sched. A, s. 38 (1); 2004, c. 23, Sched. A, s. 48.

Review by Board

(2) After receiving the report of the Market Surveillance Panel and after receiving any information provided by the IESO under subsection (1), the Board may conduct a review to determine whether the market rules or the licence of any market participant should be amended. 1998, c. 15, Sched. A, s. 38 (2); 2004, c. 23, Sched. A, s. 48.

Minister's directive

(3) If directed to do so by the Minister under section 28 of the Ontario Energy Board Act, 1998, the Board shall, in accordance with the directive, conduct a review to determine whether the market rules or the licence of any market participant should be amended. 1998, c. 15, Sched. A, s. 38 (3).

Powers of Board

(4) On the completion of a review under subsection (2) or (3), the Board may, for the purpose of avoiding, reducing the risk of or mitigating the effects of an abuse of market power,

(a) amend the licence of any market participant; or

(b) make an order directing the IESO to amend the market rules in a manner and within the time specified by the Board. 1998, c. 15, Sched. A, s. 38 (4); 2004, c. 23, Sched. A, s. 48.

Publication

(5) The IESO shall, in accordance with the market rules, publish any amendment made pursuant to an order under clause (4) (b). 1998, c. 15, Sched. A, s. 38 (5); 2004, c. 23, Sched. A, s. 48.

Further reviews

(6) Sections 33 and 34 do not apply to an amendment made in accordance with an order under clause (4) (b). 1998, c. 15, Sched. A, s. 38 (6).

Emergency Plans

Emergency plans

39. (1) The Minister shall require the IESO to prepare and file with the Minister such emergency plans as the Minister considers necessary. 1998, c. 15, Sched. A, s. 39 (1); 2004, c. 23, Sched. A, s. 49 (1).

Same

(2) The Minister may require a market participant to prepare and file with the Minister such emergency plans as the Minister considers necessary. 1998, c. 15, Sched. A, s. 39 (2).

Co-ordination of plans

(3) The IESO shall assist in co-ordinating the preparation of plans under subsections (1) and (2). 1998, c. 15, Sched. A, s. 39 (3); 2004, c. 23, Sched. A, s. 49 (1).

Implementation

(4) The Minister may direct the IESO or a market participant to implement an emergency plan filed under subsection (1) or (2), with such changes as the Minister considers necessary. 1998, c. 15, Sched. A, s. 39 (4); 2004, c. 23, Sched. A, s. 49 (1).

Nuclear generation facilities

(5) Every generator that owns or operates a nuclear generation facility shall file with the Minister a copy of any emergency plans relating to the facility that are filed with the Canadian Nuclear Safety Commission. 1998, c. 15, Sched. A, s. 39 (5).

(6) Repealed: 2004, c. 23, Sched. A, s. 49 (2).

Powers of Entry

Powers of entry

40. (1) A transmitter or distributor may, at reasonable times, enter land on which its transmission or distribution system is located,

(a) to inspect, maintain, repair, alter, remove, replace or disconnect wires or other facilities used to transmit or distribute electricity; or

(b) to install, inspect, read, calibrate, maintain, repair, alter, remove or replace a meter. 1998, c. 15, Sched. A, s. 40 (1).

Same: multi-unit buildings

(2) If a transmitter or distributor has the necessary consent of an owner or occupant to connect a line of its transmission or distribution system to part of a building and other parts of the building are owned by different owners or are in the possession of different occupants, the transmitter or distributor may, at reasonable times, enter on the other parts of the building to install, construct or maintain its transmission or distribution system, including anything necessary to make the connection. 1998, c. 15, Sched. A, s. 40 (2).

Same: common passages

(3) If a transmitter or distributor has the necessary consent of an owner or occupant to connect a line of its transmission or distribution system to land and the owner or occupant shares a mutual driveway or other common passage with the owners or occupants of neighbouring land, the transmitter or distributor may, at reasonable times, enter the common passage to install, construct or maintain its transmission or distribution system, including anything necessary to make the connection. 1998, c. 15, Sched. A, s. 40 (3).

Same: removal of obstructions

(4) A transmitter or distributor may enter any land for the purpose of cutting down or removing trees, branches or other obstructions if, in the opinion of the transmitter or distributor, it is necessary to do so to maintain the safe and reliable operation of its transmission or distribution system. 1998, c. 15, Sched. A, s. 40 (4).

Shutting off electricity

(5) For the purposes of this section, the transmitter or distributor may shut off or reduce the supply of electricity to the property or connect or disconnect equipment or open or close circuits. 1998, c. 15, Sched. A, s. 40 (5).

Employees, etc.

(6) If a person has a power of entry under this section, the power may be exercised by an employee or agent of the person who may be accompanied by any other person under the direction of the employee or agent. 1998, c. 15, Sched. A, s. 40 (6).

Identification

(7) A person exercising a power of entry under this section must on request display or produce proper identification. 1998, c. 15, Sched. A, s. 40 (7).

Notice, compensation, etc.

(8) If a person exercises a power of entry under this section, the person shall,

(a) provide reasonable notice of the entry to the occupier of the property;

(b) in so far as is practicable, restore the property to its original condition; and

(c) provide compensation for any damages caused by the entry. 1998, c. 15, Sched. A, s. 40 (8).

Property Interests

Public streets and highways

41. (1) A transmitter or distributor may, over, under or on any public street or highway, construct or install such structures, equipment and other facilities as it considers necessary for the purpose of its transmission or distribution system, including poles and lines. 1998, c. 15, Sched. A, s. 41 (1).

Inspection, etc.

(2) The transmitter or distributor may inspect, maintain, repair, alter, remove or replace any structure, equipment or facilities constructed or installed under subsection (1) or a predecessor of subsection (1). 1998, c. 15, Sched. A, s. 41 (2).

Entry

(3) The transmitter or distributor may enter the street or highway at any reasonable time to exercise the powers referred to in subsections (1) and (2). 1998, c. 15, Sched. A, s. 41 (3).

Employees, etc.

(4) The powers of a transmitter or distributor under subsections (1), (2) and (3) may be exercised by an employee or agent of the transmitter or distributor, who may be accompanied by any other person under the direction of the employee or agent. 1998, c. 15, Sched. A, s. 41 (4).

No consent required

(5) The exercise of powers under subsections (1), (2) and (3) does not require the consent of the owner of or any other person having an interest in the street or highway. 1998, c. 15, Sched. A, s. 41 (5).

Identification

(6) A person exercising a power of entry under this section must on request display or produce proper identification. 1998, c. 15, Sched. A, s. 41 (6).

Notice, compensation, etc.

(7) If a transmitter or distributor exercises a power of entry under this section, it shall,

(a) provide reasonable notice of the entry to the owner or other person having authority over the street or highway;

(b) in so far as is practicable, restore the street or highway to its original condition; and

(c) provide compensation for any damages caused by the entry. 1998, c. 15, Sched. A, s. 41 (7).

No compensation

(8) Subject to clause (7) (c), the transmitter or distributor is not required to pay any compensation in order to exercise its powers under subsections (1), (2) and (3), and the Expropriations Act does not apply in respect of anything done pursuant to those powers. 1998, c. 15, Sched. A, s. 41 (8).

Location

(9) The location of any structures, equipment or facilities constructed or installed under subsection (1) shall be agreed on by the transmitter or distributor and the owner of the street or highway, and in case of disagreement shall be determined by the Board. 1998, c. 15, Sched. A, s. 41 (9).

Application of subs. (9)

(10) Subsection (9) does not apply if section 92 of the Ontario Energy Board Act, 1998 applies. 1998, c. 15, Sched. A, s. 41 (10).

Telecommunications services

42. (1) If part of a transmission or distribution system is located on land with respect to which the transmitter or distributor has an easement or other right to use the land, the transmitter or distributor may,

(a) use the land that is subject to the easement or other right for the purpose of providing telecommunications service; or

(b) enter into agreements with other persons, including affiliates of the transmitter or distributor, authorizing them to use the land that is subject to the easement or other right for the purpose of providing telecommunications service. 1998, c. 15, Sched. A, s. 42 (1).

Same

(2) Subject to subsection (3), subsection (1) applies despite any other Act and despite any agreement or instrument to the contrary. 1998, c. 15, Sched. A, s. 42 (2).

Same

(3) Clause (1) (a) is subject to section 71 of the Ontario Energy Board Act, 1998. 1998, c. 15, Sched. A, s. 42 (3).

No compensation

(4) The transmitter or distributor is not required to pay any compensation for attaching wires or other telecommunications facilities to a transmission or distribution pole pursuant to clause (1) (a). 1998, c. 15, Sched. A, s. 42 (4).

Same

(5) A person who is authorized to use land pursuant to an agreement entered into under clause (1) (b) is not required to pay any compensation, other than compensation provided for in the agreement, for attaching wires or other telecommunications facilities to a transmission or distribution pole pursuant to the agreement. 1998, c. 15, Sched. A, s. 42 (5).

Definition

(6) In this section,

“telecommunications service” has the same meaning as in the Telecommunications Act (Canada). 1998, c. 15, Sched. A, s. 42 (6).

Easement: generators, transmitters and distributors

42.1 An easement in favour of a generator, transmitter or distributor for the purpose of generation, transmission or distribution does not have to be appurtenant or annexed to or for the benefit of any specific parcel of land to be valid. 2002, c. 1, Sched. A, s. 7.

Easement over lands sold for taxes

Transmitters and distributors

43. (1) Despite any other Act, if land that was or is subject to easements, ways, rights of way or entry, licences or rights to maintain property thereon, owned by or belonging to a transmitter or distributor, has been or is sold for taxes, or in respect of which a tax arrears certificate has been or is registered, such easements, ways, rights of way or entry, licences, or rights to maintain property shall be deemed not to have been or be affected by the sale or registration. 1998, c. 15, Sched. A, s. 43 (1).

Same: generators

(2) Despite any other Act, if land that was or is subject to flooding rights owned by or belonging to a generator has been or is sold for taxes, or in respect of which a tax arrears certificate has been or is registered, such flooding rights shall be deemed not to have been or be affected by the sale or registration. 1998, c. 15, Sched. A, s. 43 (2).

Easement: municipal public utilities

43.1 Section 91 of the Municipal Act, 2001 or section 72 of the City of Toronto Act, 2006, as the case may be, applies, with necessary modifications, with respect to a corporation incorporated under section 142 and its subsidiaries as if the corporation or subsidiary, as the case may be, were a municipality and with respect to an easement in favour of a generator, transmitter or distributor for the purpose of generation, transmission or distribution as if it were an easement of a public utility under that section. 2002, c. 1, Sched. A, s. 8; 2006, c. 32, Sched. C, s. 16 (1).

Ownership of fixtures

44. Despite any other Act, if property of a transmitter or distributor has been affixed to realty, the property remains subject to the rights of the transmitter or distributor as fully as it was before being so affixed and does not become part of the realty unless otherwise agreed by the transmitter or distributor in writing. 1998, c. 15, Sched. A, s. 44.

Exemption from seizure

45. Personal property of a transmitter or distributor that is used for or in connection with transmitting or distributing electricity to land is exempt from seizure,

(a) against the owner or occupant of the land under the Execution Act; and

(b) against a person with a leasehold interest in the land for overdue rent. 1998, c. 15, Sched. A, s. 45.

Unregistered rights

46. (1) If, immediately before the repeal of section 48 of the Power Corporation Act under the Energy Competition Act, 1998, land was subject to a right referred to in subsection 48 (2) or (3) of the Power Corporation Act, the land continues to be subject to the right until the right expires or until it is released by the holder of the right. 1998, c. 15, Sched. A, s. 46 (1).

Transfer of right

(2) A right referred to in subsection (1) may be transferred to,

(a) Hydro One Inc.;

(b) Ontario Power Generation Inc.;

(c) a subsidiary of Hydro One Inc. that is authorized to transmit or distribute electricity;

(c.1) a subsidiary of Ontario Power Generation Inc. that is authorized to generate electricity;

(d) a corporation established pursuant to section 142 that is authorized to transmit or distribute electricity; or

(e) a subsidiary of a corporation established pursuant to section 142, if the subsidiary is authorized to transmit or distribute electricity. 1998, c. 15, Sched. A, s. 46 (2); 2002, c. 1, Sched. A, s. 9.

Information

(3) On the request of the owner of land or a person intending to acquire an interest in land, the holder of a right referred to in subsection (1) shall make a search of its records and, within 21 days after receiving the request, shall inform the owner or person whether or not it has a right affecting the land that is not registered under the Land Titles Act or the Registry Act and, if it has such a right, shall also inform the owner or person of the term and extent of the right. 1998, c. 15, Sched. A, s. 46 (3).

Compensation

(4) A person who suffers loss or damage due to the failure of the holder of a right to comply with subsection (3) is entitled to compensation for the loss or damage from the holder of the right. 1998, c. 15, Sched. A, s. 46 (4).

Application of Expropriations Act

(5) The Expropriations Act applies with necessary modifications to a claim for compensation under subsection (4) as if it constituted injurious affection and, for the purpose,

- (a) a reference to the statutory authority shall be deemed to be a reference to the holder of the right; and
- (b) a reference to the owner shall be deemed to be a reference to the person mentioned in subsection (4). 1998, c. 15, Sched. A, s. 46 (5).

Transition

Use of land in connection with generation

46.1 (1) If, on March 31, 1999, the occupier of land used or could lawfully have used the land in connection with the generation of electricity, any occupier of the land may,

- (a) use the land in connection with the generation of electricity,
 - (i) for the use for which the land was used on March 31, 1999, or
 - (ii) for any use for which the land could lawfully have been used on March 31, 1999; and
- (b) use or erect on the land any building or structure in connection with a use of the land that is authorized by clause (a). 2001, c. 23, s. 67.

Same

(2) For the purpose of subsection (1), if, on March 31, 1999, land was used or could lawfully have been used in connection with a generation facility that used a type of fuel prescribed by the regulations to generate electricity and, with respect to that type of fuel, the regulations prescribe another type of fuel as a substitute fuel, it shall be deemed to have been lawful on March 31, 1999 to use the land in connection with a generation facility that used the substitute fuel to generate electricity. 2001, c. 23, s. 67.

Transition: use of land in connection with transmission or distribution

(3) If, on March 31, 1999, the occupier of land used or could lawfully have used the land in connection with the transmission or distribution of electricity, any occupier of the land may,

- (a) use the land in connection with the transmission or distribution of electricity,
 - (i) for the use for which the land was used on March 31, 1999, or
 - (ii) for any use for which the land could lawfully have been used on March 31, 1999; and
- (b) use or erect on the land any building or structure in connection with a use of the land that is authorized by clause (a). 2001, c. 23, s. 67.

Planning Act

(4) This section applies despite any provision of the Planning Act that was enacted before the day the Responsible Choices for Growth and Fiscal Responsibility Act (Budget Measures), 2001 received Royal Assent and despite any by-law, regulation or order made under the Planning Act before that day. 2001, c. 23, s. 67.

Toronto land used by Ontario Hydro

46.2 (1) Despite section 46.1, if, before March 31, 1999, Ontario Hydro occupied and used land in the City of Toronto in connection with the generation of electricity using fossil fuels and for any ancillary use, any occupier of the land may,

- (a) use the land in connection with any one or more of the generation of electricity using a type of fuel prescribed by the regulations, the transmission of electricity and the distribution of electricity and for any ancillary uses; and
- (b) use or erect on the land any building or structure in connection with a use of the land that is authorized by clause (a). 2002, c. 23, s. 3 (21).

Conflict

(2) This section applies despite any provision of the Planning Act or any other Act and despite any by-law, regulation or order made under the Planning Act or any other Act. 2002, c. 23, s. 3 (21).

Affixing signs, etc.

47. Every person who, without the consent of a transmitter or distributor, nails or otherwise attaches anything, or causes anything to be nailed or otherwise attached to or upon any wooden transmission or distribution pole of the transmitter or distributor is guilty of an offence and on conviction is liable to a fine of not more than \$200. 1998, c. 15, Sched. A, s. 47.

PART IV

HYDRO ONE INC.

Objects of Hydro One Inc.

48. (1) The objects of Hydro One Inc. include, in addition to any other objects, owning and operating transmission systems and distribution systems through one or more subsidiaries. 2002, c. 1, Sched. A, s. 10.

Status

(2) Hydro One Inc. and its subsidiaries are not agents of Her Majesty for any purpose, despite the Crown Agency Act. 2002, c. 1, Sched. A, s. 10.

Statutory duties and restrictions

48.1 (1) Hydro One Inc. shall, through one or more subsidiaries, operate generation facilities and distribution systems in, and shall distribute electricity within, such communities as may be prescribed by regulation, whether or not the community is connected to the IESO-controlled grid, and shall do so in accordance with such conditions and restrictions as may be prescribed by regulation. 2010, c. 8, s. 37 (6).

Restriction

(2) Hydro One Inc. shall not own or operate transmission systems or distribution systems in Ontario except through one or more subsidiaries. 2002, c. 1, Sched. A, s. 10.

Same

(3) A subsidiary of Hydro One Inc. shall not transmit or distribute electricity in Ontario if it transmits or distributes electricity outside Ontario. 2002, c. 1, Sched. A, s. 10.

Mandatory provisions in articles

48.2 (1) The articles of incorporation of Hydro One Inc. and of such of its subsidiaries as may be prescribed by regulation must contain the following:

1. Such provisions as may be prescribed by regulation governing the creation and issuance of one or more classes of special shares to be issued to the Minister, to hold on behalf of Her Majesty in right of Ontario, and governing the rights, privileges, restrictions and conditions attaching to each such class of shares.
2. Such provisions as may be prescribed by regulation with respect to constraints on the issue, transfer and ownership, including joint ownership, of voting securities of the corporation.
3. Such provisions as may be prescribed by regulation with respect to the enforcement of the constraints. 2002, c. 1, Sched. A, s. 10.

Restrictions

(2) The articles of incorporation and by-laws of Hydro One Inc. and of its subsidiaries that are prescribed for the purposes of subsection (1) must not contain any provisions that are inconsistent with those required by subsection (1). 2002, c. 1, Sched. A, s. 10.

Enforcement

(3) Without limiting the generality of paragraph 3 of subsection (1), the provisions referred to in that paragraph may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal to issue or register voting securities and the sale of voting securities held contrary to the constraints and payment of the net proceeds of the sale to the person or entity entitled to those proceeds. 2002, c. 1, Sched. A, s. 10.

Non-application of Business Corporations Act, s. 42

(4) Subsection (1) applies despite subsection 42 (1) of the Business Corporations Act. 2002, c. 1, Sched. A, s. 10.

Same

(5) Subsection 42 (2) of the Business Corporations Act does not operate to prohibit any offer to the public of shares that are subject to the rights, privileges, restrictions, conditions and constraints required by subsection (1). 2002, c. 1, Sched. A, s. 10.

Rights of the Minister

49. (1) The Minister, on behalf of Her Majesty in right of Ontario, may acquire, hold, dispose of and otherwise deal with securities or debt obligations of, or any other interest in, Hydro One Inc. or any of its subsidiaries. 2002, c. 1, Sched. A, s. 10.

Agreements

(2) The Minister, on behalf of Her Majesty in right of Ontario, may enter into any agreement or arrangement that the Minister considers necessary or incidental to the exercise of a power under subsection (1). 2002, c. 1, Sched. A, s. 10.

Corporations authorized re Hydro One Inc.

50. (1) The Lieutenant Governor in Council may cause corporations to be incorporated under the Business Corporations Act or the Corporations Act for the purpose of acquiring, holding, disposing of and otherwise dealing with securities or debt obligations of, or any other interest in, Hydro One Inc. or any of its subsidiaries. 2002, c. 1, Sched. A, s. 10.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “the Corporations Act” and substituting “the Not-for-Profit Corporations Act, 2010”. See: 2010, c. 15, ss. 223, 249.

Same

(2) The Minister, on behalf of Her Majesty in right of Ontario, may acquire, hold, dispose of and otherwise deal with securities or debt obligations of, or any other interest in, a corporation incorporated pursuant to subsection (1). 2002, c. 1, Sched. A, s. 10.

Agreements, etc.

(3) The Minister, on behalf of Her Majesty in right of Ontario, may enter into any agreement or arrangement that the Minister considers necessary or incidental to the exercise of a power under subsection (1) or (2). 2002, c. 1, Sched. A, s. 10.

Crown agent

(4) A corporation incorporated pursuant to subsection (1) is an agent of Her Majesty for all purposes. 2002, c. 1, Sched. A, s. 10.

Dividends paid to Crown agent

(5) If an agent of Her Majesty in right of Ontario is paid dividends in respect of the shares of Hydro One Inc., the agent shall pay the dividends to the Financial Corporation, less any amount that it considers is required to pay obligations it has assumed, or Her Majesty in right of Ontario has assumed, under clause 122 (1) (a). 2002, c. 1, Sched. A, s. 10.

Corporations and other entities and arrangements to hold securities, etc.

50.1 (1) The Lieutenant Governor in Council may cause corporations or other entities to be established or arrangements to be made for the purpose of acquiring, holding, disposing of or otherwise dealing with, directly or indirectly,

(a) securities, assets, liabilities, rights, obligations, revenues and income of Hydro One Inc. or any of its subsidiaries; and

(b) interests in or entitlements to those securities, assets, liabilities, rights, obligations, revenues and income. 2002, c. 1, Sched. A, s. 10.

Status

(2) A corporation or other entity established under subsection (1) is not an agent of Her Majesty for any purpose, despite the Crown Agency Act. 2002, c. 1, Sched. A, s. 10.

Agreements, etc.

(3) The Minister, on behalf of Her Majesty in right of Ontario, may enter into any agreement or arrangement that the Minister considers necessary or incidental to the exercise of a power under subsection (1). 2002, c. 1, Sched. A, s. 10.

Direction by Minister

(4) If Her Majesty in right of Ontario or an agent of Her Majesty is the only holder of voting securities of Hydro One Inc., the Minister may direct it,

(a) to transfer any of its securities, assets, liabilities, rights, obligations, revenues and income to any person or entity;

(b) to transfer an interest in or entitlement to any of its securities, assets, liabilities, rights, obligations, revenues and income to any person or entity;

(c) to transfer to any person or entity any securities, assets, liabilities, rights, obligations, revenues and income of any subsidiary of which Hydro One Inc. is the only holder, directly or indirectly, of voting securities; or

(d) to transfer to any person or entity an interest in or entitlement to any securities, assets, liabilities, rights, obligations, revenues and income of any subsidiary of which Hydro One Inc. is the only holder, directly or indirectly, of voting securities. 2002, c. 1, Sched. A, s. 10.

Same

(5) The Minister may impose conditions and restrictions when giving a direction under subsection (4). 2002, c. 1, Sched. A, s. 10.

Types of entities

(6) Without limiting the generality of subsection (1), a trust or a partnership may be established under that subsection. 2002, c. 1, Sched. A, s. 10.

Right of the Minister re corporations and other entities and arrangements

50.2 (1) The Minister, on behalf of Her Majesty in right of Ontario, may acquire, hold, dispose of or otherwise deal with securities or debt obligations of, or any other interest in, a corporation or other entity established under subsection 50.1 (1). 2002, c. 1, Sched. A, s. 10.

Same

(2) The Minister, on behalf of Her Majesty in right of Ontario, may acquire, hold, dispose of or otherwise deal with any interest in an arrangement made under subsection 50.1 (1). 2002, c. 1, Sched. A, s. 10.

Agreements, etc.

(3) The Minister, on behalf of Her Majesty in right of Ontario, may enter into any agreement or arrangement that the Minister considers necessary or incidental to the exercise of a power under subsection (1) or (2). 2002, c. 1, Sched. A, s. 10.

Proceeds of disposition

50.3 (1) All proceeds payable to Her Majesty in right of Ontario in respect of the disposition of any securities or debt obligations of, or any other interest in, Hydro One Inc., a corporation established under section 50, a corporation or other entity established under section 50.1 or an arrangement made under section 50.1 shall be paid to the Financial Corporation,

(a) less any amount that the Minister of Finance considers advisable in connection with the acquisition of such securities, debt obligations or interest, including the amount of the purchase price, any obligations assumed and any other costs incurred by Her Majesty in right of Ontario; and

(b) less the amount of any costs incurred by Her Majesty in right of Ontario in disposing of the securities, debt obligations or other interest. 2002, c. 1, Sched. A, s. 10.

Payments in respect of capital

(2) All amounts payable to Her Majesty in right of Ontario in respect of capital for any shares of Hydro One Inc. shall be paid to the Financial Corporation less the amount, if any, described in clause (1) (a). 2002, c. 1, Sched. A, s. 10.

Non-application of Financial Administration Act

(3) Clause 1.1 (1) (b) and subsection 2 (1) of the Financial Administration Act do not apply with respect to proceeds to be paid to the Financial Corporation under subsection (1). 2002, c. 1, Sched. A, s. 10.

Repeal

(4) This section is repealed on the day on which Part V is repealed under section 84.1. 2002, c. 1, Sched. A, s. 10.

Reporting requirements

50.4 (1) Hydro One Inc. shall, within 90 days after the end of every fiscal year, submit to the Minister an annual report on its affairs during that fiscal year, signed by the chair of the board of directors. 2002, c. 1, Sched. A, s. 10.

Same

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 2002, c. 1, Sched. A, s. 10.

Same

(3) Hydro One Inc. may give its annual report to other persons before the Minister complies with subsection (2). 2002, c. 1, Sched. A, s. 10.

Additional reports and information

(4) Hydro One Inc. shall give such other reports and information to the Minister of Finance or to the Minister as each of them may require from time to time. 2002, c. 1, Sched. A, s. 10.

Repeal

(5) This section is repealed on a day to be named by proclamation of the Lieutenant Governor. 2002, c. 1, Sched. A, s. 10.

Non-application, Financial Administration Act, s. 28

51. Section 28 of the Financial Administration Act does not apply with respect to any transaction authorized by this Part. 2002, c. 1, Sched. A, s. 10.

Residual power of the Crown

52. Nothing in this Part restricts the powers of Her Majesty in right of Ontario or any member of the Executive Council at common law or under any Act, whether as a shareholder or otherwise. 2002, c. 1, Sched. A, s. 10.

Regulations

53. (1) The Lieutenant Governor in Council may make regulations,
(a) prescribing communities for the purposes of subsection 48.1 (1);
(b) prescribing conditions and restrictions with respect to the statutory duties of Hydro One Inc. under subsection 48.1 (1);
(c) prescribing, for the purposes of subsection 48.2 (1), mandatory provisions to be included in articles of incorporation;
(d) prescribing subsidiaries for the purposes of subsection 48.2 (1). 2002, c. 1, Sched. A, s. 10.

Types of constraints

(2) Without limiting the generality of clause (1) (c), a regulation under that clause may include provisions governing,

- (a) the mandatory disclosure of information in documents issued or published by the applicable corporation;
- (b) the duties and powers of the directors to refuse to issue or register transfers of shares in accordance with the articles of the corporation;
- (c) the limitations on voting rights of any shares held contrary to the articles of the corporation;

(d) the powers of the directors to require disclosure of beneficial ownership of shares of the corporation and the rights of the corporation and its directors, employees or agents to rely on the disclosure and the effects of the reliance;

(e) the manner of determining how much of the equity of a corporation a person or class of persons owns. 2002, c. 1, Sched. A, s. 10.

Non-application re constraints, etc.

(3) A regulation under clause (1) (c) may provide that a provision imposing a constraint or a provision for the enforcement of a constraint does not apply with respect to such persons and in such circumstances as are described in the regulation. 2002, c. 1, Sched. A, s. 10.

Limited application re constraints, etc.

(4) A regulation under clause (1) (c) may provide that a provision imposing a constraint or a provision for the enforcement of a constraint applies only with respect to such persons and in such circumstances as are described in the regulation. 2002, c. 1, Sched. A, s. 10.

General or specific

(5) A regulation may be general or specific. 2002, c. 1, Sched. A, s. 10.

(6), (7) Repealed. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the Legislation Act, 2006 - December 31, 2012.

(8) Spent: See: Table of Public Statute Provisions Repealed Under Section 10.1 of the Legislation Act, 2006 - December 31, 2012.

Regulations, smart grid

53.0.1 The Lieutenant Governor in Council may make regulations governing the smart grid and its implementation, including regulations,

(a) in respect of the timeframe for the development of the smart grid;

(b) assigning roles and responsibilities for the development, implementation and standardization of the smart grid;

(c) prescribing the standards for communications and any other aspects in respect of the operation of the smart grid. 2009, c. 12, Sched. B, s. 12.

PART IV.1

ONTARIO POWER GENERATION INC.

Objects of Ontario Power Generation Inc.

53.1 (1) The objects of Ontario Power Generation Inc. include, in addition to any other objects, owning and operating generation facilities. 2002, c. 1, Sched. A, s. 11.

Status

(2) Ontario Power Generation Inc. and its subsidiaries are not agents of Her Majesty for any purpose, despite the Crown Agency Act. 2002, c. 1, Sched. A, s. 11.

Rights of the Minister

53.2 The Minister, on behalf of Her Majesty in right of Ontario, may acquire and hold shares of Ontario Power Generation Inc. 2002, c. 1, Sched. A, s. 11.

Corporations to hold shares

53.3 (1) The Lieutenant Governor in Council may cause corporations to be incorporated under the Business Corporations Act for the purpose of acquiring and holding shares in Ontario Power Generation Inc. 2002, c. 1, Sched. A, s. 11.

Same

(2) Shares in a corporation incorporated pursuant to subsection (1) may be acquired and held in the name of Her Majesty in right of Ontario by a member of the Executive Council designated by the Lieutenant Governor in Council. 2002, c. 1, Sched. A, s. 11.

Crown agent

(3) A corporation incorporated pursuant to subsection (1) is an agent of Her Majesty for all purposes. 2002, c. 1, Sched. A, s. 11.

Dividends paid to Crown agent

(4) If an agent of Her Majesty in right of Ontario is paid dividends in respect of shares of Ontario Power Generation Inc., the agent shall pay the dividends to the Financial Corporation, less any amount that it considers is required to pay obligations it has assumed under clause 122 (1) (a). 2002, c. 1, Sched. A, s. 11.

Reporting requirements

53.4 (1) Ontario Power Generation Inc. shall, within 90 days after the end of every fiscal year, submit to the Minister an annual report on its affairs during that fiscal year, signed by the chair of the board of directors. 2002, c. 1, Sched. A, s. 11.

Same

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 2002, c. 1, Sched. A, s. 11.

Same

(3) Ontario Power Generation Inc. may give its annual report to other persons before the Minister complies with subsection (2). 2002, c. 1, Sched. A, s. 11.

Additional reports and information

(4) Ontario Power Generation Inc. shall give such other reports and information to the Minister of Finance or to the Minister as each of them may require from time to time. 2002, c. 1, Sched. A, s. 11.

Residual power of the Crown

53.5 Nothing in this Part restricts the powers of Her Majesty in right of Ontario or any member of the Executive Council at common law or under any Act, whether as a shareholder or otherwise. 2002, c. 1, Sched. A, s. 11.

Power to acquire land and property

53.6 (1) Ontario Power Generation Inc. may, without any further approval and without the consent of the owner, enter upon, take possession of, expropriate and use such land, property, waters, water privileges, water powers, rights of access and roads, buildings and works as in its opinion are necessary for the purpose of the expeditious development and construction of works for the conveying of water by subsurface tunnels from the Niagara River to any existing or future power generation facilities and ancillary works at Niagara. 2004, c. 23, Sched. A, s. 51.

Same

(2) Subsection (1) applies,

- (a) despite any provision of this or any other Act;
- (b) despite the devotion or deemed devotion of the land or property to a municipal or other public use;
- (c) despite the power of the owner of the land or property to take land compulsorily;
- (d) despite the origin, nature or sources of the owner's title to or interest in the land or property; and
- (e) despite the manner by which the land or property was acquired by the owner or any of the owner's predecessors in title. 2004, c. 23, Sched. A, s. 51.

Easements continue until release

(3) Despite any provision of any other Act, if Ontario Power Generation Inc. acquires an easement through, over, under or otherwise affecting any land, the land shall continue to be subject to the easement and the easement shall be binding upon the owner and all subsequent owners of the land until Ontario Power Generation Inc. grants a release. 2004, c. 23, Sched. A, s. 51.

Acquisition of whole parcels

(4) Ontario Power Generation Inc. may acquire a whole parcel of land of which only a part may be acquired under the authority of this section, together with any right of way to it if the parcel is separated from the works, if Ontario Power Generation Inc. reasonably believes that the whole parcel

may be obtained at a more reasonable price or there is a greater advantage to acquiring the whole parcel instead of only the part and Ontario Power Generation Inc. may later sell and convey all or part of the excess land as it considers expedient. 2004, c. 23, Sched. A, s. 51.

Expropriations Act application

(5) If a power exercised under subsection (1) does not constitute an expropriation, Ontario Power Generation Inc. shall provide compensation to the owner based on market value as provided by the Expropriations Act. 2004, c. 23, Sched. A, s. 51.

No court action

(6) No action or exercise of a power by Ontario Power Generation Inc. under this section shall be restrained by injunction or other process or proceeding in any court. 2004, c. 23, Sched. A, s. 51.

Definitions

(7) In this section,

“easement” means an easement, right of way, right or licence in the nature of an easement, profit à prendre or other incorporeal hereditament; (“servitude”)

“land” means any real property and includes any estate, term, easement, right or interest in, to, over, under or affecting real property; (“bien-fonds”)

“owner” includes a mortgagee, lessee, tenant, occupant, a person entitled to a limited estate or interest in land and a guardian, committee, executor, administrator or trustee in whom land or any property is vested; (“propriétaire”)

“property” means property of any kind, other than land, and includes any interest in property; (“bien”)

“works” includes all property, plant, machinery, buildings, erections, constructions, installations, materials, devices, fittings, apparatus, appliances and equipment for the generation, transformation, transmission, distribution, supply or use of power. (“ouvrages”) 2004, c. 23, Sched. A, s. 51.

PART IV.2

THE SMART METERING ENTITY

The Smart Metering Entity

53.7 (1) To accomplish the government’s policies in relation to its smart metering initiative, the Minister, (a) may cause the Smart Metering Entity to be incorporated as a corporation under the Business Corporations Act;

(b) may cause the Smart Metering Entity to be formed as a limited partnership under the Limited Partnerships Act;

(c) may cause the Smart Metering Entity to be formed as a partnership; or

(d) may designate an entity by regulation as the Smart Metering Entity. 2006, c. 3, Sched. B, s. 2.

Name of the Smart Metering Entity

(2) Subject to the Business Corporations Act, the Business Names Act and the Limited Partnerships Act, as applicable, the Smart Metering Entity shall have the name prescribed for it by regulation and the regulation may require that the Smart Metering Entity maintain the prescribed name. 2006, c. 3, Sched. B, s. 2.

Objects or nature of the business of the Smart Metering Entity

53.8 The objects of the Smart Metering Entity, if it is a corporation, or the nature of its business activities, if the Smart Metering Entity is a limited partnership or a partnership, include, in addition to any other objects or business activities, the following:

1. To plan and implement and, on an ongoing basis, oversee, administer and deliver any part of the smart metering initiative as required by regulation under this or any Act or directive made pursuant to sections 28.3 or 28.4 of the Ontario Energy Board Act, 1998, and, if so authorized, to have the exclusive authority to conduct these activities.

2. To collect and manage and to facilitate the collection and management of information and data and to store the information and data related to the metering of consumers’ consumption or use of

electricity in Ontario, including data collected from distributors and, if so authorized, to have the exclusive authority to collect, manage and store the data.

3. To establish, to own or lease and to operate one or more databases to facilitate collecting, managing, storing and retrieving smart metering data.

4. To provide and promote non-discriminatory access, on appropriate terms and subject to any conditions in its licence relating to the protection of privacy, by distributors, retailers, the OPA and other persons,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, paragraph 4 is amended by striking out “the OPA” in the portion before subparagraph i and substituting “the IESO”.

(See: 2014, c. 7, Sched. 7, ss. 14, 17 (1))

i. to the information and data referred to in paragraph 2, and

ii. to the telecommunication system that permits the Smart Metering Entity to transfer data about the consumption or use of electricity to and from its databases, including access to its telecommunication equipment, systems and technology and associated equipment, systems and technologies.

5. To own or to lease and to operate equipment, systems and technology, including telecommunication equipment, systems and technology that permit the Smart Metering Entity to transfer data about the consumption or use of electricity to and from its databases, including owning, leasing or operating such equipment, systems and technology and associated equipment, systems and technologies, directly or indirectly, including through one or more subsidiaries, if the Smart Metering Entity is a corporation.

6. To engage in such competitive procurement activities as are necessary to fulfil its objects or business activities.

7. To procure, as and when necessary, meters, metering equipment, systems and technology and any associated equipment, systems and technologies on behalf of distributors, as an agent or otherwise, directly or indirectly, including through one or more subsidiaries, if the Smart Metering Entity is a corporation.

8. To recover, through just and reasonable rates, the costs and an appropriate return approved by the Board associated with the conduct of its activities.

9. To undertake any other objects that are prescribed by regulation. 2006, c. 3, Sched. B, s. 2.

Status of the Smart Metering Entity

53.9 The Smart Metering Entity is not an agent of Her Majesty for any purpose and, if the Smart Metering Entity is a corporation, its subsidiaries are not agents of Her Majesty for any purpose, despite the Crown Agency Act. 2006, c. 3, Sched. B, s. 2.

Powers of Smart Metering Entity corporation

53.10 If the Minister incorporates or designates a corporation as the Smart Metering Entity, it shall have the powers of a natural person except as limited under this Act. 2006, c. 3, Sched. B, s. 2.

Mandatory provisions in articles

53.11 (1) If the Smart Metering Entity is a corporation, its articles of incorporation and of such of its subsidiaries as may be prescribed by regulation must contain the conditions, restrictions, criteria or requirements that are prescribed by regulation. 2006, c. 3, Sched. B, s. 2.

Application of Business Corporations Act

(2) Despite clause 2 (3) (a) of the Business Corporations Act, the Business Corporations Act applies to the Smart Metering Entity, if it is a corporation, except that a regulation made under this Act may provide for the non-application of provisions of the Business Corporations Act to the Smart Metering Entity. 2006, c. 3, Sched. B, s. 2.

Smart Metering Entity participation in partnerships, etc.

53.12 (1) Nothing in this Part prevents the Smart Metering Entity, if it is incorporated, from participating in partnerships, limited partnerships, joint ventures or any other transaction or arrangement that may

be prescribed by regulation, subject to such conditions or restrictions as may be prescribed by regulation. 2006, c. 3, Sched. B, s. 2.

Same

(2) For the purpose of subsection (1), the Smart Metering Entity may participate in transactions or arrangements directly or indirectly as a partner, limited partner, general partner or as a participant in a joint venture or may hold an interest in, directly or through one or more subsidiaries, a partnership, limited partnership, joint venture or any other transaction or arrangement. 2006, c. 3, Sched. B, s. 2.

Reporting requirements

53.13 The Smart Metering Entity shall provide the reports and information to the Minister that the Minister requires. 2006, c. 3, Sched. B, s. 2.

Collection of consumer information

53.14 In carrying out its objects or business activities, the Smart Metering Entity,

(a) may directly or indirectly collect information and data relating to the consumption or use of electricity from consumers, distributors or any other person; and

(b) may manage and aggregate the data related to consumers' electricity consumption or use. 2006, c. 3, Sched. B, s. 2.

Reciprocal obligations concerning information

53.15 (1) Distributors, retailers and other persons shall provide the Smart Metering Entity with such information as it requires to fulfil its objects or conduct its business activities. 2006, c. 3, Sched. B, s. 2.

Restrictions on the Smart Metering Entity

(2) If the Smart Metering Entity has provided access to a distributor, retailer or another person to information under this Part, it shall not engage in a business activity prescribed by regulation if,

(a) the person to whom access has been provided is also engaged in the business activity; and

(b) the access was granted for the purpose of the person engaging in the business activity. 2006, c. 3, Sched. B, s. 2.

Obligations of distributors, etc., re: installing meters

53.16 (1) When a distributor or any person licensed by the Board to do so installs a smart meter, metering equipment, systems and technology and any associated equipment, systems and technologies or replaces an existing meter, the distributor or person shall use a meter, metering equipment, systems and technology and associated equipment, systems and technologies of a type, class or kind prescribed by regulation or that meets the criteria or requirements prescribed by regulation or mandated by a code issued by the Board or by an order of the Board for the classes of property or classes of consumers prescribed by regulation or required by the Board. 2006, c. 3, Sched. B, s. 2.

Same

(2) A regulation, code or order referred to in subsection (1) may require that a distributor or other person take certain actions and may require that the actions be taken within a specified time. 2006, c. 3, Sched. B, s. 2.

Exclusive authority of Board

(3) A regulation referred to in subsection (1) may provide the Board with exclusive authority to approve or authorize the meters, the metering equipment, systems and technology and associated equipment, systems and technologies after a prescribed date. 2006, c. 3, Sched. B, s. 2.

Obligations of distributors, etc., re: procurement, contracts or arrangements

(4) When a distributor or any person licensed by the Board to conduct the activities referred to in subsection (1) enters into a procurement process, contract or arrangement in relation to the smart metering initiative, the procurement process, contract or arrangement shall meet the criteria or requirements prescribed by regulation or mandated by a code issued by the Board or by an order of the Board. 2006, c. 3, Sched. B, s. 2.

53.17 Repealed: 2010, c. 8, s. 37 (7).

Prohibition re: discretionary metering activities

53.18 (1) On and after November 3, 2005, no distributor shall conduct discretionary metering activities unless the distributor is authorized to conduct the activity by this Act, a regulation, the Energy Consumer Protection Act, 2010, an order of the Board or a code issued by the Board or it is required to do so under the Electricity and Gas Inspection Act (Canada). 2006, c. 3, Sched. B, s. 2; 2010, c. 8, s. 37 (8).

Definition

(2) For the purpose of this section,

“discretionary metering activity” means the installation, removal, replacement or repair of meters, metering equipment, systems and technology and any associated equipment, systems and technologies which is not mandated by the Electricity and Gas Inspection Act (Canada), by regulation, by an order of the Board or by a code issued by the Board or authorized by a regulation made under this Act. 2006, c. 3, Sched. B, s. 2.

Procurement contracts, transition

53.19 (1) The Minister may direct the Smart Metering Entity to assume, as of the date the Minister considers appropriate, responsibility for exercising all powers and performing all duties of the Crown, including powers and duties to be exercised and performed through an agency of the Crown,

(a) under any request for proposals, draft request for proposals, another form of procurement solicitation issued by the Crown or through an agency of the Crown or any other initiative pursued by the Crown or through an agency of the Crown, which relate to the government’s smart metering initiative that was issued or pursued after November 3, 2005 and before January 1, 2008; and

(b) under any contract that relates to a procurement that was entered into by the Crown or an agency of the Crown pursuant to a request for proposal, a draft request for proposal or another form of procurement solicitation referred to in clause (a). 2006, c. 3, Sched. B, s. 2.

Release of the Crown, etc.

(2) As of the day specified in the Minister’s direction under subsection (1), the Smart Metering Entity shall assume responsibility in accordance with that subsection and the Crown and any Crown agency are released from any and all liabilities and obligations with respect to the matters for which the Smart Metering Entity has assumed responsibility. 2006, c. 3, Sched. B, s. 2.

Reimbursement of costs incurred by the Crown

53.20 (1) The Smart Metering Entity shall reimburse the Crown or, if so directed by the Minister, an agency of the Crown for costs relating to the Smart Metering Entity, a procurement contract or a matter within the objects of the Smart Metering Entity, if,

(a) the costs were incurred by the Crown or an agency of the Crown after November 3, 2005 and before January 1, 2008; or

(b) the liability of the Crown or an agency of the Crown for the costs arose during the period described in clause (a). 2006, c. 3, Sched. B, s. 2.

Payment of reimbursement

(2) The Smart Metering Entity shall make the reimbursement by making one or more payments in such amount or amounts at such time or times as may be determined by the Minister. 2006, c. 3, Sched. B, s. 2.

Minister’s determinations final

(3) The determinations of the Minister under subsection (2) are final and conclusive and shall not be stayed, varied or set aside by any court. 2006, c. 3, Sched. B, s. 2.

Regulations

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

(a) designating an entity as the Smart Metering Entity;

(b) prescribing the name of the Smart Metering Entity;

(c) governing the smart metering initiative;

- (d) authorizing the Smart Metering Entity to have exclusive authority to conduct the metering activities referred to in section 53.8;
- (e) prescribing objects for the purposes of section 53.8;
- (f) governing the collection, use and disclosure of information relating to consumers' consumption or use of electricity, including personal information;
- (g) prescribing, for the purposes of subsection 53.11 (1), conditions, restrictions, criteria or requirements to be included in the Smart Metering Entity's articles of incorporation and in the articles of incorporation of such of its subsidiaries as may be prescribed;
- (h) prescribing subsidiaries of the Smart Metering Entity for the purposes of subsection 53.11 (1);
- (i) prescribing provisions of the Business Corporations Act that do not apply to the Smart Metering Entity or to any of its subsidiaries that are prescribed;
- (j) prescribing transactions or arrangements for the purposes of subsection 53.12 (1) and conditions or restrictions that apply to them;
- (k) governing smart meters and the installation and maintenance of smart meters, metering equipment, systems and technology and any associated equipment, systems and technologies;
- (l) identifying actions to be taken by the Smart Metering Entity, distributors and other persons licensed by the Board in respect of the installation of prescribed meters, metering equipment, systems and technology and any associated equipment, systems and technologies at prescribed locations throughout Ontario or for prescribed classes of properties and prescribed classes of consumers in priority to other locations or classes of property or classes of consumers and prescribing the time within which such actions must be taken;
- (m) prescribing the date for the purpose of subsection 53.16 (3);
- (n) prescribing criteria or requirements that the procurement process, contract or arrangement must meet for the purpose of subsection 53.16 (4);
- (o), (p) Repealed: 2010, c. 8, s. 37 (10).
- (q) authorizing activity as discretionary metering activity for the purpose of section 53.18;
- (r) prescribing measures to be taken by the Smart Metering Entity to facilitate the achievement of the targets associated with the smart metering initiative;
- (s) identifying specific objectives or criteria applicable to the Smart Metering Entity's metering and telecommunications technologies;
- (t) approving, with respect to a class of consumers, meters or a class of meters and metering equipment, systems and technology and associated equipment, systems and technologies to be installed by a distributor or a person licensed by the Board to do so, including approving or fixing the maximum costs of the meters and metering equipment, systems and technology and associated equipment, systems and technologies and specifying criteria which any one of them must meet. 2006, c. 3, Sched. B, s. 2; 2010, c. 8, s. 37 (9, 10).

General or specific

(2) A regulation may be general or specific in its application. 2006, c. 3, Sched. B, s. 2.

PART V

THE FINANCIAL CORPORATION

Ontario Hydro Financial Corporation

54. (1) Ontario Hydro is continued as a corporation without share capital under the name Ontario Hydro Financial Corporation in English and Société financière Ontario Hydro in French. 1998, c. 15, Sched. A, s. 54 (1).

Note: Effective April 1, 1999, the name of the Ontario Hydro Financial Corporation has been changed by regulation to Ontario Electricity Financial Corporation in English and Société financière de l'électricité de l'Ontario in French. See: O. Reg. 115/99, s. 1.

Regulations

(2) The Lieutenant Governor in Council may make regulations changing the name of the Financial Corporation. 1998, c. 15, Sched. A, s. 54 (2).

Same

(3) Despite subsection 2 (3) but subject to the regulations, if a regulation is made changing the name of the Financial Corporation, a reference in this or any other Act or in the regulations made under this or any other Act to Ontario Hydro or to the Financial Corporation shall be deemed to be a reference to the new name, unless the context requires otherwise. 1998, c. 15, Sched. A, s. 54 (3).

Rights to Ontario Hydro name

(4) Despite subsections (1) and (2) but subject to any transfer order made under Part X, the Financial Corporation retains all rights to the name Ontario Hydro. 1998, c. 15, Sched. A, s. 54 (4).

Composition

(5) The Financial Corporation is composed of those persons who, from time to time, comprise its board of directors. 1998, c. 15, Sched. A, s. 54 (5).

Objects and character

55. (1) The objects of the Financial Corporation include, in addition to any other objects,

(a) managing its debt;

(b) receiving payments made to the Financial Corporation under this Act or pursuant to any other authority;

(c) administering assets, liabilities, rights and obligations of the Financial Corporation and disposing or otherwise dealing with them as it considers appropriate or as the Minister of Finance directs under section 74;

(d) exercising and performing powers and duties under Part VII;

(e) effecting financings, including establishing trusts, corporations, partnerships or other entities for that purpose; and

(f) such other objects as may be specified by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 55 (1); 2002, c. 1, Sched. A, s. 12 (1).

Managing debt

(2) For the purpose of this section, managing the Financial Corporation's debt includes,

(a) servicing and retiring debt;

(b) borrowing, including refinancing, renewing or replacing debt;

(c) investing funds; and

(d) managing financial assets, financial liabilities and financial risks. 1998, c. 15, Sched. A, s. 55 (2).

Capacity

(3) The Financial Corporation has the capacity and the rights, powers and privileges of a natural person. 1998, c. 15, Sched. A, s. 55 (3); 2002, c. 1, Sched. A, s. 12 (2).

Crown agent

56. The Financial Corporation is an agent of Her Majesty for all purposes. 1998, c. 15, Sched. A, s. 56.

57. Repealed. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the Legislation Act, 2006 – December 31, 2011.

Board of directors

58. (1) The Financial Corporation's board of directors shall manage or supervise the management of the Corporation's business and affairs. 1998, c. 15, Sched. A, s. 58 (1).

Composition

(2) The board of directors shall be composed of at least two and not more than 12 directors appointed by the Lieutenant Governor in Council on the recommendation of the Minister of Finance. 1998, c. 15, Sched. A, s. 58 (2).

Term of office

(3) A director shall hold office at pleasure for a term not exceeding three years and may be reappointed for successive terms not exceeding three years each. 1998, c. 15, Sched. A, s. 58 (3).

Chair

(4) The Lieutenant Governor in Council, on the recommendation of the Minister of Finance, shall designate one of the directors as the chair of the board of directors. 1998, c. 15, Sched. A, s. 58 (4).

Vice-chairs

(5) The Lieutenant Governor in Council, on the recommendation of the Minister of Finance, may designate one or more of the directors as a vice-chair of the board of directors. 1998, c. 15, Sched. A, s. 58 (5).

Powers and duties of vice-chair

(6) If the office of chair is vacant or if the chair is absent or unable to act, a vice-chair shall exercise the powers and perform the duties of the chair. 1998, c. 15, Sched. A, s. 58 (6).

Former directors cease to hold office

(7) A person who was a member of the board of directors immediately before subsection (2) comes into force ceases to be a member of the board of directors when subsection (2) comes into force, but nothing in this subsection prevents the person from being reappointed. 1998, c. 15, Sched. A, s. 58 (7).

Chief executive officer

59. The Lieutenant Governor in Council, on the recommendation of the Minister of Finance, may appoint a chief executive officer of the Financial Corporation. 1998, c. 15, Sched. A, s. 59.

Delegation

60. (1) Subject to its by-laws, the board of directors of the Financial Corporation may delegate any of its powers or duties to a committee of the board or to any one or more of the directors, subject to such conditions and restrictions as may be specified by the board of directors. 1998, c. 15, Sched. A, s. 60 (1).

Exceptions

(2) Subsection (1) does not permit the board of directors to delegate its power to make by-laws or to approve the financial statements or annual report of the Financial Corporation. 1998, c. 15, Sched. A, s. 60 (2).

By-laws

61. (1) The board of directors of the Financial Corporation may make by-laws regulating the business and affairs of the Corporation. 1998, c. 15, Sched. A, s. 61 (1).

Approval

(2) A by-law is not effective unless it has been approved in writing by the Minister of Finance. 1998, c. 15, Sched. A, s. 61 (2).

Investment powers

(3) The power of the Financial Corporation to borrow, invest funds and manage financial risks may only be exercised under the authority of a by-law. 1998, c. 15, Sched. A, s. 61 (3).

Legislation Act, 2006, Part III

(4) Part III (Regulations) of the Legislation Act, 2006 does not apply to by-laws made under this section. 1998, c. 15, Sched. A, s. 61 (4); 2006, c. 21, Sched. F, s. 136 (1).

Use of revenues

62. Despite the Financial Administration Act, the revenues received by the Financial Corporation do not form part of the Consolidated Revenue Fund and shall be used by the Corporation for the purpose of carrying out its objects. 1998, c. 15, Sched. A, s. 62.

Special purpose account

63. (1) If the Lieutenant Governor in Council authorizes Her Majesty in right of Ontario to assume obligations under clause 122 (1) (a), the Minister of Finance shall establish a special purpose account in the Consolidated Revenue Fund for the purposes of this section. 1998, c. 15, Sched. A, s. 63 (1).

Dividends

(2) Dividends paid to Her Majesty in right of Ontario in respect of shares of Hydro One Inc. and Ontario Power Generation Inc. shall be paid into the account, less any amount that the Minister of Finance considers is required to pay obligations assumed by Her Majesty under clause 122 (1) (a). 1998, c. 15, Sched. A, s. 63 (2); 2002, c. 1, Sched. A, s. 13.

Payment to Financial Corporation

(3) Money paid into the account shall be paid out, at such times as the Minister of Finance may direct, to the Financial Corporation. 1998, c. 15, Sched. A, s. 63 (3).

Closure of account

(4) Before this Part is repealed under section 84.1, the special purpose account shall be closed and any money remaining in the special purpose account shall be paid out to the Financial Corporation. 1998, c. 15, Sched. A, s. 63 (4); 2000, c. 42, s. 22.

64. Repealed: 2002, c. 1, Sched. A, s. 14.

Limitation on borrowing

65. The Financial Corporation shall not borrow money except as authorized under this or any other Act. 1998, c. 15, Sched. A, s. 65.

Authorization to borrow

66. (1) The Lieutenant Governor in Council may by order authorize the Financial Corporation to borrow such sums of money as the Corporation considers necessary for the purpose of carrying out its objects. 1998, c. 15, Sched. A, s. 66 (1).

Methods of borrowing

(2) The Financial Corporation may exercise the authority referred to in subsection (1) by the issuance of notes, bonds, debentures, deposit receipts, securities or other evidences of indebtedness, by giving short term security, by loan agreement or in any other manner approved by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 66 (2).

Approval by Minister of Finance

(3) The Lieutenant Governor in Council may authorize the Minister of Finance to approve the terms and conditions of the exercise by the Financial Corporation of the authority referred to in subsection (1), subject to the maximum principal amount and to any other terms and conditions that are specified by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 66 (3).

Short term securities

(4) If an order of the Lieutenant Governor in Council under subsection (1) expressly refers to this subsection and authorizes the Financial Corporation to borrow a maximum principal amount of money by the issue and sale of short term securities during a specified period not exceeding 25 years, the following terms and conditions apply:

1. Throughout the specified period, the Financial Corporation may issue, reissue, renew or replace securities issued under the order during the period if the maximum aggregate principal amount of the securities issued under the order and outstanding from time to time does not at any time exceed the maximum principal amount specified in the order.
2. Every security issued under the authority of the order shall bear a date of maturity not later than five years from its date of issue. 1998, c. 15, Sched. A, s. 66 (4).

Loans

(5) If an order of the Lieutenant Governor in Council under subsection (1) expressly refers to this subsection and authorizes the Financial Corporation to borrow a maximum principal amount of money for a period not exceeding five years from any bank, corporation, government, person or authority, the Financial Corporation may borrow from time to time such sums not exceeding at any one time the maximum principal amount specified by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 66 (5).

Application

(6) This section does not apply to money borrowed by the Financial Corporation pursuant to section 67 or 68. 1998, c. 15, Sched. A, s. 66 (6).

Province may purchase securities, etc.

67. (1) The Lieutenant Governor in Council may by order authorize the Minister of Finance to purchase securities of or make loans to the Financial Corporation at such times and on such terms and conditions as the Minister may determine, subject to,

(a) the maximum principal amount specified by the Lieutenant Governor in Council that may be purchased or advanced or that may be outstanding at any time; and

(b) any other terms and conditions that are specified by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 67 (1).

Payment from C.R.F.

(2) The Minister of Finance may pay out of the Consolidated Revenue Fund any amount required for the purposes of subsection (1). 1998, c. 15, Sched. A, s. 67 (2).

Province may raise funds

68. The Lieutenant Governor in Council may raise by way of loan in the manner provided by the Financial Administration Act such sums as the Lieutenant Governor in Council considers necessary for the purposes of the Financial Corporation, and the sums so raised shall be used to make advances to the Corporation by way of loan or to purchase securities issued by the Corporation on such terms and conditions as the Minister of Finance may determine. 1998, c. 15, Sched. A, s. 68.

Guarantee and indemnity

69. (1) The Lieutenant Governor in Council may by order authorize the Minister of Finance, on behalf of Ontario, to agree to guarantee or indemnify,

(a) any debts, obligations, securities or undertakings of the Financial Corporation or a subsidiary of the Financial Corporation; or

(b) any debts, obligations, costs or undertakings of any other person arising in connection with a guarantee or indemnity given under clause (a). 1998, c. 15, Sched. A, s. 69 (1).

Terms and conditions

(2) In respect of a guarantee or indemnity authorized under subsection (1), the Lieutenant Governor in Council may fix such terms and conditions as are considered advisable or may authorize the Minister of Finance, subject to any maximum liability specified for the guarantee or indemnity by the Lieutenant Governor in Council, to determine the terms, conditions and amount on which the guarantee or indemnity will be given. 1998, c. 15, Sched. A, s. 69 (2).

Delegation, order under ss. 66 to 69

70. In an order under section 66, 67, 68 or 69, the Lieutenant Governor in Council may delegate to an officer or employee of the Crown or an agency of the Crown or to a solicitor engaged to act for the Minister of Finance, any or all of the powers of the Minister of Finance under that section. 1998, c. 15, Sched. A, s. 70.

Fees payable to Minister of Finance

71. (1) The Financial Corporation shall pay to the Minister of Finance such fees as are prescribed by the regulations,

(a) in respect of securities purchased and sums loaned under section 67;

(b) in respect of sums advanced or securities purchased under section 68; and

(c) in respect of guarantees and indemnities given under section 69. 1998, c. 15, Sched. A, s. 71 (1).

Application

(2) Subsection (1) applies in respect of sums advanced or applied and guarantees and indemnities given before or after the coming into force of this section. 1998, c. 15, Sched. A, s. 71 (2).

Subsidiaries

72. (1) The Financial Corporation may establish a subsidiary in Ontario or elsewhere only with the approval of the Minister of Finance. 1998, c. 15, Sched. A, s. 72 (1).

Subsidiary may act otherwise than as agent of Crown

(2) A subsidiary of the Financial Corporation may declare in writing in any of its contracts, securities or instruments that it is not acting as an agent of Her Majesty for the purposes of the contract, security or instrument. 1998, c. 15, Sched. A, s. 72 (2).

Same

(3) If a subsidiary makes a declaration in accordance with subsection (2), it shall be deemed not to be an agent of Her Majesty for the purposes of the contract, security or instrument and Her Majesty is not liable for any liability or obligation of the subsidiary under the contract, security or instrument. 1998, c. 15, Sched. A, s. 72 (3).

Entities established for effecting financing

73. In addition to the restriction in subsection 72 (1) on establishing subsidiaries, the Financial Corporation may establish a trust, partnership or other entity in Ontario or elsewhere for the purpose of effecting a financing only with the approval of the Minister of Finance. 1998, c. 15, Sched. A, s. 73.

Directives

74. (1) The Minister of Finance may issue directives in writing to the Financial Corporation or any subsidiary of the Financial Corporation on matters relating to its exercise of powers and duties. 1998, c. 15, Sched. A, s. 74 (1).

Implementation

(2) The board of directors of the Financial Corporation or subsidiary shall ensure that directives under this section are implemented promptly and efficiently. 1998, c. 15, Sched. A, s. 74 (2).

Supervision

(3) A directive may, without limiting the generality of subsection (1), provide for the supervision, management and operation of the whole or any part of the business and affairs of the Financial Corporation or subsidiary by the Ontario Financing Authority or such other agency of the Crown as may be specified in the directive and may restrict, in whole or in part, the powers of the directors of the Financial Corporation or subsidiary to manage or supervise the management of the business and affairs of the Financial Corporation or subsidiary. 1998, c. 15, Sched. A, s. 74 (3).

Same

(4) An agency of the Crown specified in a directive referred to in subsection (3) has all the rights, powers, duties and liabilities of the board of directors of the Financial Corporation or subsidiary to the extent that the directive restricts the powers of the board of directors to manage or supervise the management of the business and affairs of the Financial Corporation or subsidiary and the directors of the Financial Corporation or subsidiary are relieved of their duties and liabilities to the same extent. 1998, c. 15, Sched. A, s. 74 (4).

Same

(5) Without limiting the powers and capacities of the Ontario Financing Authority, its objects shall include any activities described in a directive applicable to it under subsection (3). 1998, c. 15, Sched. A, s. 74 (5).

Subsidiaries

(6) Subsection (1) does not apply in respect of a contract, security or instrument with respect to which a subsidiary of the Financial Corporation has made a declaration in accordance with subsection 72 (2). 1998, c. 15, Sched. A, s. 74 (6).

Evidence of authority

75. A recital or declaration in any resolution of the Financial Corporation that a transaction is for the purpose of carrying out the Corporation's objects is conclusive evidence to that effect. 1998, c. 15, Sched. A, s. 75.

Employees

76. (1) Without limiting the power of the Financial Corporation to hire employees, such employees as are considered necessary for the proper conduct of the Corporation may be appointed under Part III of the Public Service of Ontario Act, 2006. 2006, c. 35, Sched. C, s. 31 (1).

(2) Repealed: 2006, c. 35, Sched. C, s. 31 (1).

Agreements to provide services

(3) Any minister of the Crown may enter into agreements with the Financial Corporation for the provision by employees of the Crown or any agency of the Crown of any service required by the Corporation. 1998, c. 15, Sched. A, s. 76 (3).

Liability

77. (1) No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the Financial Corporation or a subsidiary of the Financial Corporation, or of an agency of the Crown specified in a directive referred to in subsection 74 (3), for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under this Act, the regulations or the by-laws of the Corporation or subsidiary, or for any neglect or default in the exercise or performance in good faith of such a power or duty. 1998, c. 15, Sched. A, s. 77 (1).

Declaration under subs. 72 (2)

(2) Subsection (1) does not apply to any act, neglect or default in respect of a contract, security or instrument with respect to which a subsidiary of the Financial Corporation has made a declaration in accordance with subsection 72 (2). 1998, c. 15, Sched. A, s. 77 (2).

Actions against Crown

(3) No action or other civil proceeding shall be commenced against the Crown for any act, neglect or default by a person referred to in subsection (1) or for any act, neglect or default of the Financial Corporation, a subsidiary of the Financial Corporation or an agency of the Crown specified in a directive referred to in subsection 74 (3). 1998, c. 15, Sched. A, s. 77 (3).

Same

(4) Subsections (1) and (3) do not relieve the Financial Corporation, a subsidiary of the Financial Corporation or an agency of the Crown specified in a directive referred to in subsection 74 (3) of any liability to which it would otherwise be subject in respect of a cause of action arising from any act, neglect or default referred to in subsection (1). 1998, c. 15, Sched. A, s. 77 (4).

Same

(5) Subsection (3) does not relieve the Crown of any liability pursuant to a guarantee or indemnity under section 69 or a guarantee referred to in clause 130 (a). 1998, c. 15, Sched. A, s. 77 (5).

Definition

(6) In this section,

“employee” includes an employee employed under Part III of the Public Service of Ontario Act, 2006. 1998, c. 15, Sched. A, s. 77 (6); 2006, c. 35, Sched. C, s. 31 (2).

Waiver of immunity

78. The Financial Corporation or any of its subsidiaries may waive any immunity to which it may be entitled outside Ontario as an agent of Her Majesty and may submit to the jurisdiction of a court outside Ontario. 1998, c. 15, Sched. A, s. 78.

Judgments against Financial Corporation

79. (1) The Minister of Finance shall pay from the Consolidated Revenue Fund the amount of any judgment against the Financial Corporation or a subsidiary of the Corporation that remains unpaid after it has made reasonable efforts, including liquidating its assets, to pay the amount of the judgment. 1998, c. 15, Sched. A, s. 79 (1).

Application

(2) Subsection (1) does not apply to a judgment in respect of a matter that arose before this section comes into force. 1998, c. 15, Sched. A, s. 79 (2).

Subsidiaries

(3) Subsection (1) does not apply to a judgment arising from a contract, security or instrument in respect of which a subsidiary has made a declaration in accordance with subsection 72 (2). 1998, c. 15, Sched. A, s. 79 (3).

Audits

80. The accounts and financial transactions of the Financial Corporation shall be audited annually by the Auditor General. 1998, c. 15, Sched. A, s. 80; 2004, c. 17, s. 32.

Annual report

81. (1) The Financial Corporation shall, within 90 days after the end of every fiscal year, submit to the Minister of Finance an annual report on its affairs during that fiscal year, signed by the chair of its board of directors. 1998, c. 15, Sched. A, s. 81 (1).

Extension of time

(1.1) The Minister of Finance may extend the time for the Financial Corporation to submit its annual report for a fiscal year to a day that is not later than the day the Public Accounts for the fiscal year are submitted to the Lieutenant Governor in Council in accordance with Part 0.1 of the Financial Administration Act. 2008, c. 19, Sched. E, s. 1; 2009, c. 34, Sched. J, s. 28.

Financial statements

(2) The audited financial statements of the Financial Corporation shall be included in the annual report. 1998, c. 15, Sched. A, s. 81 (2).

Tabling

(3) The Minister of Finance shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 1998, c. 15, Sched. A, s. 81 (3).

Other persons

(4) The Financial Corporation may give its annual report to other persons before the Minister of Finance complies with subsection (3). 1998, c. 15, Sched. A, s. 81 (4).

Other reports

82. The Financial Corporation shall submit such other reports and information to the Minister of Finance as he or she may require from time to time. 1998, c. 15, Sched. A, s. 82.

Application of corporations statutes

83. Except as otherwise provided by the regulations, the Corporations Act and the Corporations Information Act do not apply to the Financial Corporation. 1998, c. 15, Sched. A, s. 83.

Tax exemption

84. (1) Despite the Assessment Act or any other general or special Act, the Financial Corporation and its property are not subject to taxation for municipal or school purposes, except for local improvements. 1998, c. 15, Sched. A, s. 84 (1).

Annual payments to municipalities

(2) The Financial Corporation shall pay in each year to any municipality in which are situated lands owned by the Financial Corporation or buildings used exclusively for executive, administrative or commercial purposes and owned by the Financial Corporation or buildings owned by the Financial Corporation and rented by it to other persons, an amount equal to the taxes for municipal and school purposes that would be payable if the lands and buildings were taxable. 1998, c. 15, Sched. A, s. 84 (2).

Same

(3) In addition to the amounts payable under subsection (2), the Financial Corporation shall pay in each year to any municipality in which are situated generating station buildings or structures or transformer station buildings or structures owned by the Financial Corporation, an amount equal to the taxes for municipal and school purposes that would be payable if the buildings or structures were taxable and the

assessed value were determined on the basis of \$86.11 for each square metre of inside ground floor area of the actual building or structure housing the generating, transforming and auxiliary equipment and machinery. 1998, c. 15, Sched. A, s. 84 (3).

Same

(4) In addition to the amounts payable under subsections (2) and (3), the Financial Corporation shall pay in each year, to any municipality in which land owned by it and described in paragraph 2 of subsection 315 (1) of the Municipal Act, 2001 or paragraph 2 of subsection 280 (1) of the City of Toronto Act, 2006, as the case may be, is situated, an amount equal to the tax that would be imposed under section 315 of the Municipal Act, 2001 or section 280 of the City of Toronto Act, 2006, as the case may be, on that land if the land were taxable. 2006, c. 32, Sched. C, s. 16 (2).

Same

(5) The Financial Corporation shall pay in each year to any municipality in which is situated land owned by it and used as a transmission or distribution corridor and leased to another person for rent or other valuable consideration, an amount equal to the taxes for municipal and school purposes that would be payable if the land were taxable and subsection (2) does not apply with respect to the land. 1998, c. 15, Sched. A, s. 84 (5).

Limitation

(6) Despite subsections (2) and (3), the total amount payable thereunder by the Financial Corporation to any municipality in any year shall not exceed 50 per cent of the total of the amounts required for the purposes of the municipality and of all of its local boards being raised by the imposition, rating and levying of all rates, assessments and taxation, except local improvement rates, upon rateable property in the municipality in that year. 1998, c. 15, Sched. A, s. 84 (6).

Use of valuations for computing rates

(7) The valuations made under this section shall be used for the purpose of computing upper-tier municipality rates, school rates and legislative grants in all respects as though the properties valued were not exempt from taxation for such purposes. 1998, c. 15, Sched. A, s. 84 (7); 2002, c. 17, Sched. F, Table.

Valuation

(8) The assessments and assessed values referred to in this section are valuations made in each year for the purposes of this section by the Municipal Property Assessment Corporation, and subject to subsections (2), (3) and (14), the valuation shall be made on the same basis as real property liable to municipal taxation in the municipality. 1998, c. 15, Sched. A, s. 84 (8); 2001, c. 8, s. 205 (1).

Minister of Finance's decision

(9) The decision of the Minister of Finance as to whether this section applies to any property of the Financial Corporation is final. 1998, c. 15, Sched. A, s. 84 (9).

Valuation notice

(10) The Municipal Property Assessment Corporation shall, on completion of the valuation of the Financial Corporation's property in a municipality, deliver or mail to the clerk of the municipality and to the Financial Corporation a notice setting out the valuations referred to in subsection (8). 1998, c. 15, Sched. A, s. 84 (10); 2001, c. 8, s. 205 (1).

Appeals

(11) The municipality or the Financial Corporation may appeal to the Assessment Review Board against the valuation and a notice of appeal to the Board under this subsection shall be sent by the party appealing, by registered mail, to the secretary of the Board within 90 days after the notice of the valuation has been delivered or mailed under subsection (10). 1998, c. 15, Sched. A, s. 84 (11).

Hearing

(12) Upon receipt of a notice of appeal under this section, the secretary of the Assessment Review Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least 14 days before the hearing. 1998, c. 15, Sched. A, s. 84 (12).

Jurisdiction on appeal

(13) The Assessment Review Board upon appeal shall determine the amount at which the property in question shall be valued and its decision is final and binding and there is no appeal therefrom. 1998, c. 15, Sched. A, s. 84 (13).

Exemptions

(14) In making the valuations referred to in subsection (8), there shall be no value included for machinery whether fixed or not nor for the foundation on which it rests, works, structures other than buildings or structures referred to in subsection (2) or (3), substructures, superstructures, rails, ties, poles, towers, lines nor any of the things excepted from exemption from taxation by paragraph 17 of section 3 of the Assessment Act, nor for other property, works or improvements not referred to in subsection (2) or (3), nor for an easement or the right or use of occupation or other interest in land not owned by the Financial Corporation. 1998, c. 15, Sched. A, s. 84 (14).

(15) Repealed: 2001, c. 8, s. 205 (2).

Repeal, Part V

84.1 (1) This Part is repealed on a day to be named by proclamation of the Lieutenant Governor. 2000, c. 42, s. 23.

Dissolution of Financial Corporation

(2) On the day this Part is repealed, the Financial Corporation is dissolved and its assets and liabilities are transferred to Her Majesty in right of Ontario. 2000, c. 42, s. 23.

Restriction on proclamation

(3) No proclamation shall be issued under this section unless, in the opinion of the Minister of Finance, substantially all the debts and other liabilities of the Financial Corporation have been retired or defeased. 2000, c. 42, s. 23.

Determination final

(4) The determination of the Minister of Finance that substantially all the debts and other liabilities of the Financial Corporation have been retired or defeased is final and conclusive and shall not be stayed, varied or set aside by any court. 2000, c. 42, s. 23.

PART V.1

DEBT RETIREMENT CHARGE

The Residual Stranded Debt and the Debt Retirement Charge

Charges to retire debt

85. (1) In this Part,

“collector” means a person appointed as a collector under subsection 85.3 (1); (“percepteur”)

“debt retirement charge” means, with respect to a user, the debt retirement charge payable by the user under subsection 85 (4); (“redevance de liquidation de la dette”)

“inspector” means a person appointed as an inspector under subsection 85.28 (1); (“inspecteur”)

“person” includes Her Majesty in right of Ontario, a partnership, a municipal corporation, a local board as defined in the Municipal Affairs Act, a police village, or a board, commission or authority established under an Act of the Assembly; (“personne”)

“residual stranded debt” means the stranded debt, reduced by,

(a) the amounts that, in the opinion of the Minister of Finance, will be paid under sections 89, 90, 91, 92, 93 and 94, and

(b) other amounts prescribed by the regulations; (“reliquat de la dette insurmontable”)

“self-generating user” means a person who generates electricity for his, her or its own consumption or for consumption by another person at the expense of the person who generates it; (“usager autoproducteur”)

“stranded debt” means the amount of the debts and other liabilities of the Financial Corporation that, in the opinion of the Minister of Finance, cannot reasonably be serviced and retired in a competitive electricity market; (“dette insurmontable”)

“user” means,

(a) a person who purchases or acquires electricity for his, her or its own consumption or for consumption by another person at the expense of the person who purchases or acquires it,
(b) a person who purchases or acquires electricity on behalf of, or as agent for, a principal who wishes to acquire electricity for consumption by the principal or by other persons at the principal’s expense, and
(c) a self-generating user. (“usager”) 1998, c. 15, Sched. A, s. 85 (1); 2000, c. 42, s. 25 (1); 2002, c. 17, Sched. F, Table.

Determinations

(2) The Minister of Finance shall determine the stranded debt and shall from time to time determine the residual stranded debt in accordance with the regulations. 1998, c. 15, Sched. A, s. 85 (2).

Reporting

(3) The determinations made by the Minister under subsection (2) shall be subject to such reporting requirements as are prescribed by the regulations. 1998, c. 15, Sched. A, s. 85 (3).

Duty to pay debt retirement charge

(4) Every user shall pay to the Financial Corporation a debt retirement charge in respect of the amount of electricity consumed in Ontario, to be calculated at the prescribed rate or rates. 2000, c. 42, s. 25 (2).

Determination re amount consumed

(4.1) For the purposes of subsection (4), the amount of electricity consumed in Ontario is to be determined in accordance with the regulations. 2000, c. 42, s. 25 (2).

Time and manner of payment

(5) The user shall pay the debt retirement charge at the time and in the manner specified by the regulations. 2000, c. 42, s. 25 (2).

Exemption from payment

(5.1) Such users or classes of users as may be prescribed are exempted from paying the debt retirement charge in such circumstances as may be prescribed. 2000, c. 42, s. 25 (2).

Same, under other Acts

(5.2) No person otherwise subject to the debt retirement charge is exempt from paying it by reason of an exemption granted to the person, or granted in respect of the personal or real property of the person, by or under any other Act unless the other Act expressly mentions this Act. 2000, c. 42, s. 25 (2).

Retirement of residual stranded debt

(6) When the Minister of Finance determines that the residual stranded debt has been retired, the Minister of Finance shall publish notice of that fact in The Ontario Gazette. 1998, c. 15, Sched. A, s. 85 (6).

Determination final

(7) The determination of the Minister of Finance that the residual stranded debt has been retired is final and conclusive and shall not be stayed, varied or set aside by any court. 1998, c. 15, Sched. A, s. 85 (7).

Application

(8) Subsections (2) to (6) do not apply after the Minister of Finance publishes notice under subsection (6) that the residual stranded debt has been retired. 1998, c. 15, Sched. A, s. 85 (8).

Duty to meter consumption

85.1 Such users or classes of users as may be prescribed shall meter their consumption of electricity and shall do so in accordance with the regulations. 2000, c. 42, s. 26.

Exemptions

85.2 Such users or classes of users as may be prescribed are exempted from such obligations as are specified in the regulation in the circumstances described in the regulation. 2000, c. 42, s. 26.

Registration

Collectors of debt retirement charge

85.3 (1) Such persons as may be prescribed are appointed as collectors of the debt retirement charge. 2000, c. 42, s. 26.

Registration of collectors

(2) Every collector shall register with the Minister of Finance in accordance with the prescribed requirements and shall maintain his, her or its registration. 2000, c. 42, s. 26.

Duties of collectors

(3) Every collector shall do the following:

1. Levy and collect the debt retirement charge in accordance with the regulations.
2. Remit, in accordance with the regulations, the debt retirement charge collectable and payable by the collector.
3. Keep the prescribed records in accordance with the prescribed requirements.
4. Submit returns to the Minister of Finance in accordance with the prescribed requirements. 2000, c. 42, s. 26.

Status

(4) Every collector is an agent of the Financial Corporation for the purpose of levying and collecting the debt retirement charge. 2000, c. 42, s. 26.

Registration of self-generating users

85.4 (1) Every self-generating user shall register with the Minister of Finance in accordance with the prescribed requirements and shall maintain his, her or its registration. 2000, c. 42, s. 26.

Duties

(2) Every self-generating user shall do the following:

1. Remit, in accordance with the regulations, the debt retirement charge payable by the self-generating user.
2. Keep the prescribed records in accordance with the prescribed requirements.
3. Submit returns to the Minister of Finance in accordance with the prescribed requirements. 2000, c. 42, s. 26.

Assessment and Reassessment of Amounts Owing

Assessment payable by collector

85.5 (1) At any time the Minister of Finance considers reasonable, he or she may assess or reassess the debt retirement charge collected by a collector for which the collector has not accounted,

- (a) if the collector fails to submit a return or remittance as required by this Part; or
- (b) if the collector's returns are not substantiated by the collector's records. 2000, c. 42, s. 27.

Assessment upon inspection

(2) If it appears to an inspector that a collector has not complied with this Part, the Minister of Finance may assess or reassess the amount of the debt retirement charge collected by the collector or the amount of the penalty authorized by subsection 85.6 (4), based on the inspector's calculation that is described in subsection (3). 2000, c. 42, s. 27.

Calculation of amount

(3) For the purposes of an assessment or reassessment under subsection (2), the inspector shall calculate the amount of the debt retirement charge or the amount of the penalty and shall make the calculation in the manner and form and using such procedures as the Minister of Finance considers adequate and expedient. 2000, c. 42, s. 27.

Deemed charge

(4) The amount assessed or reassessed by the Minister of Finance under this section shall be deemed to be a debt retirement charge collected by the collector. 2000, c. 42, s. 27.

Administrative penalties, collectors

85.6 (1) If a collector fails to submit a return to the Minister of Finance as required under this Part, the Minister of Finance may assess a penalty against the collector in an amount equal to the sum of 10 per cent of the amount collectable by the collector in respect of the period for which the return should have been submitted and 5 per cent of the amount payable by the collector in respect of that period. 2000, c. 42, s. 27.

Same, failure to pay

(2) If a collector submits a return to the Minister of Finance as required under this Part but fails to remit the full amount shown on the return as collectable or payable by the collector, the Minister of Finance may assess a penalty against the collector in an amount equal to the sum of 10 per cent of the amount collectable and not remitted by the collector and 5 per cent of the amount payable and not remitted by the collector. 2000, c. 42, s. 27.

Same, wilful non-compliance

(3) If the Minister of Finance makes an assessment or reassessment under subsection 85.5 (1) or (2) and if the Minister of Finance is satisfied that the non-compliance that gave rise to the assessment or reassessment was attributable to neglect, carelessness, wilful default or fraud, the Minister of Finance may assess a penalty against the collector equal to the greater of,

(a) \$100; or

(b) 25 per cent of the amount assessed or reassessed under subsection 85.5 (1) or (2), as the case may be. 2000, c. 42, s. 27.

Same, failure to collect

(4) If a collector fails to collect a debt retirement charge that the collector is required under this Part to collect, the Minister of Finance may assess a penalty against the collector in an amount equal to the amount that should have been collected. 2000, c. 42, s. 27.

Exception

(5) The Minister of Finance shall not assess a penalty under subsection (4) against the collector if the Minister of Finance has made an assessment or reassessment under section 85.7 against the user from whom the collector should have collected the amount. 2000, c. 42, s. 27.

Time limit

(6) The Minister of Finance shall not assess a penalty under subsection (4) with respect to an amount that should have been collected by the collector more than four years before the date of the assessment. 2000, c. 42, s. 27.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister of Finance establishes that the collector has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in making a return or supplying information under this Part or in omitting to disclose information. 2000, c. 42, s. 27.

Administrative penalty, wilful failure to collect

(8) If a collector fails to collect a debt retirement charge that the collector is required under this Part to collect and if the Minister of Finance is satisfied that the failure is attributable to neglect, carelessness, wilful default or fraud, the Minister of Finance may assess a penalty against the collector,

(a) in an amount equal to the greater of \$25 and 25 per cent of the amount that should have been collected, if a penalty has been assessed against the collector under subsection (4) for the failure to collect; or

(b) in an amount equal to the greater of \$25 and 125 per cent of the amount that should have been collected, if no penalty has been assessed against the collector under subsection (4) for the failure to collect. 2000, c. 42, s. 27.

Assessments payable by users

85.7 (1) The Minister of Finance may assess or reassess any debt retirement charge payable by a user. 2000, c. 42, s. 27.

Time limit

(2) The assessment or reassessment under subsection (1) must be made,

(a) in the case of a user that is not a self-generating user, within four years after the date on which the debt retirement charge became payable; and

(b) in the case of a self-generating user, within four years after the end of the calendar year during which the debt retirement charge became payable. 2000, c. 42, s. 27.

Exception, where misrepresentation, etc.

(3) Subsection (2) does not apply if the Minister of Finance establishes that the user has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in making a return or supplying information under this Part or in omitting to disclose information. 2000, c. 42, s. 27.

Assessment upon inspection

(4) If it appears to an inspector that a user has not complied with this Part, the Minister of Finance may assess or reassess the amount of the debt retirement charge payable by the user, based on the inspector's calculation that is described in subsection (5). 2000, c. 42, s. 27.

Calculation of amount

(5) For the purposes of an assessment or reassessment under subsection (4), the inspector shall calculate the amount payable by the user and shall make the calculation in the manner and form and using such procedures as the Minister of Finance considers adequate and expedient. 2000, c. 42, s. 27.

Administrative penalties, users

85.8 If the Minister of Finance makes an assessment or reassessment under section 85.7 and if the Minister of Finance is satisfied that the non-compliance that gave rise to the assessment or reassessment was attributable to neglect, carelessness, wilful default or fraud, the Minister of Finance may assess a penalty against the user equal to the greater of,

(a) \$100; or

(b) 25 per cent of the amount assessed or reassessed under section 85.7. 2000, c. 42, s. 27.

Administrative penalty, self-generating user

85.9 (1) If a self-generating user fails to submit a return to the Minister of Finance as required under this Part, the Minister of Finance may assess a penalty against the user in an amount equal to 5 per cent of the debt retirement charge payable by the user in respect of the period for which the return should have been submitted. 2000, c. 42, s. 27.

Same, failure to remit payment

(2) If a self-generating user submits a return to the Minister of Finance but fails to remit the full amount shown on the return as payable by the user, the Minister of Finance may assess a penalty against the user in an amount equal to 5 per cent of the amount payable and not remitted. 2000, c. 42, s. 27.

Liability of corporate directors

85.10 (1) This section applies if a corporation fails to collect a debt retirement charge, fails to remit a debt retirement charge that it has collected or fails to pay any interest or penalty under this Part relating to such a charge. 2000, c. 42, s. 27.

Same

(2) The individuals who were directors of the corporation when the corporation failed to collect or remit the debt retirement charge or failed to pay the interest or penalty are jointly and severally liable,

together with the corporation, to pay the charge, interest or penalty to the Financial Corporation. 2000, c. 42, s. 27.

Assessment

(3) The Minister of Finance may assess or reassess any individual for any amount payable by him or her under subsection (2). 2000, c. 42, s. 27.

Same

(4) Section 43 of the Retail Sales Tax Act applies, with necessary modifications, with respect to the liability of individuals under subsection (2), assessments or reassessments by the Minister of Finance under this section and the collection of amounts payable. 2000, c. 42, s. 27.

Assessment of interest payable

85.11 (1) The Minister of Finance may assess interest that is payable on a debt owing to the Financial Corporation under this Part and interest that is payable on a penalty imposed under this Part. 2000, c. 42, s. 27.

Calculation, re debt

(2) The interest on a debt is payable from the date on which the debt is due to the date on which the amount of the debt plus the interest is received by the Financial Corporation and it is to be calculated at the prescribed rate and in the prescribed manner. 2000, c. 42, s. 27.

Same, re penalty

(3) The interest on a penalty is payable from the date of the default to which the penalty relates to the date on which the amount of the penalty plus the interest is received by the Financial Corporation and it is to be calculated at the prescribed rate and in the prescribed manner. 2000, c. 42, s. 27.

Calculation of debt owing

(4) For the purposes of subsection (1), the amount of a debt owing by a person to the Financial Corporation on a particular date is the amount by which "A" exceeds "B" where, "A" is the aggregate of,

(a) the amount of the debt retirement charge collectable by the person as a collector or payable by the person as a user under this Part before that date,

(b) all amounts or penalties or both assessed under this Part against the person before that date, and

(c) the total of all amounts of interest assessed and payable under this section against the person in respect of a period of time before that date, and

"B" is the aggregate of,

(a) the amount of the debt retirement charge remitted or paid by the person under this Part before that date,

(b) all amounts or penalties or both assessed under this Part and paid by the person before that date, and

(c) the total of all amounts of interest credited to the person in respect of a period of time before that date. 2000, c. 42, s. 27.

Notice of assessment

85.12 The Minister of Finance shall give a written notice of assessment or reassessment to a user, collector or individual who is assessed or reassessed under this Part. 2000, c. 42, s. 27.

Effect of information and returns

85.13 (1) The Minister of Finance is not bound by information given or by a return made by or on behalf of a person under this Part and may make assessments under this Part even though no information is given or return is made or even though the information or return is incomplete or incorrect. 2000, c. 42, s. 27.

Liability

(2) A person's liability to pay a debt retirement charge is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. 2000, c. 42, s. 27.

Payments, Refunds and Rebates

Payment of assessed amounts

85.14 (1) Every person against whom an assessment is made under this Part shall pay to the Financial Corporation the amount assessed, whether or not an objection to the assessment or an appeal from the assessment is outstanding. 2000, c. 42, s. 27.

Status of assessment

(2) An assessment by the Minister of Finance under this Part shall be deemed to be valid and binding despite any error, defect or omission either in the assessment or in any proceeding under this Part relating to the assessment and the amount assessed shall be deemed to be conclusively established as a debt owing to the Financial Corporation. 2000, c. 42, s. 27.

Same

(3) Subsection (2) does not prevent the assessment from being varied or vacated on an objection or an appeal and does not prevent a reassessment being made. 2000, c. 42, s. 27.

Penalty

(4) If a person purports to pay or remit an amount owing under this Part by delivering anything other than legal tender within the meaning of subsection 8 (1) of the Currency Act (Canada) and if, as a result, the Financial Corporation fails to receive full and unconditional payment or settlement, the person is liable to pay to the Financial Corporation the additional fee that is prescribed and the Minister of Finance may assess the additional fee as a penalty. 2000, c. 42, s. 27.

Same

(5) A penalty assessed under subsection (4) cannot be appealed under this Part and an objection to it cannot be initiated under this Part. 2000, c. 42, s. 27.

Refunds and rebates

85.15 (1) An amount paid under this Part that is not payable as a debt retirement charge and that was not paid to discharge a liability under an assessment made under this Part shall be refunded. 2000, c. 42, s. 27.

Rebate

(2) A rebate of a debt retirement charge shall be paid in such circumstances and in accordance with such requirements as may be prescribed. 2000, c. 42, s. 27.

Interest on refund or rebate

(3) Interest is payable on the amount refunded or the amount of the rebate and shall be calculated at the prescribed rate and in the prescribed manner for the period beginning 21 days after the date on which the Minister of Finance receives the application for the refund or rebate to the date of the refund or rebate. 2000, c. 42, s. 27.

Time limit for refund

(4) A person is not entitled to a refund under subsection (1) unless application for the refund is made to the Minister of Finance within four years after the date on which the person paid the amount to be refunded or within such longer period as may be permitted by regulation. 2000, c. 42, s. 27.

Disallowance

(5) If an application for a refund or rebate is made in accordance with this Part and if the application is refused, in whole or in part, the Minister of Finance shall give the applicant a written statement of disallowance specifying the amount that is disallowed and the reasons for disallowing it. 2000, c. 42, s. 27.

Refund by collector

(6) A collector may refund to a user, in accordance with the regulations, all or part of a debt retirement charge collected from the user by the collector if the user was not required to pay the debt retirement charge and if the refund is made within four years after the user paid it. 2000, c. 42, s. 27.

Same

(7) The collector may deduct from subsequent remittances under this Part any amount refunded under subsection (6), if the collector makes the deduction within four years after making the refund to the user. 2000, c. 42, s. 27.

Refund by the Financial Corporation

(7.1) The Minister of Finance may authorize the Financial Corporation to make a refund under subsection (1) to a person if the Minister is satisfied that the amount to be refunded was wrongly paid and that it has not been refunded by a collector. 2002, c. 22, s. 61.

Error in refund or rebate

(8) If a person receives a refund or rebate to which the person is not entitled under this Part, the Minister of Finance may assess or reassess the amount to which the person was not entitled and shall give the person a written statement describing the reasons that the person was not entitled to the amount assessed or reassessed. 2000, c. 42, s. 27.

Refund of overpayment

85.16 (1) If it is established in a manner described in subsection (2) that a person has paid more than the person is required to pay as or on account of the debt retirement charge under this Part, the amount of the overpayment shall be refunded together with interest calculated at the prescribed rate and in the prescribed manner from the date on which the overpayment arose. 2000, c. 42, s. 27.

Same

(2) An overpayment may be established as a consequence of an assessment or reassessment under this Part or as a consequence of a final decision of a court in proceedings commenced as a result of an appeal under this Part. 2000, c. 42, s. 27.

Refund by the Financial Corporation

(3) The Financial Corporation shall refund the amount described in subsection (1) to the person described in that subsection. 2002, c. 22, s. 62.

Objections and Appeals

Objections and appeals

85.17 (1) Any of the following persons may object to, or appeal from, an assessment or a reassessment made under this Part, a statement of disallowance given under this Part or a penalty imposed under this Part:

1. A collector.
2. A user.
3. An individual against whom an assessment has been made under section 85.10. 2000, c. 42, s. 27.

Same

(2) Sections 24 to 30 of the Retail Sales Tax Act apply, with necessary modifications, with respect to objections and appeals under this section. 2000, c. 42, s. 27; 2011, c. 9, Sched. 12, s. 1.

Collection of Amounts Owning

Funds held in trust

85.18 (1) An amount collectable or collected by a collector as a debt retirement charge or on account of such a charge shall be deemed, despite any security interest in the amount,

- (a) to be held in trust for the Financial Corporation;
- (b) to be held separate and apart from the collector's property; and
- (c) to be held separate and apart from property held by any secured creditor that, but for any security interest, would be the collector's property. 2000, c. 42, s. 27.

Same

(2) Section 22 of the Retail Sales Tax Act applies, with necessary modifications, with respect to an amount described in subsection (1). 2000, c. 42, s. 27.

Method of collection

85.19 Any amount payable to the Financial Corporation under this Part that remains unpaid after it becomes due and payable may be collected by the Minister of Finance on behalf of the Financial Corporation and, for that purpose, sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the Retail Sales Tax Act apply, with necessary modifications. 2000, c. 42, s. 27; 2011, c. 9, Sched. 12, s. 2.

Offences

Offences

85.20 (1) Every person who contravenes or fails to comply with any of the following provisions is guilty of an offence and, on conviction, is liable to a fine of not less than \$100 for each day during which the offence continues:

1. Section 85.1 (duty to meter consumption).
2. Subsection 85.3 (2) (registration of collectors) or paragraph 4 of subsection 85.3 (3) (duty to submit returns, collectors).
3. Subsection 85.4 (1) (registration of self-generating users) or paragraph 3 of subsection 85.4 (2) (duty to submit returns, self-generating users).
4. Subsection 85.28 (3) (prohibition re inspection). 2000, c. 42, s. 27.

Same, re failure to collect

(2) Every collector who is required by paragraph 1 of subsection 85.3 (3) to levy and collect a debt retirement charge and who fails to do so is guilty of an offence and, on conviction, is liable to a fine equal to the sum of,

- (a) the amount of the debt retirement charge that should have been collected, as determined under subsection (3); and
- (b) an amount that is not less than \$50 and not more than \$2,000. 2000, c. 42, s. 27.

Determination of amount

(3) For the purposes of clause (2) (a), the Minister of Finance shall determine the amount of the debt retirement charge that should have been collected and shall issue a certificate setting out that amount. 2000, c. 42, s. 27.

Same

(4) The determination made under subsection (3) shall be based upon such information as is available to the Minister of Finance and, unless he or she considers that the collector has engaged in deliberate evasion of this Part, the Minister of Finance shall not consider information respecting a period of more than four years in making the determination. 2000, c. 42, s. 27.

Effect of certificate

(5) A certificate issued under subsection (3) is proof, in the absence of evidence to the contrary, of the amount of the debt retirement charge that should have been collected and of the authority of the person signing the certificate without any proof of appointment or signature. 2000, c. 42, s. 27.

Offence, re failure to remit

(6) Every collector who fails to remit an amount collected as, or on account of, a debt retirement charge as required by paragraph 2 of subsection 85.3 (3) is guilty of an offence and, on conviction, is liable to either or both of the following penalties in addition to any other penalty imposed under this Part:

1. A fine in an amount that is,
 - i. not less than the greater of \$100 and 25 per cent of the amount collected and not remitted, and
 - ii. not more than the greater of \$100 and double the amount collected and not remitted.
2. Imprisonment for a term of not more than two years. 2000, c. 42, s. 27.

Offence, re records

(7) Every collector who is required by paragraph 3 of subsection 85.3 (3) to keep records and who fails to do so in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$5,000. 2000, c. 42, s. 27.

Same, self-generating user

(8) Every self-generating user who is required by paragraph 2 of subsection 85.4 (2) to keep records and who fails to do so in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$5,000. 2000, c. 42, s. 27.

Offence, directors of a corporation

85.21 (1) Any officer, director or agent of a corporation or any other person who directs, authorizes, assents to, acquiesces in or participates in an action or omission by the corporation that is an offence under this Part is guilty of an offence. 2000, c. 42, s. 27.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to the penalty provided for the offence by the corporation, whether or not the corporation has been prosecuted for or convicted of the offence. 2000, c. 42, s. 27.

Offence, confidentiality

85.22 Every person who contravenes subsection 85.29 (1), (2), (5) or (6) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 2000, c. 42, s. 27.

Offences, false statements, etc., and fraud

85.23 (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in a return, statement or other document or in an answer required or submitted under this Part.
2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of a user or collector, for the purpose of evading payment of an amount under this Part.
3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of a user or collector.
4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of a user or collector.
5. For the purpose of evading a payment under this Part, destroying, altering or otherwise causing a meter to inaccurately measure the consumption of electricity or to cease measuring the consumption of electricity or replacing a meter with another meter that is calculated to mislead.
6. Wilfully evading or attempting to evade, in any manner, payment of an amount under this Part or compliance with an obligation under this Part. 2000, c. 42, s. 27.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty imposed under this Part:

1. A fine in an amount that is,
 - i. not less than the greater of \$1,000 and 50 per cent of the amount that should have been remitted or that the person sought to evade, and
 - ii. not more than the greater of \$1,000 and double the amount that should have been remitted or that the person sought to evade.
2. Imprisonment for a term of not more than two years. 2000, c. 42, s. 27.

Offence, obtaining refund or rebate by fraud

(3) Every person who, by deceit, falsehood or any other fraudulent means, obtains or attempts to obtain a refund or rebate under this Part to which the person is not entitled is guilty of an offence and, on conviction, is liable to either or both of the following penalties:

1. A fine of not less than \$500 and not more than double the amount of the refund or rebate sought.
2. Imprisonment for a term of not more than two years. 2000, c. 42, s. 27.

General offence

85.24 Every person who contravenes, by any act or omission, a requirement imposed under this Part is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$5,000. 2000, c. 42, s. 27.

Imprisonment, failure to pay fine

85.25 If a fine is imposed on an individual under section 85.20, 85.21, 85.22, 85.23 or 85.24 as a result of his or her conviction of an offence under this Part, a sentence of imprisonment for not more than one year in default of payment of the fine may also be imposed on the individual. 2000, c. 42, s. 27.

Limitation period and onus of proof

85.26 (1) A proceeding to prosecute an offence under this Part must be commenced within six years after the date on which the matter of the offence arose. 2000, c. 42, s. 27.

Onus of proof

(2) In a prosecution for a failure to pay, collect or remit a debt retirement charge, as the case may be, the accused has the onus of proving that the debt retirement charge was paid, collected or remitted. 2000, c. 42, s. 27.

Payment of fines

85.27 Fines imposed under sections 85.20, 85.21, 85.22, 85.23 and 85.24 are payable to the Minister of Finance on behalf of the Crown in right of Ontario. 2000, c. 42, s. 27.

Administration

Inspection

85.28 (1) The Minister of Finance may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister of Finance under subsection 31 (1) of the Retail Sales Tax Act for any purpose related to the administration and enforcement of this Part. 2000, c. 42, s. 27.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the Retail Sales Tax Act apply, with necessary modifications, with respect to the administration and enforcement of this Part. 2000, c. 42, s. 27; 2011, c. 9, Sched. 12, s. 3.

Interference with inspection

(3) No person shall prevent or interfere with, or attempt to prevent or interfere with, an inspector doing anything that he or she is authorized to do under this section. 2000, c. 42, s. 27.

Confidentiality

85.29 (1) Except as authorized by this section, no person employed by the Government of Ontario shall,
(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Finance for the purposes of this Part; or
(b) knowingly allow any person to inspect or have access to any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Part. 2000, c. 42, s. 27.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,
(a) to give evidence relating to any information obtained by or on behalf of the Minister of Finance for the purposes of this Part; or
(b) to produce any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Part. 2000, c. 42, s. 27.

Exception

(3) Subsections (1) and (2) do not apply in respect of,
(a) criminal proceedings under an Act of the Parliament of Canada;
(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
(c) proceedings relating to the collection of the debt retirement charge under this Part. 2000, c. 42, s. 27.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Part,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister of Finance for the purposes of this Part; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Part. 2000, c. 42, s. 27.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister of Finance on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Part. 2000, c. 42, s. 27.

Use of information

(6) Any information, record or thing communicated or furnished under this Part may be used only for the administration or enforcement of this Part or an Act that is administered or enforced by the person receiving the information, record or thing. 2000, c. 42, s. 27.

Methods of giving notice

85.30 (1) When the Minister of Finance is required under this Part to give a person a document or to give notice to a person, he or she may do so by sending the document or notice by prepaid mail to the person at the person's last known address or by serving the document or notice on the person. 2000, c. 42, s. 27.

Same, partnership

(2) If the document or notice is to be given to a partnership, the document or notice may be sent to or served on a partner, manager, agent or representative of the partnership. 2000, c. 42, s. 27.

Same, corporation

(3) If the document or notice is to be given to a corporation, the document or notice may be sent to or served on the president, secretary or another director or on a manager, agent or representative of the corporation. 2000, c. 42, s. 27.

Proof of compliance

85.31 (1) An affidavit of the Minister of Finance, a person employed in the Ministry of Finance or a person employed by the Financial Corporation about whether this Part has, or has not, been complied with is proof in the absence of evidence to the contrary of the facts set out in the affidavit, without proof of the signature or office of the person making the affidavit. 2000, c. 42, s. 27.

Status

(2) An affidavit described in subsection (1) may be introduced into evidence without notice, despite section 35 of the Evidence Act. 2000, c. 42, s. 27.

Right to cross-examine

(3) A party against whom an affidavit described in subsection (1) is adduced may, with the leave of the court, require the deponent to attend court to be cross-examined. 2000, c. 42, s. 27.

Evidence re collectors

85.32 (1) A copy of a person's application for registration as a collector that is filed with the Minister of Finance under this Part is proof, in the absence of evidence to the contrary, that the person is a collector and is required to remit to the Minister of Finance the debt retirement charge under this Part. 2000, c. 42, s. 27.

Same

(2) Subject to subsection (4), if a collector is described as a partnership on an application for registration as a collector that is filed with the Minister of Finance under this Part, a copy of the application is proof, in the absence of evidence to the contrary, that the persons named in it are members of the partnership. 2000, c. 42, s. 27.

Same

(3) Subject to subsection (4), a copy of a return filed by a person or a partnership as a collector is proof, in the absence of evidence to the contrary, that the person or partnership collected the debt retirement charge specified in the return. 2000, c. 42, s. 27.

Certification

(4) The copy of the application or return must be certified by an official of the Ministry of Finance who has access to the records that are maintained by the Ministry of Finance about the collector, and it may be a copy of an application or return made electronically and reproduced from original data stored electronically. 2000, c. 42, s. 27.

Evidence re self-generating users

(5) Subsections (1), (2) and (4) apply, with necessary modifications, with respect to applications and returns of a self-generating user. 2000, c. 42, s. 27.

Evidence re other documents

85.33 (1) For any purpose relating to the administration or enforcement of this Part, the Minister of Finance or a person authorized by him or her may reproduce from original data stored electronically any document previously issued under this Part or any information previously submitted in any form by a collector or a self-generating user, and the reproduction is admissible in evidence and has the same probative force as the original document or information would have had if it had been proved in the ordinary way. 2000, c. 42, s. 27.

Same

(2) If a book, record or other document is examined or produced under section 85.28 (inspection), the person by whom it is examined or to whom it is produced may make (or cause to be made) one or more copies of it, and a document purporting to be certified by the person to be a copy made under the authority of this subsection is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. 2000, c. 42, s. 27.

Affidavits, etc.

85.34 (1) Any of the following documents may be sworn by any person who has authority to administer an oath or any person authorized for the purposes of this section by the Lieutenant Governor in Council:

1. A declaration or affidavit relating to a return made under this Part.
2. A statement of information given under section 85.28 (inspection). 2000, c. 42, s. 27.

Same

(2) A person authorized for the purposes of this section by the Lieutenant Governor in Council shall not charge a fee for swearing a document described in subsection (1). 2000, c. 42, s. 27.

Forms

85.35 The Minister of Finance may approve the use of forms for any purpose of this Part and the forms may provide for such information to be furnished as the Minister of Finance may require. 2000, c. 42, s. 27.

Regulations, Parts V and V.I

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

- (a) respecting the calculation of the fees referred to in subsection 71 (1) and respecting the manner in which, and the time at which, they are to be paid;
- (b) prescribing provisions of the Business Corporations Act, the Corporations Act or the Corporations Information Act that apply, with necessary modifications, to the Financial Corporation;

- (c) prescribing other amounts for the purpose of clause (b) of the definition of “residual stranded debt” in subsection 85 (1);
- (d) governing determinations of the stranded debt and the residual stranded debt for the purpose of section 85, including the time period over which the residual stranded debt should be retired, and prescribing reporting requirements applicable to the determinations;
- (e) prescribing one or more rates for the purposes of subsections 85 (4) and 85 (4.1), including rates applicable to particular users, classes of users or uses of electricity, prescribing the amount of electricity with respect to which a rate is applied and prescribing one or more methods for determining the amount of electricity consumed;
- (f) exempting particular users or classes of users from paying a debt retirement charge, specifying the circumstances in which the exemption applies and imposing conditions or restrictions with respect to an exemption;
- (g) providing for the rebate of the debt retirement charge in whole or in part, prescribing the circumstances in which and conditions under which rebates may be made and prescribing the method of determining the amount of a rebate;
- (h) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable in connection with this Part.
- (i) Repealed: 2000, c. 42, s. 28 (1).
- (j) Repealed: 2000, c. 42, s. 28 (1).
- (k) Repealed: 2000, c. 42, s. 28 (1).
- (l) Repealed: 2000, c. 42, s. 28 (1).
1998, c. 15, Sched. A, s. 86 (1); 2000, c. 42, s. 28 (1).

Regulations, Minister of Finance

- (1.1) The Minister of Finance may make regulations,
- (a) determining anything that the Minister of Finance is permitted or required by this Part to determine;
 - (b) defining, for the purposes of this Part, any word or expression used in this Part;
 - (c) exempting particular users or classes of users from one or more obligations under this Part, other than the obligation to pay a debt retirement charge, specifying the circumstances in which the exemption applies and imposing conditions or restrictions with respect to an exemption;
 - (d) prescribing the time or times at which a particular user or class of users is required to pay a debt retirement charge;
 - (e) prescribing, for the purpose of section 85.1, the users or classes of users that are required to meter the consumption of electricity and prescribing methods, procedures and requirements with respect to the metering of electricity;
 - (f) governing the appointment, registration and duties of collectors;
 - (g) governing the registration and duties of self-generating users;
 - (h) prescribing methods of collecting and remitting a debt retirement charge and establishing requirements relating to the collection and remittance, including requirements about invoicing;
 - (i) requiring the debt retirement charge to be paid or remitted in instalments, specifying when the instalments are to be paid or remitted, and requiring the payment of interest or administrative penalties or both for late payments;
 - (j) prescribing the additional fee referred to in subsection 85.14 (4);
 - (k) governing refunds by collectors;
 - (l) prescribing procedures to be followed by collectors and users in connection with refunds and rebates under this Part;
 - (m) prescribing, for the purpose of subsection 85.15 (4), a time limit for applying for a refund;
 - (n) governing payments to a collector when the collector pays a debt retirement charge on behalf of a user and the user then defaults on paying the debt retirement charge to the collector;

(o) prescribing a rate of interest or a method of determining a rate of interest for debts owing under this Part to the Financial Corporation and for amounts owing to a person as a refund or rebate under this Part;

(p) prescribing the records to be kept by a collector or a self-generating user for the purposes of this Part. 2000, c. 42, s. 28 (2).

General or particular

(2) A regulation made under this section may be general or particular in its application. 1998, c. 15, Sched. A, s. 86 (2).

Retroactivity

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 2000, c. 42, s. 28 (2).

Repeal

87. (1) This Part is repealed on a day to be named by proclamation of the Lieutenant Governor. 1998, c. 15, Sched. A, s. 87 (1).

(2) Repealed: 2000, c. 42, s. 29.

(3) Repealed: 2000, c. 42, s. 29.

(4) Repealed: 2000, c. 42, s. 29.

PART VI

SPECIAL PAYMENTS

Definitions, Part VI

88. In this Part,

“municipal electricity utility” means,

(a) a municipal corporation that generates, transmits, distributes or retails electricity directly,

(b) a commission established under the Public Utilities Act or any other general or special Act through which a municipal corporation generates, transmits, distributes or retails electricity,

(c) any other body, however established, through which a municipal corporation generates, transmits, distributes or retails electricity,

(d) a corporation established pursuant to section 142 or a subsidiary of such a corporation, if a municipal corporation holds an interest, directly or indirectly, in one or more shares of such a corporation or subsidiary,

(d.1) a corporation established after May 1, 2003 under sections 9, 10 and 11 of the Municipal Act, 2001 in accordance with section 203 of that Act or established under sections 7 and 8 of the City of Toronto Act, 2006 in accordance with sections 148 and 154 of that Act or a predecessor of those sections in either Act, for the purpose of acquiring, holding, disposing of and otherwise dealing with shares of a corporation incorporated by the municipal corporation under section 142 of this Act,

(d.2) any corporation or other entity through which, pursuant to subsection 144 (2), a municipal corporation, municipal service board, a city board or municipal services corporation generates electricity,

(e) a police village that generates, transmits, distributes or retails electricity directly or indirectly, or a corporation or other entity owned by the members of a police village for the purpose of generating, transmitting, distributing or retailing electricity, or

(f) a person or entity prescribed by the regulations; (“service municipal d’électricité”)

“taxation year” has the same meaning as in the Income Tax Act (Canada). (“année d’imposition”) 1998, c. 15, Sched. A, s. 88; 2000, c. 42, s. 30; 2004, c. 16, Sched. D, Table; 2004, c. 31, Sched. 11, s. 1; 2006, c. 32, Sched. C, s. 16 (3); 2007, c. 7, Sched. 12, s. 1; 2009, c. 12, Sched. B, s. 13.

Payments in lieu of federal corporate tax

89. (1) If Hydro One Inc., a subsidiary of Hydro One Inc., Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. is exempt under subsection 149 (1) of the Income Tax Act (Canada) from

the payment of tax under that Act, it shall pay to the Financial Corporation in respect of each taxation year an amount equal to the amount of the tax that it would be liable to pay under that Act if it were a corporation to which that subsection did not apply. 1998, c. 15, Sched. A, s. 89 (1); 2002, c. 1, Sched. A, s. 15 (1); 2007, c. 7, Sched. 12, s. 2.

Corridor land

(1.1) The amount payable under subsection (1) by a person or entity from whom corridor land is transferred by section 114.2 shall be determined, for the taxation year in which the transfer occurs and for subsequent taxation years, as if the transfer did not occur. 2002, c. 1, Sched. A, s. 15 (2).

Payments to Minister of Finance

(2) After Part V is repealed under section 84.1, all payments required by this section shall be paid to the Minister of Finance, instead of to the Financial Corporation. 1998, c. 15, Sched. A, s. 89 (2); 2000, c. 42, s. 31.

Commencement of new taxation year

(3) A corporation that is required to make payments under this section shall be deemed, for the purposes of this section, to commence a new taxation year on the day this section comes into force. 1998, c. 15, Sched. A, s. 89 (3).

Payments in lieu of provincial corporate tax

90. (1) If Hydro One Inc., a subsidiary of Hydro One Inc., Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. is exempt under subsection 57 (1) of the Corporations Tax Act from the payment of tax under that Act for a taxation year that ends before January 1, 2009, it shall pay to the Financial Corporation in respect of each taxation year ending before that day an amount equal to the total amount of tax that it would be liable to pay under Parts II, II.1 and III of that Act for that year if it were a corporation to which that subsection did not apply. 2007, c. 7, Sched. 12, s. 3 (3).

Same

(1.0.1) If Hydro One Inc., a subsidiary of Hydro One Inc., Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. is exempt under subsection 27 (2) of the Taxation Act, 2007 from the payment of tax under that Act for a taxation year that ends after December 31, 2008, it shall pay to the Financial Corporation in respect of each taxation year ending after that day an amount equal to the total amount of tax that it would be liable to pay under Divisions B, C and E of Part III of that Act for the taxation year if it were a corporation to which that subsection did not apply. 2007, c. 7, Sched. 12, s. 3 (3).

Corridor land

(1.1) The amount payable under subsection (1) by a person or entity from whom corridor land is transferred by section 114.2 shall be determined, for the taxation year in which the transfer occurs and for subsequent taxation years, as if the transfer did not occur. 2002, c. 1, Sched. A, s. 16 (2).

Payments to Minister of Finance

(2) After Part V is repealed under section 84.1, all payments required by this section shall be paid to the Minister of Finance, instead of to the Financial Corporation. 1998, c. 15, Sched. A, s. 90 (2); 2000, c. 42, s. 32.

Commencement of new taxation year

(3) A corporation that is required to make payments under this section shall be deemed, for the purposes of this section, to commence a new taxation year on the day this section comes into force. 1998, c. 15, Sched. A, s. 90 (3).

Other payments

91. (1) If Hydro One Inc., a subsidiary of Hydro One Inc., Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. is exempt under subsection 149 (1) of the Income Tax Act (Canada) from the payment of tax under that Act, the Lieutenant Governor in Council may from time to time order it to

pay to the Financial Corporation an amount specified by the Lieutenant Governor in Council. 1998, c. 15, Sched. A, s. 91 (1); 2002, c. 1, Sched. A, s. 17 (1).

Restriction

(2) No payment may be required under subsection (1) if the payment would impair the ability of Hydro One Inc., a subsidiary of Hydro One Inc., Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. to meet its financial liabilities or obligations as they come due or to fulfil its contractual commitments. 1998, c. 15, Sched. A, s. 91 (2); 2002, c. 1, Sched. A, s. 17 (2).

Payments to Minister of Finance

(3) After Part V is repealed under section 84.1, any order made under this section shall require payments to the Minister of Finance, instead of to the Financial Corporation. 1998, c. 15, Sched. A, s. 91 (3); 2000, c. 42, s. 33.

Allocation of Federal tax

91.1 (1) This section applies to any of the following corporations, if the corporation ceases at any time to be exempt under subsection 149 (1) of the Income Tax Act (Canada) from the payment of tax under that Act:

1. Hydro One Inc.
2. A subsidiary of Hydro One Inc.
3. A municipal electricity utility.
4. A successor of any of them. 2002, c. 1, Sched. A, s. 18.

Payment

(2) Her Majesty in right of Ontario shall pay to the Financial Corporation from the Consolidated Revenue Fund the amount, if any, that meets both of the following criteria:

1. The corporation is liable to pay the amount under the Income Tax Act (Canada) after ceasing to be exempt under subsection 149 (1) of that Act.
 2. Her Majesty in right of Ontario receives the amount from, or is credited with the amount by, Her Majesty in right of Canada in respect of the liability described in paragraph 1. 2002, c. 1, Sched. A, s. 18.
- Same, by corporation

(3) The specified corporation shall pay to the Financial Corporation the amount, if any, that meets all of the following criteria:

1. The corporation is liable to pay the amount under the Income Tax Act (Canada) after ceasing to be exempt under subsection 149 (1) of that Act.
2. The corporation receives the amount from, or is credited with the amount by, Her Majesty in right of Canada in respect of the liability described in paragraph 1.
3. Her Majesty in right of Canada intends that the corporation shall pay the amount to the Financial Corporation for the repayment of the debt of the Financial Corporation. 2002, c. 1, Sched. A, s. 18.

Payments in lieu of additional municipal and school taxes

92. (1) Hydro One Inc. and each of its subsidiaries, Ontario Power Generation Inc. and each of its subsidiaries and every municipal electricity utility shall pay to the Financial Corporation in each year the difference between,

- (a) the amount of taxes that it would be liable to pay in the year for municipal and school purposes if the assessed value of land owned by it on which are situated generating station buildings or structures or transformer station buildings or structures were determined on the basis of the amount prescribed by the regulations for each square metre of inside ground floor area of the actual building or structure housing the generating, transforming and auxiliary equipment and machinery; and
- (b) the amount of taxes that it is liable to pay in the year for municipal and school purposes in respect of land owned by it on which are situated generating station buildings or structures or transformer station buildings or structures. 1998, c. 15, Sched. A, s. 92 (1); 2002, c. 1, Sched. A, s. 19 (1).

Subsequent owners

(1.1) If a generating station building or structure is owned by one of the persons referred to in subsection (1) on January 1, 2000 and is subsequently disposed of by that person, this section continues to apply to any subsequent owner. 2000, c. 25, s. 46 (1).

Notice to Financial Corporation

(2) When a notice of assessment is delivered under section 31 of the Assessment Act in respect of land described in subsection (1), the Municipal Property Assessment Corporation shall send a copy of the notice to the Financial Corporation. 1998, c. 15, Sched. A, s. 92 (2); 2001, c. 8, s. 205 (3).

Payments after Part V repealed

(3) After Part V is repealed under section 84.1, all payments required to be made under this section to the Financial Corporation by Hydro One Inc., a subsidiary of Hydro One Inc., Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. shall instead be paid to,

(a) one or more municipalities in the manner specified by the Minister of Finance, in respect of land located in a municipality; and

(b) Her Majesty in right of Ontario, in respect of land located in territory without municipal organization. 2006, c. 33, Sched. Z.3, s. 9 (1).

Payments after retirement of residual stranded debt

(4) After the Minister of Finance publishes notice under subsection 85 (6) that the residual stranded debt has been retired, all payments that a municipal electricity utility is required to make under this section shall be paid to one or more municipalities in the manner specified by the Minister of Finance, instead of to the Financial Corporation. 1998, c. 15, Sched. A, s. 92 (4).

(5) Repealed: 2004, c. 31, Sched. 11, s. 2 (1).

Payments under the Assessment Act and Provincial Land Tax Act, 2006

(6) The references in subsection (1) to taxes for municipal and school purposes shall be deemed to include payments under section 27 of the Assessment Act and taxes under the Provincial Land Tax Act, 2006. 2006, c. 33, Sched. Z.3, s. 9 (2).

(7) Repealed: 2001, c. 8, s. 205 (4).

(8) Repealed: 2004, c. 31, Sched. 11, s. 2 (2).

Non-application

(9) This section, other than this subsection, does not apply to the following:

1. A hydro-electric generating station, as defined in subsection 92.1 (24), after December 31, 2000.

2. A wind turbine tower, as defined in subsection 45.4 (5) of Ontario Regulation 282/98 (General) made under the Assessment Act, after December 31, 2004. 2004, c. 31, Sched. 11, s. 2 (3).

Tax and charges on hydro-electric stations

92.1 (1) The owner of a hydro-electric generating station shall pay in each year to Her Majesty in right of Ontario a tax computed at the rates specified in subsection (4) on the gross revenue from the generation of electricity. 2000, c. 25, s. 46 (2).

Payment to the Financial Corporation

(2) Despite subsection (1), the owner of a hydro-electric generating station shall pay to the Financial Corporation a charge computed at the rates specified in subsection (4) on the gross revenue from annual generation from the hydro-electric generating station if the hydro-electric generating station is owned by a person referred to in subsection 92 (1) or was owned at any time after March 31, 1999 by a person referred to in subsection 92 (1). 2004, c. 31, Sched. 11, s. 3 (1).

(2.1) Repealed: 2006, c. 33, Sched. Z.3, s. 9 (3).

Payment to Ontario

(3) After Part V is repealed under section 84.1, all payments under subsection (2) are payable to Her Majesty in right of Ontario instead of to the Financial Corporation. 2000, c. 25, s. 46 (2); 2001, c. 9, Sched. F, s. 1 (3).

Rates

(4) For the purpose of subsections (1) and (2), the rates shall be calculated as follows:

1. 2.5 per cent on gross revenue from the first 50 gigawatt hours of annual generation from the generating station.
2. 4.5 per cent on gross revenue from annual generation from the generating station above 50 gigawatt hours up to and including 400 gigawatt hours.
3. 6.0 per cent on gross revenue from annual generation from the generating station above 400 gigawatt hours up to and including 700 gigawatt hours.
4. 26.5 per cent on gross revenue from annual generation from the generating station above 700 gigawatt hours. 2000, c. 25, s. 46 (2).

Additional charge

(5) In addition to the taxes or charges under subsection (1) or (2), the holder of a water power lease shall pay a water rental charge to Her Majesty in right of Ontario calculated at 9.5 per cent on gross revenue from annual generation from the hydro-electric generating station, and the holder's lease is hereby amended to substitute this charge for any water rental charge set out in the lease. 2000, c. 25, s. 46 (2).

Exception, water power lease under Niagara Parks Act

(5.1) Each prescribed holder of a water power lease under the Niagara Parks Act shall make such payments as may be prescribed to The Niagara Parks Commission, in the time and manner prescribed by regulation, and those payments reduce the amount of the charge payable by the holder under subsection (5). 2001, c. 23, s. 68 (1).

Exception

(6) There may be deducted, in determining the amount of gross revenue referred to in subsections (4) and (5), the amount of gross revenue resulting from the generation of electricity from eligible capacity, as determined by regulation, for the time period that is the longer of,
(a) the first 120 months after the eligible capacity is put in service, as determined by regulation; and
(b) such length of time, after the eligible capacity is first put in service, as the Minister of Finance may prescribe in the regulations. 2002, c. 23, s. 3 (22).

(7) Repealed: 2009, c. 33, Sched. 16, s. 4.

Payment of taxes and charges

(8) The taxes and charges payable under this section shall be paid at the times and in the manner prescribed by regulation. 2000, c. 25, s. 46 (2).

(9) Repealed: 2004, c. 31, Sched. 11, s. 3 (3).

Demand for information

(10) The Minister of Finance may, for any purpose related to the administration or enforcement of this section, by registered letter or by a demand served personally or delivered by courier service, require any person to provide any information or records to the Minister within such reasonable time as is stipulated in the letter or demand. 2000, c. 25, s. 46 (2).

Deemed receipt of registered letter

(10.1) A registered letter sent to a person under subsection (10) is deemed to have been received on the fifth day after the day of mailing unless the person establishes that, although acting in good faith, the person did not receive it or did not receive it until a later date. 2011, c. 9, Sched. 12, s. 4.

Offence

(11) Any person who fails to provide the information or records as required under subsection (10) is guilty of an offence and is on conviction liable to a fine of not more than \$100 for each day during which the default continues. 2000, c. 25, s. 46 (2).

Confidentiality

(12) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Finance for the purposes of this section; or
(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this section. 2000, c. 25, s. 46 (2).

Testimony

(13) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Finance for the purposes of this section; or
(b) to produce any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this section. 2000, c. 25, s. 46 (2).

Exception

(14) Subsections (12) and (13) do not apply in respect of,

(a) criminal proceedings under an Act of the Parliament of Canada;
(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
(c) proceedings relating to the collection of taxes or charges under this section. 2000, c. 25, s. 46 (2).

Communication

(15) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this section,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister of Finance for the purposes of this section; and
(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this section. 2000, c. 25, s. 46 (2).

Reciprocal communication

(16) A person who receives information or obtains access to any record or thing under subsection (15) has a duty to communicate or furnish to the Minister of Finance on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this section. 2000, c. 25, s. 46 (2).

Use of information

(17) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this section or an Act that is administered or enforced by the person receiving the information, record or thing. 2000, c. 25, s. 46 (2).

Offence

(18) Every person who contravenes subsection (12), (13), (14), (15), (16) or (17) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 2000, c. 25, s. 46 (2).

Gross lease recovery

(19) If the owner of the hydro-electric generating station is not the person who generates electricity from that facility and is unable to recover the liability imposed under this section under the terms of its contract or sublease with the person who generates electricity, the amount of such liability may be recovered from the person generating the electricity. 2000, c. 25, s. 46 (2).

Section 444.1 to apply

(20) The amount specified under subsection (19) may be recovered in the same manner as amounts are recovered under subsection 444.1 (2) of the Municipal Act, as that Act read immediately before its repeal by the Municipal Act, 2001, and subsections 444.1 (5), (6) and (8) of that Act apply in respect of the amount. 2000, c. 25, s. 46 (2); 2002, c. 17, Sched. F, Table.

Regulations

(21) The Minister of Finance may make regulations,

- (a) determining eligibility for a deduction under subsection (6);
- (b) prescribing one or more methods for determining gross revenue for the purposes of this section;
- (c) Repealed: 2004, c. 31, Sched. 11, s. 3 (4).
- (d) providing for lower rates to be applied to specified hydro-electric generating stations for the purposes of subsections (4) and (5);
- (e) determining the annual generation for the purposes of subsections (4) and (5) pursuant to energy transfers or water transfers between a hydro-electric generating station in Ontario and a hydro-electric generating station in Ontario or in another jurisdiction;
- (e.1) prescribing a length of time longer than 120 months that applies to one or more hydro-electric generating stations for the purposes of subsection (6);
- (f) exempting any hydro-electric generating station from the tax or charge or a portion of the tax or charge under subsection (1), (2) or (5);
- (f.1) prescribing water power lease holders for the purposes of subsection (5.1), specifying the amount of the payments to be made under that subsection and the time and manner in which the payments are to be made;
- (g) defining any word or expression used in this section that is not already defined;
- (h) providing for compensation to be paid to municipalities in which a hydro-electric generating station is located in respect of revenues foregone as a result of the enactment of paragraph 28 of subsection 3 (1) of the Assessment Act. 2000, c. 25, s. 46 (2); 2001, c. 23, s. 68 (2); 2002, c. 23, s. 3 (23); 2004, c. 31, Sched. 11, s. 3 (4).

General or specific

(22) A regulation under subsection (21) may be general or specific and may apply to different hydro-electric generating stations and different owners differently. 2000, c. 25, s. 46 (2).

Retroactive

(23) A regulation made under this section is, if it so provides, effective with reference to a period before it is filed. 2000, c. 25, s. 46 (2).

Definitions

(24) In this section,

“holder of a water power lease” means a person who has entered into an agreement, lease or other writing respecting the use of water under subsection 42 (2) of the Public Lands Act or under the Niagara Parks Act or the The St. Lawrence Development Act, 1952 (No. 2) or who is required to enter into such agreement, lease or other writing in order to be entitled to occupy public lands; (“titulaire d’un bail pour l’exploitation de ressources hydro-électriques”)

“hydro-electric generating station” includes any building or structure in which electricity is generated through the use of water power or from the movement of water; (“centrale hydro-électrique”)

“owner” includes a tenant of land owned by the Crown or a municipality on which a hydro-electric generating station is located or a tenant of land owned by any other person if the tenant is the generator of electricity from the hydro-electric generating station. (“propriétaire”) 2000, c. 25, s. 46 (2).

Municipal electricity utilities

Payments in lieu of federal corporate tax

93. (1) If a municipal electricity utility is exempt under subsection 149 (1) of the Income Tax Act (Canada) from the payment of tax under that Act, it shall pay to the Financial Corporation in respect of each taxation year an amount equal to the amount of the tax that it would be liable to pay under that Act if it were not exempt. 1998, c. 15, Sched. A, s. 93 (1).

Same: payments in lieu of provincial corporate tax

(2) If a municipal electricity utility is exempt under subsection 57 (1) of the Corporations Tax Act from the payment of tax under that Act in respect of a taxation year ending before January 1, 2009, it shall

pay to the Financial Corporation in respect of each taxation year ending before that day an amount equal to the total amount of tax that it would be liable to pay under Parts II, II.1 and III of that Act for the year if it were a corporation to which that subsection did not apply. 2007, c. 7, Sched. 12, s. 3 (4).
Same

(2.1) If a municipal electricity utility is exempt under subsection 27 (2) of the Taxation Act, 2007 from the payment of tax under that Act for a taxation year ending after December 31, 2008, it shall pay to the Financial Corporation in respect of each taxation year ending after that day an amount equal to the total amount of tax that it would be liable to pay for the taxation year under Divisions B, C and E of Part III of that Act if it were a corporation to which that subsection did not apply. 2007, c. 7, Sched. 12, s. 3 (4).

Payments to Minister of Finance

(3) After Part V is repealed under section 84.1, all payments required by this section shall be paid to the Minister of Finance, instead of to the Financial Corporation. 1998, c. 15, Sched. A, s. 93 (3); 2000, c. 42, s. 35.

Commencement of new taxation year

(4) A corporation that is required to make payments under this section shall be deemed, for the purposes of this section, to commence a new taxation year on the day this section comes into force. 1998, c. 15, Sched. A, s. 93 (4).

Municipal electricity property: transfer tax

94. (1) A municipal corporation or municipal electricity utility shall not transfer to any person any interest in real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity unless, before the transfer takes effect, it pays to the Financial Corporation the amount determined by multiplying the fair market value of the interest by the prescribed percentage or furnishes security in that amount to the Financial Corporation that meets such requirements as may be prescribed and that is satisfactory to the Financial Corporation. 2000, c. 42, s. 36 (1).

Forms of property

(1.1) For the purposes of subsection (1), real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity includes cash, amounts receivable, investments, customer lists, licences, goodwill and other intangible property used in connection with those activities. 2000, c. 42, s. 36 (1).

Same

(2) For the purpose of subsection (1), an interest in real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity shall be deemed to include any interest in a corporation, partnership or other entity that derives its value in whole or in part from real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity. 1998, c. 15, Sched. A, s. 94 (2).

Deductions from amount payable

(3) Subject to subsection (5), the amount payable under subsection (1) in a taxation year by a municipal electricity utility may be reduced by the following amounts:

1. Any amount payable and paid by the municipal electricity utility under section 93 in respect of the part of the taxation year up to and including the date of the transfer or in respect of a previous taxation year.
2. Any amount payable and paid by the municipal electricity utility under Part II, II.1 or III of the Corporations Tax Act or Part III of the Taxation Act, 2007 in respect of the part of the taxation year up to and including the date of the transfer or in respect of a previous taxation year.
3. Any amount that the municipal electricity utility would be liable to pay as tax under Part I of the Income Tax Act (Canada) in respect of the taxation year if that tax were computed on the basis that the

municipal electricity utility had no income during the taxation year other than the capital gain realized on the transfer of its interest in the property.

4. Any amount that the municipal electricity utility would be liable to pay as tax under Part I of the Income Tax Act (Canada) in respect of the taxation year if that tax were computed on the basis that the municipal electricity utility had no income during the taxation year other than an amount included in income under paragraph 14 (1) (b) of the Income Tax Act (Canada) in respect of the transfer of its interest in the property. 1998, c. 15, Sched. A, s. 94 (3); 2000, c. 42, s. 36 (2); 2002, c. 22, s. 63 (1, 2); 2004, c. 16, Sched. D, Table; 2004, c. 31, Sched. 11, s. 4 (1); 2007, c. 7, Sched. 12, s. 3 (5).

Same

(4) Subject to subsections (5) and (6.1), the amount payable under subsection (1) in a taxation year by a municipal corporation may be reduced by the following amounts:

1. Any amount payable and paid by a municipal electricity utility under section 93 in respect of the part of the taxation year up to and including the date of the transfer or in respect of a previous taxation year, but only if the municipal electricity utility is related to the municipal corporation immediately before the transfer.

2. Any amount payable and paid by a municipal electricity utility under Part II, II.1 or III of the Corporations Tax Act or Part III of the Taxation Act, 2007 in respect of the part of the taxation year up to and including the date of the transfer or in respect of a previous taxation year, but only if the municipal electricity utility is related to the municipal corporation immediately before the transfer. 2000, c. 42, s. 36 (3); 2002, c. 22, s. 63 (3, 4); 2004, c. 16, Sched. D, Table; 2007, c. 7, Sched. 12, s. 3 (5).

Same

(5) An amount referred to in paragraph 1, 2, 3 or 4 of subsection (3) or paragraph 1 or 2 of subsection (4) may be applied under those subsections to reduce the amount payable by a municipal corporation or municipal electricity utility under subsection (1) only to the extent that it has not previously been applied to reduce an amount payable by a municipal corporation or municipal electricity utility under subsection (1). 1998, c. 15, Sched. A, s. 94 (5); 2005, c. 31, Sched. 6, s. 2 (1).

Same

(6) A municipal electricity utility shall be deemed to be related to a municipal corporation for the purpose of subsection (4) if they are related persons within the meaning of section 251 of the Income Tax Act (Canada). 1998, c. 15, Sched. A, s. 94 (6).

Exception

(6.1) Despite subsection (6), if two or more municipal corporations hold an interest in a municipal electricity utility at the time of the transfer, the amount determined under paragraphs 1 and 2 of subsection (4) in respect of the transfer is the amount calculated in respect of each corporation using the formula,

$A \times B/C$

in which,

“A” is the total of the amounts,

(a) that are payable and paid by the municipal electricity utility under section 93 in respect of the part of the taxation year up to and including the date of the transfer or in respect of a previous taxation year, and

(b) that are payable and paid by the municipal electricity utility under Part II, II.1 or III of the Corporations Tax Act or Part III of the Taxation Act, 2007 in respect of the part of the taxation year up to and including the date of the transfer or in respect of a previous taxation year,

“B” is the fair market value of the municipal corporation’s interest in shares of the municipal electricity utility at the time of the transfer, and

“C” is the aggregate fair market value of all issued and outstanding shares of the municipal electricity utility at the time of the transfer.

2000, c. 42, s. 36 (4); 2002, c. 22, s. 63 (5); 2004, c. 16, Sched. D, Table; 2007, c. 7, Sched. 12, s. 3 (5).

Refund

(7) Amounts paid under this section in respect of a transfer may be refunded in accordance with the regulations if the proceeds of the transfer are reinvested in the prescribed manner. 2004, c. 31, Sched. 11, s. 4 (2).

Same

(7.1) In such circumstances as may be prescribed, a municipal corporation or municipal electricity utility shall repay an amount refunded to it under subsection (7). 2004, c. 31, Sched. 11, s. 4 (2).

Same

(8) Subsection (1) does not apply to transfers prescribed by the regulations. 1998, c. 15, Sched. A, s. 94 (8).

(9) Repealed: 2005, c. 31, Sched. 6, s. 2 (2).

(9.1) Repealed: 2005, c. 31, Sched. 6, s. 2 (3).

Payments to Minister of Finance

(10) After Part V is repealed under section 84.1, payments referred to in subsection (1) must be paid to the Minister of Finance, instead of to the Financial Corporation. 1998, c. 15, Sched. A, s. 94 (10); 2000, c. 42, s. 36 (5).

Status of police village

(10.1) A police village shall be deemed to be a municipal corporation for the purposes of this section. 2000, c. 42, s. 36 (6).

(11) Spent: 1998, c. 15, Sched. A, s. 94 (11).

Application of Corporations Tax Act

95. (1) Except as otherwise prescribed by the regulations, the Minister of Finance is responsible for enforcing the payment of amounts payable under this Part, including amounts payable under regulations made under this Part, and, for the purposes of this Part,

(a) Parts V and VI of the Corporations Tax Act apply with necessary modifications and with such changes as may be prescribed by the regulations to amounts payable under this Part after November 6, 1998, other than amounts payable under section 92 or 92.1;

(b) Divisions C, D, E and F of Part V and Part VI of the Corporations Tax Act apply with necessary modifications and with such changes as may be prescribed by the regulations to amounts payable under section 92 or 92.1 after November 6, 1998, including any penalties and interest on late payments;

(c) any amount payable under this Part after November 6, 1998, other than under section 94, that remains unpaid after it becomes due, including any penalties and interest on late payments, may be collected as if it were tax payable under the Corporations Tax Act. 2004, c. 31, Sched. 11, s. 5; 2007, c. 11, Sched. B, s. 3 (1, 2).

Collection of amounts payable under s. 94

(2) In the application of Parts V and VI of the Corporations Tax Act for the purposes of enforcing the payment of any amount under section 94,

(a) a reference to "a taxation year" or "the taxation year" shall be read as a reference to a transfer or a particular transfer, as the case may be;

(b) a reference to a return shall be read as a reference to any notice given to the Minister for the purposes of section 94; and

(c) a reference to a notice of assessment or reassessment shall be read as including a reference to correspondence prescribed by the regulations that is issued by the Minister for the purposes of section 94. 2004, c. 31, Sched. 11, s. 5.

Order to remit, Financial Corporation

95.1 (1) On the recommendation of the Minister of Finance, the Lieutenant Governor in Council may order the Financial Corporation to remit an amount payable under Part V.1 or VI or under section 83.1

of the Corporations Tax Act if the Lieutenant Governor in Council considers it to be in the public interest to do so. 2000, c. 42, s. 37; 2002, c. 1, Sched. A, s. 20 (1); 2004, c. 16, Sched. D, Table.

Scope of remission

(2) A remission ordered under subsection (1) may be total or partial, conditional or unconditional and may be made,

(a) before, after or pending any suit or proceeding for the recovery of the amount in respect of which the remission is granted;

(b) before or after any payment of the amount payable under Part V.1 or VI or under section 83.1 of the Corporations Tax Act has been made or enforced by process or execution; or

(c) in any particular case or class of cases and before the liability to pay arises. 2000, c. 42, s. 37; 2002, c. 1, Sched. A, s. 20 (2); 2004, c. 16, Sched. D, Table.

Form of remission

(3) A remission ordered under subsection (1) may be made,

(a) by forbearing to institute a suit or proceeding for the recovery of the amount in respect of which remission is granted;

(b) by delaying, staying or discontinuing any suit or proceeding already instituted;

(c) by forbearing to enforce, staying or abandoning any execution or process upon any judgment;

(d) by the entry of satisfaction upon any judgment; or

(e) by repaying any sum of money paid to or recovered by the Financial Corporation. 2000, c. 42, s. 37.

Conditional remission

(4) If a remission ordered under subsection (1) is made subject to a condition and the condition is not performed, the amount remitted or to be remitted may be collected or all proceedings may be had as if there had been no remission. 2000, c. 42, s. 37.

Effect of remission

(5) An unconditional remission and, upon performance of the condition, a conditional remission have effect as if the remission was made after the amount in respect of which it was granted had been sued for and recovered. 2000, c. 42, s. 37.

Regulations, Part VI

96. (1) The Minister of Finance may make regulations,

(0.a) prescribing persons and entities for the purposes of clause (f) of the definition of “municipal electricity utility” in section 88;

(a) prescribing modifications to the method of calculating the amount of any payment required by section 89, 90 or 93;

(b) prescribing amounts for the purpose of clause 92 (1) (a);

(c) prescribing percentages for the purpose of subsection 94 (1) and prescribing modifications to the method of calculating the amount of the payment required by section 94;

(d) deeming a transaction or series of transactions, for the purpose of section 94, to be a transfer to a person of an interest in real or personal property that has been used in connection with generating, transmitting, distributing or retailing electricity;

(e) prescribing transfers to which subsection 94 (1) does not apply, subject to such conditions or restrictions as may be specified in the regulations;

(e.1) prescribing requirements relating to security for the purposes of subsection 94 (1);

(e.2) governing refunds authorized by subsection 94 (7);

(e.3) prescribing circumstances for the purposes of subsection 94 (7.1);

(e.4) Repealed: 2005, c. 31, Sched. 6, s. 3.

(f) requiring payments under this Part to be paid in instalments, prescribing the times when the payments or instalments are required to be paid and requiring the payment of interest or penalties on late payments;

- (f.1) prescribing one or more provisions of Part V or VI of the Corporations Tax Act that do not apply in respect of an amount payable under one or more sections in this Part that are prescribed in the regulation;
- (f.2) prescribing changes to provisions in Part V or VI of the Corporations Tax Act that apply in respect of an amount payable under one or more sections in this Part that are prescribed in the regulation, including,
 - (i) prescribing a change to a time limit for issuing an assessment or reassessment in respect of an amount payable under this Part after November 6, 1998, and
 - (ii) prescribing a change to a time limit for the payment of a refund of an overpayment in respect of a period after November 6, 1998;
- (f.3) prescribing rules governing the application of one or more provisions of Part VIII of the Taxation Act, 2007 with respect to an amount payable under one or more provisions of this Part that are prescribed by the rules;
- (g) prescribing procedures that must be followed in connection with any payment required by this Part;
- (h) respecting any other matter that the Minister of Finance considers necessary or advisable in connection with this Part. 1998, c. 15, Sched. A, s. 96 (1); 2000, c. 42, s. 38; 2004, c. 31, Sched. 11, s. 6; 2005, c. 31, Sched. 6, s. 3; 2007, c. 11, Sched. B, s. 3 (3).

General or particular

(2) A regulation made under this section may be general or particular in its application. 1998, c. 15, Sched. A, s. 96 (2).

Retroactivity

(3) A regulation made under this section is, if it so provides, effective with reference to a period before it is filed. 1999, c. 9, s. 104.

cl. (1) (f), previous payments

(4) In a regulation made under clause (1) (f), the Minister may provide that payments made in 1999 before the regulation is made have been properly made under that regulation. 1999, c. 9, s. 104.

PART VII

PENSION PLANS

Interpretation, Part VII

97. (1) In this Part,

“changeover date” means the date prescribed under subsection (3); (“date du changement”)

“commencement date” means, in relation to a successor pension plan, the date prescribed under subsection 102 (6); (“date d’effet”)

“FCPP” means the Ontario Hydro Financial Corporation Pension Plan; (“RRSF”)

Note: Effective April 1, 1999, the name of the Ontario Hydro Financial Corporation Pension Plan has been changed by regulation to Ontario Electricity Financial Corporation Pension Plan in English and Régime de retraite de la Société financière de l’industrie de l’électricité de l’Ontario in French. See: O. Reg. 115/99, s. 2 (1).

“former member” means a person who is a former member of a pension plan within the meaning of the Pension Benefits Act and includes any other person who is entitled to receive or is receiving a payment from the pension fund by virtue of the person’s relationship to the former member; (“ancien participant”)

“successor employer” means a person who is required to establish a pension plan under subsection 102 (1); (“employeur subséquent”)

“successor pension plan” means a pension plan established in accordance with section 102. (“régime de retraite subséquent”) 1998, c. 15, Sched. A, s. 97 (1).

Pension plans

(2) Expressions in this Part relating to pension plans have the same meaning as under the Pension Benefits Act unless the context requires otherwise. 1998, c. 15, Sched. A, s. 97 (2).

Changeover date

(3) The Lieutenant Governor in Council may, by regulation, prescribe the changeover date for the purposes of this Part and may do so after the date has passed. 1998, c. 15, Sched. A, s. 97 (3).

Financial Corporation Pension Plan

98. (1) The Ontario Hydro Pension and Insurance Plan is continued under the name Ontario Hydro Financial Corporation Pension Plan in English and Régime de retraite de la Société financière Ontario Hydro in French. 1998, c. 15, Sched. A, s. 98 (1).

Note: Effective April 1, 1999, the name of the Ontario Hydro Financial Corporation Pension Plan has been changed by regulation to Ontario Electricity Financial Corporation Pension Plan in English and Régime de retraite de la Société financière de l'industrie de l'électricité de l'Ontario in French. See: O. Reg. 115/99, s. 2 (1).

Fund continued

(2) The Pension and Insurance Fund of Ontario Hydro is continued as the pension fund for the FCPP under the name Ontario Hydro Financial Corporation Pension Fund in English and Caisse de retraite de la Société financière Ontario Hydro in French. 1998, c. 15, Sched. A, s. 98 (2).

Note: Effective April 1, 1999, the name of the Ontario Hydro Financial Corporation Pension Fund has been changed by regulation to Ontario Electricity Financial Corporation Pension Fund in English and Caisse de retraite de la Société financière de l'industrie de l'électricité de l'Ontario in French. See: O. Reg. 115/99, s. 2 (2).

Change of name

(3) The Lieutenant Governor in Council may, by regulation, change the name of the FCPP and the name of the pension fund for the FCPP. 1998, c. 15, Sched. A, s. 98 (3).

Status of plan

(4) The FCPP shall be deemed not to be a multi-employer pension plan for the purposes of the Pension Benefits Act. 1998, c. 15, Sched. A, s. 98 (4).

Administrator

(5) The Financial Corporation is the administrator of the FCPP. 1998, c. 15, Sched. A, s. 98 (5).

(6) Repealed: 1998, c. 15, Sched. A, s. 98 (9).

Certain benefits

(7) On the day this section comes into force, the FCPP ceases to provide,

(a) disability benefits that are being provided under a contract between the Financial Corporation and an insurer or a subsidiary of an insurer immediately before this section comes into force; and

(b) life insurance that is being provided under an insurance contract between the Financial Corporation and an insurer or a subsidiary of an insurer immediately before this section comes into force. 1998, c. 15, Sched. A, s. 98 (7).

Same

(8) The amount held by the Pension and Insurance Fund of Ontario Hydro immediately before this section comes into force that was allocated for the provision of the benefits and insurance described in subsection (7) is payable to the Financial Corporation in trust for the provision of those benefits and that insurance. 1998, c. 15, Sched. A, s. 98 (8).

(9) Spent: 1998, c. 15, Sched. A, s. 98 (9).

Employer contributions to FCPP

99. (1) The Financial Corporation shall contribute to the pension fund for the FCPP for a year the amount by which the normal cost of the FCPP exceeds the contributions to the pension fund made by the members, as determined by the FCPP actuary. 1998, c. 15, Sched. A, s. 99 (1).

Same

(2) If the FCPP has a surplus or a prior year credit balance or both, the Financial Corporation, in its sole discretion acting in its capacity as employer, may reduce or suspend the Corporation's contributions to the pension fund to the extent permitted under the Pension Benefits Act. 1998, c. 15, Sched. A, s. 99 (2).
Refund of contributions

(3) Despite subsection 78 (1) of the Pension Benefits Act, the administrator of the FCPP shall refund to the Financial Corporation, without interest, the contributions made by Ontario Hydro that were required to pay the normal cost of the pension plan in respect of service after March 31, 1998 and before the day that subsection (2) comes into force. 1998, c. 15, Sched. A, s. 99 (3).

Unfunded liability or solvency deficiency

(4) If a report on the FCPP filed with the Superintendent reveals a going concern unfunded liability or solvency deficiency or both, each successor employer shall pay to the pension fund for the FCPP, as its share of the total amount of each monthly special payment required as a result of the report, the amount determined by the plan actuary in accordance with the following formula:

$$\left(\frac{A}{B}\right) \times C$$

in which,

"A" is the total of the actuarial liabilities of the FCPP for the pension benefits and ancillary benefits of members and former members of the FCPP who will become members or former members of the successor plan established by the successor employer;

"B" is the total of the actuarial liabilities of the FCPP for the pension benefits and ancillary benefits of members and former members of the FCPP; and

"C" is the total amount of the monthly special payment required as a result of the report. 1998, c. 15, Sched. A, s. 99 (4).

Definition

(5) In subsection (4),

"actuarial liabilities" means,

(a) in the case of a going concern valuation, the going concern liabilities, and

(b) in the case of a solvency valuation, the solvency liabilities. 1998, c. 15, Sched. A, s. 99 (5).

Administrative costs of FCPP

100. The costs of administering the FCPP (including the costs of administering and investing the pension fund) are payable out of the pension fund. 1998, c. 15, Sched. A, s. 100.

Additional pension plans of Financial Corporation

101. (1) This section applies if the Financial Corporation establishes another pension plan in the circumstances described in section 80 or 81 of the Pension Benefits Act. 1998, c. 15, Sched. A, s. 101 (1).

Transfer of assets

(2) The Financial Corporation, in its sole discretion acting in its capacity as employer, may decide whether to transfer assets from the FCPP to the other pension plan and may decide upon all matters relating to the transfer, subject to the consent of the Superintendent of Financial Services as required under the Pension Benefits Act. 1998, c. 15, Sched. A, s. 101 (2).

Requirements continued

(3) Subsections 98 (5) and 99 (2) and section 100 apply with respect to the other pension plan. 1998, c. 15, Sched. A, s. 101 (3).

Successor pension plans

102. (1) The IESO, Hydro One Inc., Ontario Power Generation Inc. and the Electrical Safety Authority shall each establish a pension plan to provide pension benefits and ancillary benefits for the following persons:

1. Its employees whose employment is transferred to it by or pursuant to an order made under section 116 and who are, or are entitled to be, members of the FCPP before their employment is transferred.

2. Such other employees as it considers appropriate.

3. Such former members of the FCPP as the Financial Corporation, in its sole discretion acting in its capacity as employer, designates for transfer to the pension plan.
4. Such other persons as this Part may require. 1998, c. 15, Sched. A, s. 102 (1); 2002, c. 1, Sched. A, s. 21 (1); 2004, c. 23, Sched. A, s. 52.

Selection of former members

(2) In determining which former members of the FCPP are to be transferred to a successor pension plan, the Financial Corporation shall comply with the following rules:

1. All former members of the FCPP must be transferred to the successor pension plans.
2. The Financial Corporation shall consider which successor employer, if any, would most likely have become the employer of each former employee of Ontario Hydro (assuming, only for the purposes of this rule, that the former employee had been employed by Ontario Hydro immediately before the date on which employees of Ontario Hydro are transferred to the successor employers by or pursuant to orders made under section 116).
3. If the Financial Corporation concludes that a former employee would most likely have remained an employee of the Financial Corporation or a subsidiary of the Financial Corporation, the Financial Corporation shall transfer the former member to the successor pension plan established by Ontario Power Generation Inc. 1998, c. 15, Sched. A, s. 102 (2); 2002, c. 1, Sched. A, s. 21 (2).

Status of plan

(3) During the period that employees of the subsidiary of the Financial Corporation established under section 110 are members of the pension plan established under subsection (1) by Ontario Power Generation Inc., that plan shall be deemed not to be a multi-employer pension plan for the purposes of the Pension Benefits Act. 1998, c. 15, Sched. A, s. 102 (3); 2002, c. 1, Sched. A, s. 21 (3).

Administrator

(4) The successor employer is the administrator of the applicable successor pension plan. 1998, c. 15, Sched. A, s. 102 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed. (See: 2013, c. 2, Sched. 4, ss. 1, 4)

Commencement date

(5) Each successor pension plan comes into effect as of the prescribed commencement date for the plan. 1998, c. 15, Sched. A, s. 102 (5).

Regulation

(6) The Lieutenant Governor in Council may, by regulation, prescribe a commencement date for each successor pension plan. 1998, c. 15, Sched. A, s. 102 (6).

Members of successor plans

103. (1) An employee of a successor employer who has established a successor pension plan becomes a member of the successor pension plan on the following date:

1. If the employee was a member of the FCPP immediately before becoming employed by the successor employer, the later of the following dates:
 - i. The date on which he or she becomes employed by the successor employer.
 - ii. The commencement date for the plan.
2. If, under the terms of the successor pension plan, the employee is required to be a member of the plan, the latest of the following dates:
 - i. The date on which he or she becomes employed by the successor employer.
 - ii. The date on which, under the terms of the successor pension plan, he or she is required to become a member of the plan.
 - iii. The commencement date for the plan.
3. If, under the terms of the successor pension plan, the employee is required to become a member of the plan after meeting certain conditions, the later of the following dates:

- i. The date on which he or she meets those conditions.
 - ii. The commencement date for the plan.
4. If, under the terms of the successor pension plan, the employee is entitled, but not required, to become a member of the plan after meeting certain conditions, the later of the following dates:
- i. The date on which he or she becomes a member of the plan.
 - ii. The commencement date for the plan. 1998, c. 15, Sched. A, s. 103 (1).

Former members

(2) The former members described in paragraph 3 of subsection 102 (1) become former members of the successor pension plan on the changeover date. 1998, c. 15, Sched. A, s. 103 (2).

Employer contributions to successor plans

104. (1) A successor employer shall contribute to the pension fund for the applicable successor pension plan for a year the amount by which the normal cost of the plan exceeds the contributions to the pension fund made by the members, as determined by the plan actuary. 1998, c. 15, Sched. A, s. 104 (1).
Same

(2) If the plan has a surplus or a prior year credit balance or both, the successor employer, in its sole discretion acting in its capacity as employer, may reduce or suspend the employer's contributions to the pension fund to the extent permitted under the Pension Benefits Act. 1998, c. 15, Sched. A, s. 104 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is repealed.

(See: 2013, c. 2, Sched. 4, ss. 2, 4)

Participation by affiliates in successor pension plans

104.1 (1) A successor employer may permit an affiliate to be a participating employer under a successor pension plan with respect to such employees of the affiliate, for such period and on such terms as the successor employer determines in its sole discretion acting in its capacity as an employer. 2000, c. 42, s. 39.

Contributions by participating affiliates

(2) The participating affiliate shall contribute to the pension fund for the plan for a year the amount determined by multiplying the rate described in subsection (4) by the pensionable earnings of the members of the plan who are employees of the affiliate, other than their pensionable earnings, if any, as employees of the successor employer. 2000, c. 42, s. 39.

Reduction in contributions of successor employer

(3) Despite subsection 104 (1), a successor employer who permits an affiliate to be a participating employer under the plan shall contribute to the pension fund for the plan for a year the amount determined by multiplying the rate described in subsection (4) by the pensionable earnings of the members of the plan who are employees of the successor employer, other than their pensionable earnings, if any, as employees of a participating affiliate. 2000, c. 42, s. 39.

Rate for employer contributions

(4) The rate for a year is determined by calculating the amount by which the normal cost in respect of all members of the plan exceeds the contributions made for the year to the pension fund for the plan by all members and dividing that amount by the pensionable earnings of all members of the plan for the year, as determined by the actuary of the plan. 2000, c. 42, s. 39.

Reduction, etc., in contributions

(5) If the plan has a surplus or a prior year credit balance or both, the successor employer, in its sole discretion acting in its capacity as an employer, may permit the participating affiliate to reduce or suspend its contributions to the pension fund to the extent permitted under the Pension Benefits Act, and the affiliate, in its sole discretion acting as employer, may do so. 2000, c. 42, s. 39.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is repealed.

(See: 2013, c. 2, Sched. 4, ss. 3, 4)

Status of plan

(6) The plan shall be deemed not to be a multi-employer pension plan for the purposes of the Pension Benefits Act. 2000, c. 42, s. 39.

Definitions

(7) In this section,

“affiliate” means, in relation to a successor employer,

(a) a corporation that is a subsidiary of the successor employer within the meaning of the Business Corporations Act, or

(b) a corporation or partnership that is controlled by the successor employer, by the person who controls the successor employer or by a person who is controlled by the successor employer, as described in subsection (8); (“membre du même groupe”)

“participating affiliate” means, with respect to a successor employer and a successor pension plan, an affiliate permitted under subsection (1) to be a participating employer under the plan. (“membre du même groupe participant”) 2000, c. 42, s. 39.

Interpretation, control

(8) For the purposes of clause (b) of the definition of “affiliate” in subsection (7), a corporation or partnership is controlled by another person or by the successor employer if the person or successor employer holds the following, directly or indirectly, other than by way of security:

1. Voting securities carrying more than 50 per cent of the votes for the election of directors of the corporation.
2. An ownership or other interest that confers on the holder more than 50 per cent of the voting interest or other governance rights in the partnership or more than 50 per cent of the income of the partnership. 2000, c. 42, s. 39.

Administrative costs of successor plans

105. The costs of administering a successor pension plan (including the costs of administering and investing the pension fund) are payable out of the pension fund. 1998, c. 15, Sched. A, s. 105.

Additional pension plans of successor employers

106. (1) This section applies if a successor employer establishes another pension plan in the circumstances described in section 80 or 81 of the Pension Benefits Act. 1998, c. 15, Sched. A, s. 106 (1).

Transfer of assets

(2) The successor employer, in its sole discretion acting in its capacity as employer, may decide whether to transfer assets from the successor pension plan to the other pension plan and may decide upon all matters relating to the transfer, subject to the consent of the Superintendent of Financial Services as required under the Pension Benefits Act. 1998, c. 15, Sched. A, s. 106 (2).

Requirements continued

(3) Subsections 102 (4) and 104 (2) and sections 104.1 and 105 apply with respect to the other pension plan. 1998, c. 15, Sched. A, s. 106 (3); 2000, c. 42, s. 40.

Reciprocal transfer agreements

107. (1) This section applies with respect to the pension plans referred to in subsections 101 (1), 102 (1) and 106 (1). 1998, c. 15, Sched. A, s. 107 (1).

Same

(2) The administrators shall ensure that reciprocal transfer agreements between each of the pension plans are entered into and filed under the Pension Benefits Act. 1998, c. 15, Sched. A, s. 107 (2).

Same

(3) The reciprocal transfer agreements may be bilateral or multilateral. 1998, c. 15, Sched. A, s. 107 (3).

Dispute resolution

(4) If the administrator of a pension plan fails to enter into a reciprocal transfer agreement with the administrator of another pension plan before the prescribed date, the matters remaining in dispute

between them shall be resolved in accordance with such requirements as may be prescribed. 1998, c. 15, Sched. A, s. 107 (4).

Regulations

(5) The Lieutenant Governor in Council may make regulations,

(a) prescribing, for the purpose of subsection (4), dates applicable to pension plans that are specified by the regulations;

(b) governing the resolution of matters remaining in dispute between the administrators of specified pension plans after the prescribed date. 1998, c. 15, Sched. A, s. 107 (5).

Costs

(6) The costs of dispute resolution after the prescribed date shall be borne equally by the applicable pension plans and are payable out of the pension funds of those plans. 1998, c. 15, Sched. A, s. 107 (6).

FCPP membership temporarily extended

108. (1) In any of the following circumstances, an employee of a successor employer is a member of the FCPP until the commencement date for the applicable successor plan:

1. The employee was a member of the FCPP immediately before becoming employed by the successor employer.

2. The employee would be required to be a member of the FCPP, if the employee were employed by the Financial Corporation.

3. The employee would be required to be a member of the FCPP after meeting certain conditions, if the employee were employed by the Financial Corporation. The employee meets those conditions before the commencement date.

4. The employee would be entitled, but not required, to become a member of the FCPP after meeting certain conditions, if the employee were employed by the Financial Corporation. The employee becomes a member of the FCPP before the commencement date. 1998, c. 15, Sched. A, s. 108 (1).

Employee contributions

(2) An employee who is a member of the FCPP shall make employee contributions to the pension fund for the FCPP until the commencement date. 1998, c. 15, Sched. A, s. 108 (2).

Employer contributions re temporary members

109. (1) This section applies with respect to each year or part thereof in which employees of any successor employer are members of the FCPP under section 108. 1998, c. 15, Sched. A, s. 109 (1).

Obligation, successor employers

(2) Each successor employer shall contribute to the pension fund for the FCPP for a year the amount determined by multiplying the rate described in subsection (4) by the pensionable earnings of the members of the FCPP who are its employees, other than their pensionable earnings, if any, as employees of the Financial Corporation. 1998, c. 15, Sched. A, s. 109 (2).

Same, Financial Corporation

(3) Despite subsection 99 (1), the Financial Corporation shall contribute to the pension fund for the FCPP for a year the amount determined by multiplying the rate described in subsection (4) by the pensionable earnings of the members of the FCPP who are its employees, other than their pensionable earnings, if any, as employees of a successor employer. 1998, c. 15, Sched. A, s. 109 (3).

Rate

(4) The rate for a year is determined by calculating the amount by which the normal cost in respect of all members of the FCPP exceeds the contributions made to the pension fund for the FCPP by all members for the year and dividing this amount by the pensionable earnings of all members of the FCPP for the year, as determined by the FCPP actuary. 1998, c. 15, Sched. A, s. 109 (4).

Reductions

(5) Subsection 99 (2) applies, with necessary modifications, to the Financial Corporation and to each successor employer. 1998, c. 15, Sched. A, s. 109 (5).

Administrator

(6) Despite subsection 8 (1) of the Pension Benefits Act, the Financial Corporation is the sole administrator of the FCPP while the successor employers are required to make contributions under this section. 1998, c. 15, Sched. A, s. 109 (6).

Subsidiary to act as agent of Financial Corporation

110. (1) The Financial Corporation shall establish a subsidiary and shall retain the subsidiary to act as the agent of the Financial Corporation in its capacity as administrator of the FCPP. 1998, c. 15, Sched. A, s. 110 (1).

Application of s. 72

(2) Section 72 does not apply to the subsidiary established under subsection (1). 1998, c. 15, Sched. A, s. 110 (2).

Not an employee of the Crown

(3) An employee of the subsidiary is not and shall not be deemed to be an employee of the Crown. 2006, c. 35, Sched. C, s. 31 (3).

Application of subss. (5) and (6)

(4) Subsections (5) and (6) cease to apply when the subsidiary is no longer retained for the purpose referred to in subsection (1). 1998, c. 15, Sched. A, s. 110 (4).

Participation in FCPP

(5) The following rules apply until the commencement date for the successor pension plan established by the Generation Corporation:

1. The employees of the subsidiary are, or are entitled to be, members of the FCPP on the same basis as employees of the Financial Corporation.
2. The subsidiary is an employer who is required to make contributions to the pension fund for the FCPP.
3. Section 109 applies, with necessary modifications, with respect to the rights and duties of the Financial Corporation and the subsidiary. 1998, c. 15, Sched. A, s. 110 (5).

Participation in successor pension plan

(6) The following rules apply on and after the commencement date for the successor pension plan established by Ontario Power Generation Inc.:

1. The employees of the subsidiary are, or are entitled to be, members of the successor pension plan established by Ontario Power Generation Inc.
2. Section 103 applies, with necessary modifications, with respect to the employees of the subsidiary.
3. The subsidiary is an employer who is required to make contributions to the pension fund for the successor pension plan.
4. Section 109 applies, with necessary modifications, with respect to the rights and duties of Ontario Power Generation Inc. and the subsidiary. 1998, c. 15, Sched. A, s. 110 (6); 2002, c. 1, Sched. A, s. 22.

Transfer agreements for successor plans

111. (1) The administrator of the FCPP and the administrator of each successor pension plan shall enter into an agreement governing the division and transfer of assets and liabilities from the FCPP to the successor pension plan. 1998, c. 15, Sched. A, s. 111 (1).

Transfer of assets

(2) The administrator of the FCPP shall transfer assets and liabilities from the FCPP to a successor pension plan in accordance with the transfer agreement relating to the successor pension plan. 1998, c. 15, Sched. A, s. 111 (2).

Value of assets

(3) Subject to subsection (4), the value of the assets to be transferred to a successor pension plan is calculated as of the changeover date using the formula,

$$[(A + B)/C] \times D$$

in which,

“A” is the total of the actuarial liabilities of the FCPP for the pension benefits and ancillary benefits of members of the FCPP who, on or after the commencement date and before the changeover date, become members of the successor pension plan and who, on the changeover date, become entitled to accrued pension benefits under the successor pension plan in respect of their employment before becoming members of the successor pension plan;

“B” is the total of the actuarial liabilities of the FCPP for the pension benefits and ancillary benefits of former members of the FCPP who, on the changeover date, become former members of the successor pension plan;

“C” is the total of the actuarial liabilities of the FCPP for the pension benefits and ancillary benefits of persons who, immediately before the changeover date, are members and former members of the FCPP; and

“D” is the value of the assets held in the pension fund of the FCPP.

1998, c. 15, Sched. A, s. 111 (3).

Same

(4) The amount calculated under subsection (3) is subject to such adjustments as the transfer agreement may permit. 1998, c. 15, Sched. A, s. 111 (4).

Same

(5) Subsections 80 (5) to (7) of the Pension Benefits Act apply with respect to the transfer of assets.

1998, c. 15, Sched. A, s. 111 (5).

Tax exemption

(5.1) The Land Transfer Tax Act and the Retail Sales Tax Act do not apply with respect to the transfer of assets. 2000, c. 42, s. 41.

Dispute resolution

(6) If the administrators do not enter into a transfer agreement before the prescribed date, the matters remaining in dispute between them shall be resolved in accordance with such requirements as may be prescribed. 1998, c. 15, Sched. A, s. 111 (6).

Regulations

(7) The Lieutenant Governor in Council may make regulations,

(a) prescribing, for the purpose of subsection (6), dates applicable to pension plans that are specified by the regulations;

(b) governing the resolution of matters remaining in dispute after the prescribed date. 1998, c. 15, Sched. A, s. 111 (7).

Costs

(8) The costs of dispute resolution after the prescribed date are payable out of the pension fund for the FCPP. 1998, c. 15, Sched. A, s. 111 (8).

Transfer of benefits to successor plans

112. (1) This section applies if the Superintendent of Financial Services consents to the transfer of assets described in section 111 from the FCPP to a successor pension plan. 1998, c. 15, Sched. A, s. 112 (1).

Same

(2) The following changes occur as of the changeover date:

1. Members of the FCPP who become members of the successor pension plan on or after the commencement date and before the changeover date become entitled to pension benefits under the successor pension plan in respect of their employment before becoming members of the successor pension plan and they cease to be entitled to those benefits under the FCPP.

2. Former members of the FCPP who become former members of the successor pension plan on the changeover date become entitled to pension benefits under the successor pension plan in respect of the applicable person’s employment before the changeover date.

3. Those former members cease to be former members of the FCPP.

4. Those members and former members become entitled to credit in the successor pension plan for the period of membership of the member or the applicable former member in the FCPP, for the purpose of determining entitlement to ancillary benefits under the successor pension plan. 1998, c. 15, Sched. A, s. 112 (2).

Transfer of responsibility

(3) As of the changeover date, the successor employer assumes responsibility for the accrued pension benefits under the FCPP of the members and former members described in subsection (2), and the Financial Corporation ceases to be responsible for those accrued pension benefits. 1998, c. 15, Sched. A, s. 112 (3).

PART VIII

ELECTRICAL SAFETY

Definitions

112.1 In this Part,

“Authority” means the Electrical Safety Authority; (“Office”)

“authorization” means a licence, certificate or registration issued under this Part, despite the definition of “licence” in subsection 2 (1); (“autorisation”)

“Director” means a person appointed as a Director under this Part; (“directeur”)

“inspector” means an inspector appointed under this Part; (“inspecteur”)

“investigator” means an investigator appointed under this Part; (“enquêteur”)

“person” means an individual, a corporation, an association, a partnership or any other entity; (“personne”)

“regulations” means the regulations made under this Part, despite the definition of “regulations” in subsection 2 (1). (“règlements”) 2004, c. 19, s. 12 (2); 2006, c. 34, s. 12 (1).

Electrical Safety

Regulations, LG in C

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

(a) prescribing the design, construction, installation, protection, use, maintenance, repair, extension, alteration, connection and disconnection of all works, matters and things used or to be used in the generation, transmission, distribution, retail or use of electricity in Ontario;

(b) prohibiting the use, advertising, display, offering for sale, or other disposal, and the sale or other disposal, publicly or privately, in Ontario, of any such works, matters and things unless and until they have been inspected and approved, or deemed approved;

(c) prescribing the precautions to be taken in the sale or other disposal of such works, matters and things and the warnings and instructions to be given to purchasers and others in advertisements, by circular, labelling, including by tag, seal or other form of labelling, or otherwise, to prevent their use in such manner or under such conditions as may be likely to result in undue hazard to persons or property;

(d) providing for the inspection, test and approval of such works, matters and things before being used in the generation, transmission, distribution, retail or use of electricity in Ontario, and for a process for granting, renewing, suspending, revoking and reinstating approvals for the works, matters and things before they are used for any of those purposes;

(e) requiring compliance with any code, standard, guideline or procedure under a rule of a person retailing electricity to such works, matters and things. 2006, c. 34, s. 12 (2).

Regulations, Minister

(2) The Minister may make regulations,

(a) adopting by reference, in whole or in part, with such changes as the Minister considers necessary or advisable, any code or standard that governs any matter set out in subsection (1) and requiring compliance with any code or standard that is so adopted;

(b) establishing a code of ethics and a committee for the purpose of governing the conduct of authorization holders. 2006, c. 34, s. 12 (2).

Rolling incorporation

(3) If a regulation under clause (2) (a) so provides, a code or standard adopted by reference shall be a reference to it, as amended from time to time, whether before or after the regulation is made. 2006, c. 34, s. 12 (2); 2009, c. 33, Sched. 10, s. 6.

Delegation

(4) Despite subsection 3 (4) of the Safety and Consumer Statutes Administration Act, 1996, the Minister may, by regulation, delegate to the Authority the power to make some or all of the regulations under clause (2) (a) or (b). 2006, c. 34, s. 12 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed. See: 2012, c. 8, Sched. 11, ss. 46 (1), 54 (1).

Temporary codes, testing organizations, variations

(5) A director may, in writing,

(a) authorize, subject to such conditions as may be specified and for a limited time, the use of codes, standards, guidelines, plans, specifications and procedures or changes to codes, standards, guidelines, plans, specifications and procedures necessary to accommodate new developments or technological advances and require compliance with them and permit, subject to such conditions as may be specified, variances from them;

(b) designate organizations to test any thing for which standards, plans or specifications are established under this Part and provide for and require the placing of the organization's label on the thing or any parts of the thing that conform to the standards, plans or specifications;

(c) subject to such conditions as he or she may specify, allow a variance from any regulation made by the Minister under clause (2) (a) if, in his or her opinion, the variance would not detrimentally affect the safe use of the thing to which the regulation applies or the health or safety of any person. 2006, c. 34, s. 12 (2).

Legislation Act, 2006, Part III

(6) Part III (Regulations) of the Legislation Act, 2006 does not apply to subsection (5). 2006, c. 34, s. 12 (2, 19).

Issuing of plans and specifications

(7) The Authority may, in accordance with the regulations, prepare and issue plans and specifications governing the design, construction and test of works, matters and things used or to be used in the generation, transmission, distribution, retail or use of electricity in Ontario, and may alter such plans and specifications. 2006, c. 34, s. 12 (2).

Appointment of persons to inspect and test

(8) The Authority may appoint persons, associations or organizations having, in the opinion of the Authority, special knowledge and facilities to inspect, test and report on any works, matters and things mentioned in subsection (1). 2006, c. 34, s. 12 (2).

Prohibition on holding out

(9) No person shall hold themselves out as a person who has been appointed under subsection (8) if the person has not been so appointed. 2006, c. 34, s. 12 (2).

Approval by adoption of report

(10) The Authority may approve any work, matter and thing mentioned in subsection (1) by adopting a report made under subsection (8), or otherwise, as the Authority considers advisable. 2006, c. 34, s. 12 (2).

Orders relating to installations, alterations, etc.

(11) The Authority may issue such orders relating to work to be done, or the removal of things used, in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works,

matters and things mentioned in subsection (1) as the Authority considers necessary or advisable for the safety of persons or the protection of property and, in any such order or after having made it, the Authority may order any person to cease and desist from doing anything intended or likely to interfere with the terms of the order. 2006, c. 34, s. 12 (2).

Offences

(12) Every person,

(a) disturbing or interfering with an inspector or other officer in the performance of the inspector's or officer's duty under this section is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(b) refusing or neglecting to comply with this section, or with any regulation, plan or specification made under its authority, is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(c) refusing or neglecting to comply with an order issued by the Authority under subsection (11) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, and a further fine of not more than \$5,000 for each day upon which such refusal or neglect is repeated or continued. 2006, c. 34, s. 12 (2).

Same, corporation

(13) A corporation that is guilty of an offence described in subsection (12) is liable, on conviction, to a fine of not more than \$1,000,000. 2006, c. 34, s. 12 (2).

Section not to apply to mines

(14) This section does not apply to a mine as defined in the Mining Act, save only as regards any dwelling house or other building not connected with or required for mining operations or purposes or used for the treatment of ore or mineral. 2006, c. 34, s. 12 (2).

Prohibitions

Causing damage

113.0.1 (1) No person shall damage or cause any damage to any work, matter or thing used or to be used in the generation, transmission, distribution, retail or use of electricity in Ontario. 2006, c. 34, s. 12 (3).

Interference

(2) No person shall interfere with any work, matter or thing used or to be used in the generation, transmission, distribution, retail or use of electricity in Ontario in the course of alterations or repairs to non-electrical equipment or structures except where it is necessary to disconnect or move components of an electrical installation, in which event it shall be the responsibility of the person carrying out the alterations or repairs to ensure that the electrical installation is restored to a safe operating condition as soon as the progress of the alterations or repairs permits. 2006, c. 34, s. 12 (3).

Removal of labels

(3) No person shall, without the consent of the Director, remove any label, tag, seal or warning, as prescribed by the regulations, applied by the Authority to any work, matter or thing used or to be used in the generation, transmission, distribution, retail or use of electricity in Ontario. 2006, c. 34, s. 12 (3).

Director

113.1 (1) The Authority may appoint one or more Directors for the purposes of this Part. 2004, c. 19, s. 12 (5).

Restrictions

(2) An appointment is subject to the restrictions, limitations and conditions that the Authority sets out in it. 2004, c. 19, s. 12 (5).

Powers

(3) Unless otherwise stated in the appointment, a Director,

(a) may supervise and direct inspectors and other persons responsible for administering or enforcing this Part, the regulations or an order of the Authority; and

(b) is an inspector and may exercise any of the powers and perform any of the duties of an inspector. 2004, c. 19, s. 12 (5).

Delegation

(4) A Director may delegate in writing any of his or her powers or duties to any person, subject to the restrictions, limitations and conditions that the Director sets out in the delegation. 2004, c. 19, s. 12 (5).

Document of appointment

(5) The Authority shall issue to each Director a document establishing his or her appointment, and the Director shall produce it on request. 2004, c. 19, s. 12 (5).

Authorization

113.2 (1) Except as provided in the regulations, no person shall carry out or propose to carry out, or permit or employ another person to carry out, an activity referred to in the regulations as requiring an authorization without first obtaining an authorization in accordance with this Part and the regulations. 2006, c. 34, s. 12 (4).

Refusal, suspension, etc.

(2) A Director may refuse to grant an applicant an authorization for the carrying out of activities or may refuse to renew, may suspend or may revoke an authorization holder's authorization for the carrying out of activities, if the Director has reason to believe that,

(a) the applicant or authorization holder will not carry out the activities in accordance with the law;

(b) the applicant or authorization holder will not carry out the activities safely;

(c) the applicant or authorization holder lacks the basic resources necessary to carry out the activities;

(d) the applicant or authorization holder will not conduct himself or herself with honesty and integrity or in accordance with the principle of protecting consumers;

(e) the applicant or authorization holder lacks the training, experience, qualifications or skills prescribed by the regulations;

(f) the applicant or authorization holder failed to comply with or to meet a requirement of this Part, the regulations or an order of the Authority;

(g) the authorization holder failed to comply with a restriction, limitation or condition of the authorization;

(h) the authorization holder obtained the authorization through misrepresentation or fraud; or

(i) the authorization holder permitted an unauthorized person to carry out the activities. 2004, c. 19, s. 12 (5).

Conditions

(3) An authorization is subject to,

(a) the restrictions, limitations and conditions that are prescribed by the regulations; and

(b) the restrictions, limitations and conditions that are imposed by a Director. 2004, c. 19, s. 12 (5).

Compliance with regulations

(4) In imposing a restriction, limitation or condition on an authorization, a Director shall comply with the rules prescribed by the regulations. 2004, c. 19, s. 12 (5).

Notice of proposal

113.3 (1) Subject to subsection (2), a Director who proposes any of the following shall serve notice of the proposal, together with written reasons, on the applicant or authorization holder:

1. To grant an authorization subject to restrictions, limitations or conditions imposed on it by the Director.

2. To renew an authorization subject to restrictions, limitations or conditions imposed on it by the Director.

3. To refuse to grant an authorization.

4. To refuse to renew an authorization.
5. To suspend an authorization.
6. To revoke an authorization. 2004, c. 19, s. 12 (5).

Exceptions

(2) A notice of proposal is not required,

(a) in the case of a provisional suspension of an authorization, or a provisional refusal to renew an authorization, under section 113.5;

(b) in the case of a refusal to grant or renew an authorization, or a suspension of an authorization, under section 113.6. 2004, c. 19, s. 12 (5).

Service of notice

(3) The Director may serve the notice of proposal personally or by registered mail addressed to the applicant or authorization holder at the last address known to the Director, by fax or by any other form of electronic transmission if there is a record that the notice has been sent. 2004, c. 19, s. 12 (5).

Deemed service, registered mail

(4) If registered mail is used, the notice shall be deemed to have been served on the third day after the day of mailing, unless the person on whom notice is being served satisfies the Director that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 2004, c. 19, s. 12 (5).

Deemed service, electronic transmission

(5) If a fax or any other form of electronic transmission is used, the notice shall be deemed to have been served on the day after the fax was sent or the other transmission was made, unless the person on whom notice is being served satisfies the Director that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 2004, c. 19, s. 12 (5).

Hearing

113.4 (1) A notice of proposal shall inform the applicant or authorization holder that the applicant or holder has a right to a hearing before the Director if the applicant or holder applies to the Director for the hearing within 15 days after being served with the notice. 2004, c. 19, s. 12 (5).

Extension of time

(2) The Director may extend the time for applying for a hearing, either before or after the 15-day period expires, if he or she is satisfied that,

(a) there are reasonable grounds for granting the extension; and

(b) there are apparent grounds for granting to the applicant or authorization holder the relief sought at the hearing. 2004, c. 19, s. 12 (5).

Directions

(3) In granting an extension, the Director may give any directions he or she considers appropriate. 2004, c. 19, s. 12 (5).

If no hearing requested

(4) If the applicant or authorization holder does not apply for a hearing in accordance with this section, the Director may carry out the proposal stated in the notice of proposal. 2004, c. 19, s. 12 (5).

If hearing requested

(5) If the applicant or authorization holder applies for a hearing in accordance with this section, the Director shall set a time for and hold the hearing, after issuing a notice of hearing to the applicant or authorization holder. 2004, c. 19, s. 12 (5).

Findings of fact

(6) The findings of fact made by the Director upon the hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15, 15.1, 15.2 and 16 of the Statutory Powers Procedure Act. 2004, c. 19, s. 12 (5).

Decision

(7) After the hearing, the Director may carry out the proposal stated in the notice of proposal if,
(a) in the case of a proposal mentioned in paragraph 3, 4, 5 or 6 of subsection 113.3 (1), the Director is satisfied that any of the grounds set out in subsection 113.2 (2) exists; or
(b) in the case of a proposal mentioned in paragraph 1 or 2 of subsection 113.3 (1), the Director is satisfied that the imposition of the restrictions, limitations and conditions complies with the rules mentioned in subsection 113.2 (4). 2004, c. 19, s. 12 (5).

Provisional suspension or refusal to renew if safety involved

113.5 (1) A Director may, by serving notice on an authorization holder and without a hearing, provisionally suspend or provisionally refuse to renew the holder's authorization if, in the Director's opinion, the carrying on of the activities under the authorization is an immediate threat to public safety or the safety of any person. 2004, c. 19, s. 12 (5).

Notice

(2) A notice under subsection (1) shall state the Director's reasons for the decision to provisionally suspend or provisionally refuse to renew the authorization and shall inform the authorization holder that the holder has a right to a hearing before the Director if the holder applies to the Director for the hearing within 15 days after being served with the notice. 2004, c. 19, s. 12 (5).

Application of provisions

(3) Subsections 113.3 (3), (4) and (5) apply with respect to a notice under this section and subsections 113.4 (2), (3), (5) and (6) apply for the purposes of a hearing under this section. 2004, c. 19, s. 12 (5).

Decision

(4) After the hearing,

(a) if the Director is satisfied that a ground set out in subsection 113.2 (2) exists, the Director may suspend, revoke or refuse to renew the authorization;
(b) if the Director is satisfied that no ground set out in subsection 113.2 (2) exists, the Director,
(i) shall reinstate the suspended authorization, or
(ii) shall renew the authorization and may impose restrictions, limitations or conditions on the authorization in accordance with subsection 113.2 (4). 2004, c. 19, s. 12 (5).

Default in payment

113.6 (1) A Director may refuse to grant or to renew an authorization or may suspend an authorization, if,

(a) the applicant or authorization holder is in default of the payment of a fee, an administrative penalty, a cost or another charge owing to the Authority; or
(b) the applicant or authorization holder is in default of the payment of a fine imposed on conviction for an offence under this Part. 2004, c. 19, s. 12 (5).

Notice and hearing not required

(2) A Director is not required to give notice or to hold a hearing before acting under subsection (1). 2004, c. 19, s. 12 (5).

Granting of authorization or renewal

(3) If an application for an authorization or for the renewal of an authorization is refused under subsection (1), the applicant is entitled to the authorization or renewal on providing proof to the Director that the applicant is no longer in default. 2004, c. 19, s. 12 (5).

Reinstatement of suspended authorization

(4) If an authorization is suspended under subsection (1), the authorization holder is entitled to have the authorization reinstated on providing proof to the Director that the authorization holder is no longer in default. 2004, c. 19, s. 12 (5).

Opportunities before hearing

113.7 (1) A notice of hearing issued by a Director under this Part shall afford to the applicant or authorization holder a reasonable opportunity to show or to achieve, before the hearing, compliance with all lawful requirements for the granting, retention or renewal of the authorization. 2004, c. 19, s. 12 (5).

Examination of documentary evidence

(2) The applicant or authorization holder shall be given an opportunity to examine, before a hearing by a Director under this Part, any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 2004, c. 19, s. 12 (5).

Recording of evidence

113.8 (1) The oral evidence taken before a Director at a hearing under this Part shall be recorded at the request of the applicant, the authorization holder or the Director, and the recording shall be at the cost of the person making the request. 2004, c. 19, s. 12 (5).

Transcript

(2) If copies of the transcript are requested, they shall be provided at the cost of the person making the request. 2004, c. 19, s. 12 (5).

Conflict

113.9 If, under the Safety and Consumer Statutes Administration Act, 1996, this Part is designated legislation to be administered by a designated administrative authority, and if a regulation made under clause 15 (1) (c) of that Act requires that, before an appeal to the Divisional Court is made under section 113.10 of this Act, a review panel must review the decision made by a Director after a hearing under this Act, that regulation prevails over this Part to the extent of any conflict. 2004, c. 19, s. 12 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 113.9 is repealed and the following substituted:

Conflict

113.9 (1) A regulation made under clause 42 (1) (a) of the Delegated Administrative Authorities Act, 2012, requiring a review panel to review a Director's decision before the decision may be appealed to the Divisional Court under section 113.10 of this Act, prevails over this Part to the extent of any conflict. 2012, c. 8, Sched. 11, s. 46 (2).

Application of subs. (1)

(2) Subsection (1) applies only if this Part is delegated legislation to be administered by a delegated administrative authority under the Delegated Administrative Authorities Act, 2012. 2012, c. 8, Sched. 11, s. 46 (2).

See: 2012, c. 8, Sched. 11, ss. 46 (2), 54 (1).

Appeal after hearing

113.10 (1) An applicant or authorization holder may appeal to the Divisional Court if, after a hearing, a Director does any of the following:

1. Grants the authorization subject to restrictions, limitations or conditions imposed on it by the Director.
2. Renews the authorization subject to restrictions, limitations or conditions imposed on it by the Director.
3. Refuses to grant the authorization.
4. Refuses to renew the authorization.
5. Suspends the authorization.
6. Revokes the authorization. 2004, c. 19, s. 12 (5).

How to appeal

(2) To appeal under this section, the applicant or authorization holder must file a notice of appeal with the court within 30 days after receiving notice of the Director's decision. 2004, c. 19, s. 12 (5).

Director is party

(3) The Director is a party to the appeal. 2004, c. 19, s. 12 (5).

Decision

(4) In deciding the appeal, the court may order the Director to take such action as the court considers proper. 2004, c. 19, s. 12 (5).

Continuation of authorization

Continuation upon renewal application

113.11 (1) If, within the time prescribed by the regulations, or, if no time is prescribed, before the expiry of the authorization, an authorization holder applies to a Director for renewal of the authorization, the authorization continues to be valid,

(a) until the Director renews the authorization, unless clause (b), (c) or (d) applies;

(b) until the Director provisionally refuses to renew the authorization under subsection 113.5 (1);

(c) until the Director refuses to renew the authorization under subsection 113.6 (1);

(d) subject to subsection (3), if the authorization holder is served with a notice under section 113.3 that the Director proposes to refuse to renew the authorization, or if the Director refuses to renew the authorization under subsection 113.5 (4),

(i) until the time for applying for a hearing by the Director under section 113.4 or 113.5 expires, unless subclause (ii) applies,

(ii) if the holder applies for a hearing in accordance with section 113.4 or 113.5,

(A) until the Director renews the authorization following the hearing, or

(B) if the Director refuses to renew the authorization following the hearing,

(1) until the time for filing a notice of appeal with the Divisional Court under section 113.10 expires, unless sub-sub-subclause 2 applies,

(2) if the holder files a notice of appeal with the Divisional Court in accordance with section 113.10, until the final disposition of the appeal. 2004, c. 19, s. 12 (5).

Continuation after suspension, revocation

(2) Subject to subsection (3), if a Director suspends or revokes an authorization under subsection 113.4 (7) or 113.5 (4), the suspension or revocation does not take effect,

(a) until the time for filing a notice of appeal with the Divisional Court under section 113.10 expires, unless clause (b) applies;

(b) if a notice of appeal is filed with the Divisional Court in accordance with section 113.10, until the final disposition of the appeal. 2004, c. 19, s. 12 (5).

Threat to safety

(3) If, in a Director's opinion, there is or may be a threat to public safety or to the safety of any person, the Director may specify that,

(a) the authorization in respect of which the renewal application has been made ceases to be valid earlier than the time specified in clause (1) (d); or

(b) the suspension or revocation referred to in subsection (2) takes effect earlier than the time specified in subsection (2). 2004, c. 19, s. 12 (5).

Compliance order

113.12 (1) If it appears to a Director that a person is not complying with subsection 113.2 (1), with a regulation made under the authority of clause 113.22 (1) (e) or with a restriction, limitation or condition of an authorization, the Director may apply to a judge of the Superior Court of Justice for an order directing compliance. 2004, c. 19, s. 12 (5).

Same

(2) The judge may make any order he or she considers just. 2004, c. 19, s. 12 (5).

Clarification

(3) A Director may make an application under subsection (1) even if a penalty or another sanction has been applied against the person in respect of the failure to comply and regardless of any other rights the person may have. 2004, c. 19, s. 12 (5).

Appeal

(4) An appeal lies to the Divisional Court from an order made under subsection (2). 2004, c. 19, s. 12 (5).

Definition

113.12.1 In sections 113.13 to 113.14.3,

“electrical product or device” means any thing used or to be used in the generation, transmission, distribution, retail or use of electricity. 2006, c. 34, s. 12 (5).

Inspections

113.13 (1) The Authority or a person appointed as an inspector in writing by the Authority may conduct an inspection and may, as part of that inspection, enter and inspect at any reasonable time any land or premises, including the business premises of an authorization holder, for the purpose of,

(a) ensuring compliance with this Act and the regulations; or

(b) determining that the authorization holder remains entitled to the authorization. 2006, c. 34, s. 12 (6).

Limitations on power to enter

(2) An inspector shall not,

(a) use force to enter and inspect land and premises under this section; or

(b) enter any part of premises that are being used as a dwelling, except with the consent of the owner or occupier. 2006, c. 34, s. 12 (6).

Identification

(3) An inspector shall produce, on request, evidence of his or her appointment as an inspector. 2006, c. 34, s. 12 (6).

Powers on inspection

(4) An inspector conducting an inspection on any land or in any premises, including premises of an authorization holder, may,

(a) examine all documents, records, electrical products, devices and other things that are relevant to the inspection;

(b) require a person on the premises being inspected to produce a document, record or other thing that is relevant to the inspection;

(c) use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or a record that is relevant to the inspection and that is in any form; and

(d) subject to subsection (5), on giving a receipt for it, remove any thing relevant to the inspection, including a document, a record, a data storage disk or a retrieval device needed to produce information. 2006, c. 34, s. 12 (6).

Electrical product not included

(5) An electrical product or device may not be removed under clause (4) (d). 2006, c. 34, s. 12 (6).

Obligation to produce and assist

(6) A person who is required to produce a document, record, electrical product or device, or other thing under clause (4) (b) shall produce it and shall, on request by the inspector, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce information or a record that is relevant to the inspection and that is in any form. 2006, c. 34, s. 12 (6).

Obstruction prohibited

(7) No person shall obstruct an inspector executing his or her duties or withhold from him or her or conceal, alter or destroy any document, record, electrical product or device or other thing that is relevant to the inspection. 2006, c. 34, s. 12 (6).

Copy and return of removed things

(8) An inspector who removes any document, record or other thing under clause (4) (d) may make a copy of it and shall promptly return it to the person being inspected. 2006, c. 34, s. 12 (6).

Admissibility of copies

(9) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2006, c. 34, s. 12 (6).

Order to turn over or retain electrical product or device

113.13.1 (1) An inspector who is lawfully present in a place and who believes on reasonable grounds that an electrical product or device in the place is being sold or offered for sale in contravention of this Part or the regulations may order, orally or in writing, a person in the place,

(a) to turn the electrical product or device over to the inspector; or

(b) to retain and preserve the electrical product or device in accordance with the regulations. 2006, c. 34, s. 12 (6).

Obligation to retain electrical product or device

(2) A person who fails to immediately comply with an order to turn over the electrical product or device issued under subsection (1) shall retain and preserve the electrical product or device that was the subject of the order in accordance with the regulations. 2006, c. 34, s. 12 (6).

Inspector to inform director

(3) When an inspector issues an order under subsection (1), he or she shall promptly inform the director and, where the order is in writing, provide him or her with a copy of the order. 2006, c. 34, s. 12 (6).

Warrant to seize electrical product or device

113.13.2 (1) On application made without notice by an inspector appointed under subsection 113.13 (1), a justice of the peace may issue a warrant if he or she is satisfied on information under oath that there is reasonable ground for believing that,

(a) an inspector issued an order to turn over an electrical product or device or to retain and preserve such a product or device under subsection 113.13.1 (1);

(b) the person who was issued the order failed to comply with it; and

(c) the electrical product or device was being sold or offered for sale in contravention of this Part or the regulations. 2006, c. 34, s. 12 (6).

Powers under warrant

(2) Subject to any conditions contained in the warrant, a warrant issued under subsection (1) authorizes an inspector appointed under subsection 113.13 (1) to,

(a) enter or access the place in which a person is required to retain and preserve the electrical product or device under clause 113.13.1 (1) (b) and subsection 113.13.1 (2);

(b) require a person to produce the electrical product or device in question; and

(c) seize the electrical product or device in question. 2006, c. 34, s. 12 (6).

Obligation to produce and assist

(3) A person who is required to do so by an inspector under clause (2) (b) shall produce the electrical product or device in question. 2006, c. 34, s. 12 (6).

Entry of dwelling

(4) Despite subsection (2), an inspector shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling unless,

(a) the justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling; and

(b) the justice of the peace authorizes the entry into the dwelling. 2006, c. 34, s. 12 (6).

Conditions on search warrant

(5) A warrant shall contain such conditions as the justice of the peace considers advisable to ensure that any entry and seizure authorized by the warrant is reasonable in the circumstances. 2006, c. 34, s. 12 (6).

Assistance

(6) A warrant may authorize persons who have special, expert or professional knowledge, and such other persons as may be necessary, to accompany and assist the inspector in respect of the execution of the warrant. 2006, c. 34, s. 12 (6).

Time of execution

(7) An entry or access under a warrant shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise. 2006, c. 34, s. 12 (6).

Expiry of warrant

(8) A warrant shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may, on application without notice by the inspector, extend the date of expiry for an additional period of no more than 30 days. 2006, c. 34, s. 12 (6).

Use of force

(9) An inspector may call upon police officers for assistance in executing a warrant and the inspector may use whatever force is reasonably necessary to execute the warrant. 2006, c. 34, s. 12 (6).

Obstruction

(10) No person shall obstruct an inspector executing a warrant. 2006, c. 34, s. 12 (6).

Inspector to inform director

(11) When an inspector seizes an electrical product or device under this section, he or she shall promptly inform the director. 2006, c. 34, s. 12 (6).

Release or Forfeiture of Electrical Product or Device

Application of section

113.13.3 (1) This section applies in respect of an electrical product or device that,

- (a) was turned over to an inspector in response to an order issued under subsection 113.13.1 (1);
- (b) was retained and preserved in response to an order issued under subsection 113.13.1 (1), or in accordance with subsection 113.13.1 (2); or
- (c) was seized by an inspector in accordance with the regulations under a warrant issued under subsection 113.13.2 (1). 2006, c. 34, s. 12 (6).

Application for release of electrical product or device

(2) Within 10 days of an electrical product or device being turned over or seized or ordered to be retained and preserved, a person who claims an interest in the electrical product or device may apply to the director for the release of the electrical product or device. 2006, c. 34, s. 12 (6).

Hearing

(3) Subject to subsection (4), a person who applies for the release of the electrical product or device within the time permitted under subsection (2) is entitled to a hearing before the Director. 2006, c. 34, s. 12 (6).

Director may refuse hearing

(4) The director may refuse to hold a hearing if the person who applies for the release of the electrical product or device is not the person who turned over the electrical product or device, who retained and preserved it or from whom it was seized and the director is not satisfied that the person has an interest in the electrical product or device. 2006, c. 34, s. 12 (6).

Director's determination

(5) After a hearing, the director may,

- (a) release to the person the electrical product or device that he or she determines was not sold or offered for sale in contravention of this Part or the regulations; or

(b) direct that the electrical product or device that he or she determines was sold or offered for sale in contravention of this Part or the regulations is forfeited to the Crown. 2006, c. 34, s. 12 (6).

Forfeiture in other circumstances

(6) The director may direct that the electrical product or device is forfeited to the Crown if,

(a) no person applies for the release of the electrical product or device within the time permitted under subsection (2);

(b) the director refuses to hold a hearing under subsection (4); or

(c) the person who applied for the release of the electrical product or device does not appear at the hearing. 2006, c. 34, s. 12 (6).

Decision final

(7) Any determination or direction made by the director under this section is final. 2006, c. 34, s. 12 (6).

Appointment of investigators

113.14 (1) The Authority may appoint persons to be investigators for the purpose of conducting investigations. 2006, c. 34, s. 12 (6).

Identification

(2) An investigator shall produce, on request, evidence of his or her appointment as an investigator. 2006, c. 34, s. 12 (6).

Search warrant

113.14.1 (1) On application made without notice by an investigator, a justice of the peace may issue a warrant, if he or she is satisfied on information under oath that there is reasonable ground for believing that,

(a) a person has contravened or is contravening this Part or the regulations or has committed an offence that is relevant to the person's fitness for holding an authorization under this Part; and

(b) there is,

(i) on any land or in any building, dwelling, container or place any thing relating to the contravention of this Part or the regulations or to the person's fitness for holding an authorization, or

(ii) information or evidence relating to the contravention of this Part or the regulations or the person's fitness for holding an authorization that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant. 2006, c. 34, s. 12 (6).

Powers under warrant

(2) Subject to any conditions contained in the warrant, a warrant issued under subsection (1) authorizes an investigator to,

(a) enter or access the land, building, dwelling, container or place specified in the warrant, and examine and seize any thing described in the warrant;

(b) use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form;

(c) require a person to produce the information or evidence described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the information or evidence described in the warrant; and

(d) use any investigative technique or procedure described in the warrant or do anything described in the warrant. 2006, c. 34, s. 12 (6).

Obligation to produce and assist

(3) A person who is required to do so by an investigator under clause (2) (c) shall produce information or evidence described in the warrant and shall provide whatever assistance is reasonably necessary to produce the information or evidence in any form. 2006, c. 34, s. 12 (6).

Entry of dwelling

(4) Despite subsection (2), an investigator shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling unless,

(a) the justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling; and

(b) the justice of the peace authorizes the entry into the dwelling. 2006, c. 34, s. 12 (6).

Conditions on search warrant

(5) A warrant shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2006, c. 34, s. 12 (6).

Assistance

(6) A warrant may authorize persons who have special, expert or professional knowledge, and such other persons as may be necessary, to accompany and assist the investigator in respect of the execution of the warrant. 2006, c. 34, s. 12 (6).

Time of execution

(7) An entry or access under a warrant shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise. 2006, c. 34, s. 12 (6).

Expiry of warrant

(8) A warrant shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may, on application without notice by the investigator, extend the date of expiry for an additional period of no more than 30 days. 2006, c. 34, s. 12 (6).

Use of force

(9) An investigator may call upon police officers for assistance in executing a warrant and the investigator may use whatever force is reasonably necessary to execute the warrant. 2006, c. 34, s. 12 (6).

Obstruction

(10) No person shall obstruct an investigator executing a warrant or withhold from him or her or conceal, alter or destroy anything relevant to the investigation. 2006, c. 34, s. 12 (6).

Return of seized things

(11) Subject to subsection (12), an inspector who seizes any thing under this section may make a copy of it and shall return it within a reasonable time. 2006, c. 34, s. 12 (6).

Return of seized things not required

(12) An investigator is not required to return an electrical product or device seized under this section where the investigator believes on reasonable grounds that the electrical product or device was sold or offered for sale in contravention of this Part or the regulations. 2006, c. 34, s. 12 (6).

Admissibility of copies

(13) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2006, c. 34, s. 12 (6).

No warrant required in exigent circumstances

113.14.2 (1) Although a warrant issued under subsection 113.14.1 (1) would otherwise be required, an investigator may exercise any of the powers described in subsection 113.14.1 (2) without a warrant if the conditions for obtaining the warrant exist but because of exigent circumstances it would be impracticable to obtain the warrant. 2006, c. 34, s. 12 (6).

Dwellings

(2) Subsection (1) does not apply to any part of a building that is being used as a dwelling. 2006, c. 34, s. 12 (6).

Use of force

(3) An investigator may, in executing any authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary. 2006, c. 34, s. 12 (6).

Application of other provisions

(4) Subsections 113.14.1 (6), (10), (11), (12) and (13) apply, with necessary modifications, to the exercise of powers under this section. 2006, c. 34, s. 12 (6).

Seizure of things in plain view

113.14.3 (1) An investigator who is lawfully present in a place under a warrant may seize any thing that is in plain view if the investigator believes on reasonable grounds that the thing will afford evidence of a contravention of this Part or the regulations. 2006, c. 34, s. 12 (6).

Return of seized thing

(2) Subsections 113.14.1 (11), (12) and (13) apply, with necessary modifications, to any thing seized under this section. 2006, c. 34, s. 12 (6).

Information confidential

113.15 (1) This section applies to a document or information obtained in the course of an inspection conducted for a purpose set out in clause 113.13 (1) (a) or (b). 2004, c. 19, s. 12 (5); 2006, c. 34, s. 12 (7).

Disclosure prohibited

(2) Subject to subsection (3), an inspector shall not disclose any document or information obtained in the course of an inspection except,

(a) for the purposes of carrying out his or her duties under this Act; or

(b) as authorized under the Regulatory Modernization Act, 2007. 2007, c. 4, s. 29.

Compellability in civil proceeding

(3) Subject to subsection (4), an inspector is a compellable witness in a civil proceeding respecting any document or information obtained in the course of an inspection. 2004, c. 19, s. 12 (5).

Refusal or conditional permission

(4) A Director may,

(a) on reasonable grounds, refuse to permit an inspector to attend as a witness; or

(b) require that an inspector's attendance as a witness be subject to such conditions as are reasonable and necessary for the proper administration of this Part and the regulations. 2004, c. 19, s. 12 (5).

Limitation

(5) Subsection (4) does not apply if,

(a) the court orders that the inspector attend as a witness;

(b) the proceeding is a proceeding under the Provincial Offences Act; or

(c) the Authority is a party to the proceeding. 2004, c. 19, s. 12 (5).

Written decision

(6) A Director who makes a decision referred to in subsection (4) shall issue the decision in writing. 2004, c. 19, s. 12 (5).

Disclosure by Director

(7) A Director may publish or otherwise disclose documents or information obtained under the powers conferred on the Director under this Part. 2004, c. 19, s. 12 (5).

Director's confirmation

113.16 (1) A Director may issue a written confirmation with respect to,

(a) the granting or non-granting of an authorization, the renewal or non-renewal of an authorization, or the revocation or suspension of an authorization;

(b) the restrictions, limitations and conditions to which an authorization is subject;

(c) the filing or non-filing of any document or material required or permitted to be filed with the Director; or

(d) any other matter prescribed by the regulations. 2004, c. 19, s. 12 (5).

Effect of confirmation

(2) A confirmation that purports to have been issued by a Director is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature. 2004, c. 19, s. 12 (5).

Fees, etc.

113.17 (1) If the Authority does so in accordance with the process and criteria that it establishes and that the Minister responsible for the administration of this Part has approved, the Authority may establish fees, administrative penalties, costs or other charges related to the administration of this Part and may require that such fees, administrative penalties, costs and other charges be paid at the times and in the manner directed by it. 2004, c. 19, s. 12 (5).

Collection and application of fees

(2) The Authority shall collect the fees, administrative penalties, costs and other charges that it requires to be paid under this section and shall apply them to the expenses incurred by the Authority in administering this Part. 2004, c. 19, s. 12 (5).

Agreement to exercise Authority's powers

113.18 The Authority may enter into agreements with any person or body prescribed by the regulations authorizing the person or body to exercise and perform any of the powers and duties of the Authority under subsection 113 (11) or section 113.13 or 113.17 and, for that purpose, a reference in section 113.19 or 113.20 to the Authority shall be deemed to be a reference to the person or body. 2004, c. 19, s. 12 (5); 2006, c. 34, s. 12 (8).

Liability

113.19 (1) No action or other civil proceeding shall be commenced against a director, an officer, an employee or an agent of the Authority, or a Director, an inspector or an officer appointed under this Part, for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under this Part, or for any neglect or default in the exercise or performance in good faith of such a power or duty. 2004, c. 19, s. 12 (5).

Same

(2) Subsection (1) does not relieve the Authority of any liability to which it would otherwise be subject in respect of a cause of action arising from any act, neglect or default referred to in subsection (1). 2004, c. 19, s. 12 (5).

Offences

113.20 (1) Every person,

(a) that refuses or neglects to comply with section 113 or with any regulation, plan or specification made under its authority is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(b) that refuses or neglects to comply with an order issued by the Authority under subsection 113 (11) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, and a further fine of not more than \$5,000 for each day upon which the refusal or neglect is repeated or continued;

(c) that refuses or neglects to comply with subsection 113.13 (6), 113.13.1 (2), 113.13.2 (3) or 113.14.1 (3) or (10) or disturbs or interferes with an inspector, investigator or other officer in the performance of a duty the inspector, investigator or officer was appointed to perform under this Part is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(c.1) that contravenes or fails to comply with section 113.0.1 is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(d) that contravenes or fails to comply with subsection 113.2 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, and a further fine of not more than \$5,000 for each day upon which the offence is repeated or continued;

(e) that contravenes or fails to comply with any regulation made under the authority of clause 113.22 (1) (a), (e), (e.1) or (j) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, and a further fine of not more than \$5,000 for each day upon which the offence is repeated or continued;

(f) that contravenes or fails to comply with a restriction, limitation or condition of an authorization is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, and a further fine of not more than \$5,000 for each day upon which the offence is repeated or continued;

(g) that knowingly makes a false statement or furnishes false information to a Director under this Part is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(h) that knowingly holds out as genuine any document, certificate, identification card or any other document issued under this Part or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both;

(i) that holds themselves out as a holder of an authorization, an inspector, investigator or other official under this Part is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both. 2005, c. 33, s. 7 (3); 2006, c. 34, s. 12 (9-13).

Same, corporations

(2) A corporation that is guilty of an offence described in subsection (1) is liable, on conviction, to a fine of not more than \$1,000,000. 2005, c. 33, s. 7 (3).

Duty of director or officer

(3) Every director or officer of a corporation has a duty to take all reasonable care to prevent it from committing an offence under subsection (2). 2006, c. 34, s. 12 (14).

Offence

(4) Every director or officer who has a duty under subsection (3) and fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both. 2006, c. 34, s. 12 (14).

Separate offence

(5) Where a person contravenes any of the provisions of this Part, the regulations or any notice or order made under them on more than one day, the continuance of the contravention on each day shall be deemed to constitute a separate offence. 2006, c. 34, s. 12 (14).

Administrative penalty

(6) A person against whom an administrative penalty has been levied by a designated administrative authority or, in the absence of such authority, by the Minister does not preclude a person from being charged with, and convicted of, an offence under this Part for the same matter. 2006, c. 34, s. 12 (14).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (6) is repealed and the following substituted:

Administrative penalty

(6) The fact that an administrative penalty has been levied against a person by a delegated administrative authority or, in the absence of such authority, by the Minister does not preclude the person from being charged with, and convicted of, an offence under this Part for the same matter. 2012, c. 8, Sched. 11, s. 46 (3).

See: 2012, c. 8, Sched. 11, ss. 46 (3), 54 (1).

Time limit

(7) No proceeding in respect of an alleged offence under this Part may be commenced after two years following the date on which the facts that gave rise to the alleged offence first came to the attention of the Director. 2006, c. 34, s. 12 (14).

Conflict

113.21 This Part and the regulations prevail over any municipal by-law. 2004, c. 19, s. 12 (5).

Regulations

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

(a) prescribing activities that require an authorization, classifying the activities, the persons who carry out the activities and the authorizations, and prescribing the classes of authorizations that are required for different classes of activities or for different classes of persons;

(b) prescribing the training, experience, qualifications or skills that persons must have and the other requirements that persons must meet in order to obtain and retain a class of authorization;

(c) prescribing the period, or the manner of determining the period, for which a class of authorization is valid;

(d) governing applications for authorization and applications for renewal of authorization, including prescribing procedures and timing requirements for making such applications;

(e) prescribing duties, powers and prohibitions that apply to holders of an authorization;

(e.1) governing the documents and records that must be kept by holders of authorizations, including the manner and location in which they are kept and the time periods for retaining such information and authorizing the Director to specify the location at which they must be kept;

(f) prescribing rules with which a Director must comply in imposing a restriction, limitation or condition on an authorization;

(g) prescribing anything that must or may by this Part be done in accordance with the regulations or that is referred to in this Part as prescribed by, required by, provided in or referred to in the regulations;

(h) exempting any person, work, matter or thing from any provision of this Part or the regulations;

(i) defining electrical incidents or accidents and classes of incidents or accidents;

(j) providing for the reporting to the Authority of the electrical incidents or accidents referred to in clause (i), including the manner and time for reporting, and prescribing classes of persons who are required to make such reports;

(k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. 2004, c. 19, s. 12 (5); 2006, c. 34, s. 12 (15, 16).

General or particular

(2) A regulation made under subsection (1) may be general or particular in its application. 2004, c. 19, s. 12 (5).

PART IX

REGULATIONS

Regulations

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

(a) prescribing additional objects of the IESO;

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (a) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (1), 17 (1))

(a) prescribing other objects for the purposes of clause 6 (1) (s);

(a.1) prescribing classes of persons for the purposes of subsection 7 (4);

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (a.1) is repealed. (See: 2014, c. 7, Sched. 7, ss. 15 (1), 17 (1))

(b) respecting the calculation of the fees referred to in subsection 17 (4) and respecting the manner in which, and the time at which, they are to be paid;

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (1), 17 (1))

(b) governing the IESO's borrowing, investment of funds and the management of its financial assets, liabilities and risks, including,

- (i) prescribing rules and restrictions that apply to borrowing, investment and management of financial assets, liabilities and risks,
- (ii) prescribing purposes for which the IESO may borrow, invest or manage its financial assets, liabilities and risks,
- (iii) prescribing the types of debt instruments and financial obligations that the IESO can issue or enter into for or in relation to borrowing,
- (iv) prescribing classes of securities, investment instruments and financial agreements that the IESO is authorized to invest in or enter into or is not authorized to invest in or enter into;

(c) prescribing provisions of the Business Corporations Act, the Corporations Act or the Corporations Information Act that apply, with necessary modifications, to the IESO;

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (c) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (1), 17 (1))

(c) governing the IESO's obligation to make information available in French;

(c.1) prescribing classes of persons for the purposes of subsection 10 (4);

(c.2) prescribing other matters that are to be dealt with in the Governance and Structure By-law;

(c.3) respecting the calculation of the fees referred to in subsection 23 (4) and respecting the manner in which and the time at which they are to be paid;

(c.4) prescribing the types of expenditures the IESO may recover through fees and charges and any restrictions and limitations in respect of the recovery of an expenditure;

(c.5) respecting the calculation of the fees and charges referred to in section 25.1 and respecting the manner in which and the time at which they are collected by the IESO;

(c.6) prescribing provisions of the Business Corporations Act, the Corporations Act or the Corporations Information Act that apply, with necessary modifications, to the IESO;

Note: On the later of the day subsection 4 (1) of the Not-for-Profit Corporations Act, 2010 comes into force and the day subsection 15 (1) of Schedule 7 to the Building Opportunity and Securing Our Future Act (Budget Measures), 2014 comes into force, clause (c.6) is amended by striking out "the Corporations Act" and substituting "the Not-for-Profit Corporations Act, 2010". (See: 2014, c. 7, Sched. 7, ss. 15 (2), 17 (4))

(d) prescribing transmitters, distributors, generators, retailers and consumers or classes of transmitters, distributors, generators, retailers and consumers for the purpose of subsection 26 (2);

(d.1) governing renewable energy generation facilities including, but not limited to,

(i) the location of the facilities,

(ii) the generating capacity of such facilities,

(iii) the connection of such facilities to transmission systems and distribution systems, including technical specifications with respect to the connection, and

(iv) when such facilities must have commenced operation in order to be considered a renewable energy generation facility under this Act;

(e) prescribing contracts or classes of contracts to which subsection 26 (3), (4) or (6) does not apply, subject to such conditions or restrictions as may be specified in the regulations;

(f) prescribing the amount of electricity referred to in the definition of "low-volume consumer" in subsection 26 (10);

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding the following clauses:

(f.0.1) for the purposes of section 28.1, prescribing the manner and the circumstances by which a distributor must connect a building to its distribution system;

(f.0.2) prescribing properties and classes of properties and consumers and classes of consumers for the purposes of section 28.1;

(f.0.3) prescribing consumers or classes of consumers for the purposes of section 30.1;

(f.0.4) prescribing the requirements where a distributor or suite meter provider must provide consumers or classes of consumers with specific arrangements in respect of security, including the type or kind of arrangements which the distributor or suite meter provider must accept and prescribing alternative arrangements in respect of security for the purposes of section 30.1;

(f.0.5) governing security, alternative security arrangements and the criteria that must be satisfied with respect to security or alternative security arrangements for the purposes of section 30.1;

(f.0.6) prescribing the meaning of “security” for the purposes of section 30.1;

See: 2010, c. 8, ss. 37 (11), 40.

(f.1) prescribing periods for the purpose of subsections 31 (4) and (5);

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (f.1) is repealed and the following substituted:

(f.1) for the purposes of section 31 (termination of service), governing all matters dealt with in that section that are required or permitted to be prescribed by regulation or that are required or permitted to be done in accordance with the regulations;

See: 2010, c. 8, ss. 37 (12), 40.

(g) respecting limits and criteria for the purposes of section 29.1;

(g.1) prescribing information for the purposes of subsections 33 (2) and 34 (2.1);

(g.2) prescribing reasons for the purpose of paragraph 5 of subsection 34 (1);

(h) prescribing an amount for the purpose of clause 36 (1) (a);

(h.0.1) respecting reliability standards;

(h.1) for the purpose of subsection 46.1 (2), prescribing types of fuel and, with respect to each type of fuel that is prescribed, prescribing one or more other types of fuel as substitute fuels;

(h.2) for the purpose of clause 46.2 (1) (a), prescribing types of fuel;

(i) designating a person or body as the Electrical Safety Authority for the purposes of this Act;

(j) prescribing persons or bodies or classes of persons or bodies with which the Electrical Safety Authority may enter into agreements under section 113.18;

(k) prescribing consumer protection requirements that apply to market participants;

(l) governing standards for and the use of electricity meters;

(l.1) requiring persons to offer, install or use electricity meters or other devices of a type specified by the regulations for the purpose of promoting energy conservation, energy efficiency or load management;

(m) exempting any person or class of persons from any provision of this Act, subject to such conditions or restrictions as may be prescribed by the regulations;

(n) defining any word or expression used in this Act that is not defined in this Act;

(o) deeming a reference in any Act to Ontario Hydro to be a reference to a person or other entity specified in the regulations, subject to such conditions as may be prescribed by the regulations;

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding the following clause: (See: 2014, c. 7, Sched. 7, ss. 15 (3), 17 (1))

(o.1) prescribing anything referred to in this Act as prescribed by the regulations or as prescribed;

(p) providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of this Act;

(q) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the purposes of this Act. 1998, c. 15, Sched. A, s. 114 (1); 2001, c. 23, s. 69; 2002, c. 23, s. 3 (24); 2004, c. 23, Sched. A, s. 53 (1-5); 2004, c. 19, s. 12 (6); 2008, c. 7, Sched. G, s. 5 (1); 2009, c. 12, Sched. B, s. 14 (1).

Regulations, Part I

(1.1) The Lieutenant Governor in Council may make regulations,

(a) prescribing energy sources and criteria for the purposes of the definition of “alternative energy source” in subsection 2 (1) and prescribing criteria relating to the generation of electricity from energy sources for the purposes of subsection 2 (1.1);

(a.1) prescribing criteria and associated or ancillary equipment, systems and technologies for the purposes of the definition of “renewable energy generation facility” in subsection 2 (1) and prescribing works for the purposes of the definition;

(b) prescribing energy sources and criteria for the purposes of the definition of “renewable energy source” in subsection 2 (1) and prescribing criteria relating to the generation of electricity from energy sources for the purposes of subsection 2 (1.2);

(c) designating an agency or body as a standards authority for the purpose of the definition of “standards authority” in subsection 2 (1). 2004, c. 23, Sched. A, s. 53 (6); 2008, c. 7, Sched. G, s. 5 (2); 2009, c. 12, Sched. B, s. 14 (2).

Regulations, Part II.1

(1.2) The Lieutenant Governor in Council may make regulations,

(a) prescribing additional objects of the OPA;

(b) governing the OPA’s borrowing, investment of funds and the management of its financial assets, liabilities and risks including,

(i) prescribing rules and restrictions that apply to borrowing, investment and management of financial assets, liabilities and risks,

(ii) prescribing purposes for which the OPA may borrow, invest or manage its financial assets, liabilities and risks,

(iii) prescribing the types of debt instruments and financial obligations that the OPA can issue or enter into for or in relation to borrowing,

(iv) prescribing classes of securities, investment instruments and financial agreements that the OPA is authorized to invest in or enter into or is not authorized to invest in or enter into;

(c) prescribing classes of persons for the purposes of subsection 25.4 (4);

(d) governing activities of the Conservation Bureau established by the OPA;

(e) respecting the calculation of the fees referred to in subsection 25.17 (4) and respecting the manner in which, and the time at which, they are to be paid;

(f) prescribing the types of expenditures the OPA may recover through fees and charges and any restrictions and limitations in respect of the recovery of an expenditure;

(g) respecting the calculation of the fees and charges referred to in section 25.20 and respecting the manner in which, and the time at which, they are collected by the IESO and paid to the OPA;

(h) Repealed: 2009, c. 33, Sched. 14, s. 2 (7).

(i) prescribing provisions of the Business Corporations Act, the Corporations Act or the Corporations Information Act that apply, with necessary modifications, to the OPA. 2004, c. 23, Sched. A, s. 53 (7); 2009, c. 33, Sched. 14, s. 2 (7).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (1.2) is repealed. (See: 2014, c. 7, Sched. 7, ss. 15 (4), 17 (1))

Regulations, Part II.2

(1.3) The Lieutenant Governor in Council may make regulations,

(a) prescribing assessment periods for the purposes of section 25.29;

(b) governing integrated power system plans and procurement processes;

(c) prescribing principles to be applied in developing procurement processes and in evaluating proposals for reducing or managing electricity demand or for increasing electricity supply or capacity;

(d) prescribing conditions for the purposes of subsection 25.31 (2);

(e) governing procurement contracts;

(f) governing adjustments, payments, set-offs and credits for the purposes of section 25.33, including regulations,

(i) prescribing methods for determining the amounts of adjustments under subsection 25.33 (1), the classes of market participants and consumers to whom those adjustments apply, the time periods to which the adjustments apply and the time periods within which the adjustments must or may be made and the manner in which the amounts are paid to generators, distributors, the OPA and the Financial Corporation,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (i) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (5), 17 (1))

(i) prescribing methods for determining the amounts of adjustments under subsection 25.33 (1), the classes of market participants and consumers to whom those adjustments apply, the time periods to which the adjustments apply and the time periods within which the adjustments must or may be made and the manner in which the amounts are paid to generators, the Financial Corporation, distributors and other entities,

(ii) prescribing adjustments that must or may be made by distributors or retailers with respect to classes of consumers or other distributors or retailers, methods for determining the amount of the adjustments, the time periods to which the adjustments apply and the time periods within which the adjustments must or may be made and the manner in which the amounts are paid to generators, distributors, the OPA and the Financial Corporation,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (ii) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (5), 17 (1))

(ii) prescribing adjustments that must or may be made by distributors or retailers with respect to classes of consumers or other distributors or retailers, methods for determining the amount of the adjustments, the time periods to which the adjustments apply and the time periods within which the adjustments must or may be made and the manner in which the amounts are paid to generators, the Financial Corporation, distributors and other entities,

(iii) prescribing classes of consumers for the purposes of paragraph 3 of subsection 25.33 (3),

(iv) governing the presentation of adjustments on invoices to consumers,

(v) requiring the OPA to make payments to the IESO, a distributor or a retailer and prescribing methods for determining the amounts payable,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (v) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (6), 17 (1))

(v) requiring the IESO to make payments to a distributor or retailer and prescribing methods for determining the amounts payable,

(vi) requiring the IESO to make payments to the OPA, a distributor or a retailer and prescribing methods for determining the amounts payable,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (vi) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (6), 17 (1))

(vi) requiring a distributor to make payments to the IESO, another distributor or a retailer and prescribing methods for determining the amounts payable,

(vii) requiring a distributor to make payments to the OPA, the IESO, another distributor or a retailer and prescribing methods for determining the amounts payable,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (vii) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (6), 17 (1))

(vii) requiring a retailer to make payments to the IESO or a distributor and prescribing methods for determining the amounts payable,

(viii) requiring a retailer to make payments to the OPA, the IESO or a distributor and prescribing methods for determining the amounts payable,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (viii) is repealed. (See: 2014, c. 7, Sched. 7, ss. 15 (6), 17 (1))

(ix) governing the calculation of the amounts of the payments required by regulations made under this clause, methods of payment and the times within which payments must or may be made,

(x) authorizing payments referred to in subclause (ix) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited,

(xi) governing methods for determining amounts to be set off or credited, and the times within which amounts must or may be set off or credited,

(xii) requiring a distributor, retailer or generator to provide information to the OPA, the IESO, a distributor or the Board for the purposes of section 25.33 or a regulation made under this clause,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (xii) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (7), 17 (1))

(xii) requiring a distributor, retailer or generator to provide information to the IESO, a distributor or the Board for the purposes of section 25.33 or a regulation made under this clause,

(xiii) requiring the IESO to provide information to the OPA or the Board for the purposes of section 25.33 or a regulation made under this clause,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (xiii) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (7), 17 (1))

(xiii) requiring the IESO to provide information to the Board for the purposes of section 25.33 or a regulation made under this clause,

(xiv) requiring the Financial Corporation or the OPA to provide information to the IESO or the Board for the purposes of section 25.33 or a regulation made under this clause,

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subclause (xiv) is repealed and the following substituted: (See: 2014, c. 7, Sched. 7, ss. 15 (7), 17 (1))

(xiv) requiring the Financial Corporation to provide information to the IESO or the Board for the purposes of section 25.33 or a regulation made under this clause,

(xv) requiring a market participant or a consumer or a member of a class of market participants or consumers to meet specified requirements and to provide information to the IESO, a distributor or a retailer for the purpose of section 25.33 or a regulation made under this clause;

(g) governing the establishment and maintenance of variance accounts referred to in subsection 25.33 (5);

(g.1) prescribing locations or land or classes of locations or land where the OPA shall not provide for a procurement process or enter into a contract for energy from a prescribed renewable energy generation facility or a prescribed class of renewable energy generation facility;

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (g.1) is amended by striking out "the OPA" and substituting "the IESO". (See: 2014, c. 7, Sched. 7, ss. 15 (8), 17 (1))

(h) governing payments, set-offs and credits for the purposes of section 25.34, including,

(i) prescribing classes of contracts,

(ii) requiring the OPA to make payments to the IESO, a distributor or retailer and prescribing methods for determining the amounts payable,

(iii) requiring the IESO to make payments to the OPA, a distributor or a retailer and prescribing methods for determining the amounts payable,

(iv) requiring a distributor to make payments to the OPA, the IESO, another distributor or a retailer and prescribing methods for determining the amounts payable,

(v) requiring a retailer to make payments to the OPA, the IESO or a distributor and prescribing methods for determining the amounts payable,

(vi) governing the payments required under a regulation made under this clause, including methods of payment and the times within which payments must or may be made,
(vii) authorizing payments referred to in subclause (vi) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited,
(viii) governing methods for determining amounts to be set off or credited, and the times within which amounts must or may be set off or credited,
(ix) requiring a distributor or retailer to provide information to the OPA, the IESO, a distributor or the Board for the purposes of section 25.34 or a regulation made under this clause,
(x) requiring the IESO to provide information to the OPA or the Board for the purposes of section 25.34 or a regulation made under this clause. 2004, c. 23, Sched. A, s. 53 (8); 2009, c. 12, Sched. B, s. 14 (3-5).
Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, clause (h) is repealed. (See: 2014, c. 7, Sched. 7, ss. 15 (9), 17 (1))

Regulations, Part III

(1.4) The Lieutenant Governor in Council may make regulations,
(0.a) governing the connection of generation facilities to transmission systems and distribution systems for the purposes of section 25.36;
(0.a.1) governing information and reports with respect to a distribution system's or transmission system's ability to accommodate generation from a renewable energy generation facility for the purposes of section 25.37;
(a) prescribing any other information or material to be posted under subsection 36.2 (1);
(b) requiring additional notice for the purpose of subsection 36.2 (2) and prescribing any other information or material to be included with that notice and the manner and time or times of giving it;
(c) prescribing the period of time within which the Board may initiate a review of a reliability standard under subsection 36.2 (4);
(d) prescribing other matters to be considered for the purposes of subsection 36.2 (6);
(e) prescribing limitations for the purposes of subsection 36.3 (1). 2008, c. 7, Sched. G, s. 5 (3); 2009, c. 12, Sched. B, s. 14 (6).

General or particular

(2) A regulation made under subsection (1), (1.2) or (1.3) may be general or particular in its application. 1998, c. 15, Sched. A, s. 114 (2); 2004, c. 23, Sched. A, s. 53 (9).
Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out "subsection (1), (1.2) or (1.3)" and substituting "subsection (1) or (1.3)". (See: 2014, c. 7, Sched. 7, ss. 15 (10), 17 (1))
(3) Repealed: 2004, c. 23, Sched. A, s. 53 (10).

Transitional regulations

(4) A regulation made under clause (1) (p),
(a) may provide that it has retroactive application to a date not earlier than the day this section comes into force; and
(b) may provide that it applies despite this or any other general or special Act. 1998, c. 15, Sched. A, s. 114 (4).

Subdelegation

(5) A regulation under clause (1.2) (b) or (1.3) (f) or (h) may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under that clause. 2004, c. 23, Sched. A, s. 53 (11).
Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (5) is amended by striking out "clause (1.2) (b) or (1.3) (f) or (h)" and substituting "clause (1) (b) or (1.3) (f)". (See: 2014, c. 7, Sched. 7, ss. 15 (11), 17 (1))

Provision of information

(6) A person may do anything required by a regulation made under subclause (1.3) (f) (xii) or (xiii) or (h) (ix) or (x) despite any agreement to the contrary, the person is not liable for doing the thing in contravention of any agreement to the contrary, and doing the thing shall be deemed not to constitute a breach, termination, repudiation or frustration of any contract. 2004, c. 23, Sched. A, s. 53 (11).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (6) is amended by striking out “subclause (1.3) (f) (xii) or (xiii) or (h) (ix) or (x)” and substituting “subclause (1.3) (f) (xii) or (xiii)”. (See: 2014, c. 7, Sched. 7, ss. 15 (12), 17 (1))

Conflict with market rules

(7) In the event of a conflict, a regulation made under clause (1.3) (f) or (h) prevails over the market rules to the extent of the conflict. 2004, c. 23, Sched. A, s. 53 (11).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, subsection (7) is amended by striking out “clause (1.3) (f) or (h)” and substituting “clause (1.3) (f)”. (See: 2014, c. 7, Sched. 7, ss. 15 (13), 17 (1))

Transition, Green Energy Act, 2009

(8) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of amendments to this Act arising from the enactment of the Green Energy and Green Economy Act, 2009 and to facilitate the implementation of the Green Energy Act, 2009. 2009, c. 12, Sched. B, s. 14 (7).

Note: On January 1, 2015, the day named by proclamation of the Lieutenant Governor, section 114 is amended by adding the following subsections: (See: 2014, c. 7, Sched. 7, ss. 15 (14), 17 (1))

Transition, IESO

(9) The Lieutenant Governor in Council may make regulations governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate,

(a) the amalgamation of the predecessor Independent Electricity System Operator and the Ontario Power Authority; and

(b) the merging or segregation within the IESO of any of the duties, functions or activities of the predecessor Independent Electricity System Operator and the Ontario Power Authority. 2014, c. 7, Sched. 7, s. 15 (14).

Same, pension matters

(10) Without limiting the generality of subsection (9), the Lieutenant Governor in Council may make regulations governing transitional matters arising from the amalgamation of the predecessor Independent Electricity System Operator and the Ontario Power Authority with respect to pensions, including regulations,

(a) respecting the right to continue a prescribed pension plan as a pension plan for the employees of the IESO and any persons who become employees of the IESO in the future;

(b) governing the right of the IESO to create a new pension plan for its employees;

(c) respecting the right of the board of directors of the IESO to determine which employees will be members of a prescribed pension plan or a new pension plan created under the regulations made under this subsection;

(d) governing any matters relating to a prescribed pension plan or any new pension plans created under the regulations made under this subsection. 2014, c. 7, Sched. 7, s. 15 (14).

PART IX.1

OWNERSHIP AND USE OF CORRIDOR LAND

Interpretation

Definitions

114.1 In this Part,

“effective date” means the date on which section 23 of Schedule A to the Reliable Energy and Consumer Protection Act, 2002 comes into force; (“date d’effet”)

“Minister of Infrastructure” means the Minister of Infrastructure or such other member of the Executive Council as may be assigned under the Executive Council Act the powers and duties of the Minister of Infrastructure under this part; (“ministre de l’Infrastructure”)

“statutory right to use corridor land” or “statutory right to use the land” means, in relation to corridor land, the right created by section 114.5 to use the land for a purpose described in that section. (“droit légal d’utiliser des biens-fonds réservés aux couloirs”, “droit légal d’utiliser les biens-fonds”) 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (2, 3).

Ownership and Use

Transfer of corridor land to the Crown

114.2 (1) The fee simple interest in the following real property is hereby transferred to Her Majesty in right of Ontario:

1. All real property in Ontario that Hydro One Inc. or a subsidiary of Hydro One Inc. owned, directly or indirectly, in fee simple on the effective date that was used for the purposes of a transmission system on the effective date or was acquired before that date for the purposes of a transmission system.
2. All real property in Ontario that Hydro One Inc. or a subsidiary of Hydro One Inc. owned, directly or indirectly, in fee simple on the effective date that abuts real property described in paragraph 1. 2002, c. 1, Sched. A, s. 23.

Exceptions

(2) Buildings, structures and equipment on corridor land are not transferred to Her Majesty in right of Ontario by subsection (1). 2002, c. 1, Sched. A, s. 23.

Compensation

(3) No compensation of any kind is payable in respect of a transfer made by this section; however, the statutory right to use the land is given in exchange for the transfer. 2002, c. 1, Sched. A, s. 23.

Non-application of Expropriations Act

(4) The Expropriations Act does not apply with respect to a transfer made by this section or with respect to a subsequent transfer by Her Majesty in right of Ontario of the real property described in this section, despite section 2 of that Act. 2002, c. 1, Sched. A, s. 23.

Evidence of transfer

(5) In a document registered on title in a land titles office or registry office, a statement that real property described in the document was transferred to Her Majesty in right of Ontario by this section, and any other statement in the document relating to the transfer, shall be deemed to be conclusive evidence of the facts stated. 2002, c. 1, Sched. A, s. 23.

Effect of transfer to the Crown

114.3 (1) The transfer made by section 114.2 is binding on all persons and entities and,

- (a) shall be deemed not to constitute a breach, termination, repudiation or frustration of any contract, including a contract of insurance;
- (b) shall be deemed not to constitute an event of default or force majeure or a basis for any party to a contract to refuse to provide services under the contract;
- (c) shall be deemed not to give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;
- (d) shall be deemed not to give rise to any right to terminate or repudiate a contract, licence, permit or other right; and
- (e) shall be deemed not to give rise to any estoppel. 2002, c. 1, Sched. A, s. 23.

Same

(2) The transfer made by section 114.2 does not create any new cause of action in favour of,

- (a) a holder of a debt instrument that was issued by Hydro One Inc. before the transfer; or

(b) a party to a contract with Hydro One Inc. or any of its subsidiaries that was entered into before the transfer. 2002, c. 1, Sched. A, s. 23.

Effect of transfer on leases, etc., affecting corridor land

114.4 (1) The transfer made by section 114.2 does not affect any right or interest of a person in the corridor land that is subordinate to the fee simple interest. 2002, c. 1, Sched. A, s. 23.

Same

(2) Despite the transfer made by section 114.2, Hydro One Inc. and its subsidiaries continue to have the benefit of, and be subject to all obligations under, any lease or agreement entered into or licence obtained before the effective date that affects corridor land or any easement or right created before the effective date with respect to corridor land. 2002, c. 1, Sched. A, s. 23.

Statutory right to use corridor land

114.5 (1) The person or entity from whom corridor land is transferred by section 114.2 has a right to use the land to operate a transmission system or distribution system. 2002, c. 1, Sched. A, s. 23.

Duty to maintain

(2) The person or entity who has the right created by subsection (1) has a duty to maintain the corridor land at his, her or its own expense, including repairing or replacing buildings, equipment and structures on the land that are used by the person or entity, or used with his, her or its permission, if a prudent person would repair or replace them. 2002, c. 1, Sched. A, s. 23.

Same

(3) The Minister of Infrastructure may direct the person or entity who has the right created by subsection (1) to engage in such additional activities to maintain the corridor land at his, her or its own expense as the Minister of Infrastructure considers appropriate. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Exception

(4) The person or entity who has the right created by subsection (1) is not required to maintain corridor land that is being used for a purpose other than the operation of a transmission system or distribution system, unless it is being used for that purpose with the permission of the person or entity. 2002, c. 1, Sched. A, s. 23.

Taxes, etc.

(5) The Land Transfer Tax Act and such other statutes or provisions of statutes or regulations as may be prescribed do not apply with respect to the right created by subsection (1). 2002, c. 1, Sched. A, s. 23.

Status of right

(6) The right created by subsection (1) is an easement. 2002, c. 1, Sched. A, s. 23.

Binding

(7) The right created by subsection (1) is binding on all persons and entities. 2002, c. 1, Sched. A, s. 23.

Evidence of right

(8) In a document registered on title in a land titles office or registry office, a statement that a person or entity has a right created by subsection (1) to use real property described in the document for the purposes described in subsection (1), and any other statement in the document relating to the right, shall be deemed to be conclusive evidence of the facts stated. 2002, c. 1, Sched. A, s. 23.

Payment to holder of right

(9) If Her Majesty in right of Ontario uses corridor land or if a person or entity to whom Her Majesty in right of Ontario transfers corridor land uses it, the Minister of Infrastructure shall make payments from the Consolidated Revenue Fund to the person or entity who has the right created by subsection (1) with respect to such incremental costs incurred by the person or entity in the operation of a transmission system or distribution system as may be prescribed by regulation. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Primacy of use for transmission or distribution system

114.6 (1) A person or entity who owns corridor land shall not use it in such a way that the level of service provided by a transmission or distribution system owned by the person or entity who has the statutory right to use the land is reduced. 2002, c. 1, Sched. A, s. 23.

Expansion of use for transmission system or distribution system

(2) If, under Part VI of the Ontario Energy Board Act, 1998, the Board authorizes a person or entity who has the statutory right to use corridor land to expand a transmission system or distribution system on the land, the Board may make an order described in this section if the Board considers it to be in the public interest to do so. 2002, c. 1, Sched. A, s. 23.

Order re other uses

(3) The Board may order the owner of the corridor land to restrict or discontinue any use of the land that interferes with the expansion of the transmission system or distribution system as authorized under Part VI of the Ontario Energy Board Act, 1998. 2002, c. 1, Sched. A, s. 23.

Restriction

(4) The Board shall not make an order under subsection (3) to restrict or discontinue a use of the land if the Board determines that the expansion of the transmission system or distribution system can be reasonably accommodated without the restriction or without discontinuing the use, as the case may be. 2002, c. 1, Sched. A, s. 23.

Order re incremental costs

(5) The Board may order the owner of the corridor land to reimburse the person or entity seeking the expansion of the transmission system or distribution system for such incremental costs as the Board considers appropriate that are incurred by the person or entity in order to accommodate the other uses of the land. 2002, c. 1, Sched. A, s. 23.

Effect of agreement

(6) If an owner of corridor land and the person or entity who has the statutory right to use the land enter into an agreement governing the expansion of a transmission system or distribution system on the land or the use of the land, the Board shall not make an order under this section that is inconsistent with the agreement. 2002, c. 1, Sched. A, s. 23.

Status of agreement

(7) An agreement described in subsection (6) may be registered on title in the applicable land titles office or registry office and, when it is registered, it is binding on all persons and entities. 2002, c. 1, Sched. A, s. 23.

Status of orders

(8) The Ontario Energy Board Act, 1998 applies with respect to an order made under this section as if the order had been made under that Act. 2002, c. 1, Sched. A, s. 23.

Duty re use of corridor land

114.7 A person or entity who has the statutory right to use corridor land shall, to the extent practicable, ensure that the design and construction of any transmission system on the land maximizes the area available for other uses. 2002, c. 1, Sched. A, s. 23.

Directions re location of buildings, etc.

114.8 (1) The Minister of Infrastructure may give directions to a person or entity who has the statutory right to use corridor land in respect of the location on the land of any proposed building, structure or equipment or of any proposed expansion of a building, structure or equipment, and the person or entity shall comply with the directions. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Restriction

(2) The Minister of Infrastructure shall not give a direction under this section that would have the effect of reducing the level of service provided by a transmission or distribution system owned by the person or entity who has the statutory right to use the corridor land. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Duty to obtain authorizations, etc.

(3) A direction by the Minister of Infrastructure under this section does not relieve the person or entity from the obligation to obtain such authorizations and consents as may be required by law, and the person or entity shall make reasonable efforts to obtain them. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Compensation

(4) If the Minister of Infrastructure directs that the construction or expansion must be located in a different place than the person or entity proposed, the Minister of Infrastructure shall pay the reasonable incremental costs associated with the direction. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Procedural matters

(5) The person or entity who proposes to construct or expand a building, structure or equipment on corridor land shall comply with such requirements as may be prescribed concerning notice to the Minister of Infrastructure and information to be given to him or her. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Effect of non-compliance

(6) A person or entity who fails to comply with this section shall remove the building, structure or equipment when given notice to do so by the Minister of Infrastructure and shall do so at his, her or its own expense. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Relocation of buildings, etc.

114.9 (1) The Minister of Infrastructure may direct a person or entity who has the statutory right to use corridor land and who owns a building, structure or equipment located on the land to move it, and may impose conditions or restrictions with respect to the direction. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Restriction

(2) The Minister of Infrastructure shall not give a direction under this section that would have the effect of reducing the level of service provided by a transmission or distribution system owned by the person or entity who has the statutory right to use the corridor land. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Duty to obtain authorizations, etc.

(3) A direction by the Minister of Infrastructure under this section does not relieve the person or entity from the obligation to obtain such authorizations and consents as may be required by law to relocate the building, structure or equipment, and the person or entity shall make reasonable efforts to obtain them. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Compliance

(4) After obtaining all authorizations and consents otherwise required by law, the person or entity shall comply with the direction, and the Minister of Infrastructure shall pay the person's or entity's reasonable costs of complying with the direction. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Effect of non-compliance

(5) A person or entity who fails to comply with this section shall remove the building, structure or equipment when given notice to do so by the Minister of Infrastructure and shall do so at his, her or its own expense. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Cessation of use for transmission system, etc.

114.10 (1) This section applies if a person or entity who has the statutory right to use corridor land decides that the land is not needed for the purposes of a transmission system or distribution system. 2002, c. 1, Sched. A, s. 23.

Duty to notify

(2) The person or entity who has the statutory right to use the land shall give written notice to the Minister of Infrastructure that it is not needed for the purposes of a transmission system or distribution system. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Same

(3) The notice must contain such information as may be prescribed by regulation and must be given in a manner authorized by regulation. 2002, c. 1, Sched. A, s. 23.

Transfer of statutory right

(4) The Minister of Infrastructure may require the person or entity to transfer to Her Majesty in right of Ontario the statutory right to use the land described in the written notice. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Payment for transfer

(5) No amount is payable for the transfer of the statutory right required under subsection (4). 2002, c. 1, Sched. A, s. 23.

Taxes, etc.

(6) The Land Transfer Tax Act and such other statutes or provisions of statutes or regulations as may be prescribed do not apply with respect to a transfer required under subsection (4). 2002, c. 1, Sched. A, s. 23.

Disposition of statutory right

114.11 (1) A person or entity who has the statutory right to use corridor land may dispose of it and shall give prior written notice to the Minister of Infrastructure when disposing of the right. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Same

(2) The notice must contain such information as may be prescribed by regulation. 2002, c. 1, Sched. A, s. 23.

Restriction on expropriation by holder of statutory right

114.12 (1) A person or entity who has the statutory right to use corridor land is not permitted to expropriate the land under section 99 of the Ontario Energy Board Act, 1998. 2002, c. 1, Sched. A, s. 23.

Expropriation of statutory right

(2) Nothing in this Part restricts the expropriation under any Act of the statutory right to use corridor land. 2002, c. 1, Sched. A, s. 23.

Transfer of ownership by Crown to person with statutory right

114.13 (1) The Minister of Infrastructure, on behalf of Her Majesty in right of Ontario, may transfer the fee simple interest in all or any part of the corridor land to a person or entity who has the statutory right to use the land and the Minister of Infrastructure may do so with or without the consent of the person or entity. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Restriction re encumbrances

(2) The Minister of Infrastructure shall not make a transfer under subsection (1) if the corridor land is subject to encumbrances created with the consent of Her Majesty in right of Ontario that are greater than those to which it was subject on the effective date, unless the person or entity who has the statutory right to use the land consents to the transfer. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Restriction re condition of land

(3) The Minister of Infrastructure shall not make a transfer under subsection (1) if the condition of the corridor land has been significantly changed since the effective date with the consent of Her Majesty in right of Ontario, unless the person or entity who has the statutory right to use the land consents to the transfer. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Payment for transfer

(4) The amount payable by the person or entity for the transfer is the fair market value of the corridor land on the effective date. 2002, c. 1, Sched. A, s. 23.

Termination of right

(5) Immediately before the transfer, the statutory right of the person or entity under this Part to use the land is terminated. 2002, c. 1, Sched. A, s. 23.

Payment for termination of right

(6) The amount payable to the person or entity upon the termination of the statutory right is the fair market value of the corridor land on the effective date. 2002, c. 1, Sched. A, s. 23.

Taxes, etc.

(7) The Land Transfer Tax Act and such other statutes or provisions of statutes or regulations as may be prescribed do not apply with respect to the transfer described in subsection (1) or the termination of the right. 2002, c. 1, Sched. A, s. 23.

General

Duty to provide records, information and reports

114.14 (1) A person or entity who has an interest in, or has entered into an agreement to use, corridor land or a building, structure or equipment located on corridor land shall give the Minister of Infrastructure, upon request, such records, information and reports as he or she may specify with respect to the land and the use of the land, building, structure or equipment and shall do so within the time specified by the Minister of Infrastructure. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Use of records, information and reports

(2) The Minister of Infrastructure may use records, information and reports obtained under this section for the purpose of administering and enforcing this Part. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Residual power of the Crown

114.15 (1) This Part does not restrict the authority of Her Majesty in right of Ontario to acquire, hold, dispose of or otherwise deal with corridor land. 2002, c. 1, Sched. A, s. 23.

Exception

(2) Subsection (1) does not authorize Her Majesty in right of Ontario to deal with corridor land contrary to section 114.6. 2002, c. 1, Sched. A, s. 23.

Indemnity re corridor land

114.16 (1) Hydro One Inc. shall indemnify Her Majesty in right of Ontario for any losses, damages or costs incurred by Her Majesty in right of Ontario,

(a) that arise from an order, direction or award made under a statute of Ontario or Canada in respect of corridor land or that relate to a proceeding in respect of corridor land; and

(b) that are a direct or indirect result of an act or omission by any person before the effective date.

2002, c. 1, Sched. A, s. 23.

Same

(2) Hydro One Inc. shall indemnify a person or entity to whom Her Majesty in right of Ontario transfers corridor land for any losses, damages or costs incurred by the person or entity,

(a) that arise from an order, direction or award made under a statute of Ontario or Canada in respect of the land or that relate to a proceeding in respect of the land; and

(b) that are a direct or indirect result of an act or omission by any person before the effective date.

2002, c. 1, Sched. A, s. 23.

Same, by holder of statutory right

(3) A person or entity who has the statutory right to use corridor land shall indemnify the owner of the land for any losses, damages or costs incurred by the owner,

(a) that arise from an order, direction or award made under a statute of Ontario or Canada in respect of the land or that relate to a proceeding in respect of the land; and

- (b) that are a direct or indirect result of an act or omission by,
- (i) the person or entity,
 - (ii) an employee or agent of the person or entity,
 - (iii) a person or entity who previously held the statutory right to use the land, or
 - (iv) another person or entity who was invited or permitted to use the land by the person or entity who holds, or held, the statutory right to use it. 2002, c. 1, Sched. A, s. 23.

Delegation of powers and duties

114.17 (1) The Minister of Infrastructure may delegate his or her powers and duties under any of the following provisions to any person or entity, subject to such conditions as the Minister of Infrastructure may impose:

1. Subsection 114.5 (3).
2. Subsection 114.8 (1) or (6) or both.
3. Subsection 114.9 (1) or (5) or both.
4. Subsection 114.13 (1).
5. Section 114.14. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Assignment of powers and duties

(2) The Minister of Infrastructure may assign his or her powers and duties under any of the provisions listed in subsection (1) to any person or entity, subject to such conditions as the Minister of Infrastructure may impose. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Effect

(3) Despite the Executive Council Act, an agreement that is signed by a person or entity authorized to do so by a delegation or an assignment made under this section has the same effect as if the agreement had been signed by the Minister of Infrastructure. 2002, c. 1, Sched. A, s. 23; 2011, c. 9, Sched. 27, s. 23 (4).

Regulations

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

- (a) prescribing one or more statutes, provisions of statutes or regulations for the purposes of subsection 114.5 (5), 114.10 (6) or 114.13 (7);
- (b) prescribing incremental costs for the purposes of subsection 114.5 (9);
- (c) prescribing the information to be included in a notice given under subsection 114.10 (3) and prescribing the manner in which the notice must be given;
- (d) prescribing the information to be included in a notice given under section 114.11. 2002, c. 1, Sched. A, s. 23.

General or particular

(2) A regulation may be general or particular. 2002, c. 1, Sched. A, s. 23.

PART X

TRANSITION — ONTARIO HYDRO

Definitions, Part X

115. In this Part,

“transfer order” means an order made under section 116; (“décret de transfert ou de mutation”)

“transferee” means a person to whom officers, employees, assets, liabilities, rights or obligations are transferred by a transfer order. (“destinataire”) 1998, c. 15, Sched. A, s. 115.

Transfer orders

116. (1) The Lieutenant Governor in Council may make orders transferring officers, employees, assets, liabilities, rights and obligations of Ontario Hydro to Hydro One Inc., Ontario Power Generation Inc., the IESO, the Board, the Electrical Safety Authority, the subsidiary of the Financial Corporation established under section 110, Her Majesty in right of Ontario or any other person. 1998, c. 15, Sched. A, s. 116 (1); 2002, c. 1, Sched. A, s. 24 (1); 2004, c. 23, Sched. A, s. 54 (1).

Binding on all persons

(2) A transfer order is binding on Ontario Hydro, the transferee and all other persons. 1998, c. 15, Sched. A, s. 116 (2).

Same

(3) Subsection (2) applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers. 1998, c. 15, Sched. A, s. 116 (3).

No consent required

(4) A transfer order does not require the consent of Ontario Hydro, the transferee or any other person. 1998, c. 15, Sched. A, s. 116 (4).

Same

(5) Despite subsection (4), the consent of the transferee is required if the transferee is a person other than,

(a) Hydro One Inc. or a subsidiary of it;

(b) Ontario Power Generation Inc. or a subsidiary of it;

(c) the IESO;

(d) the Board;

(e) the Electrical Safety Authority;

(f) the subsidiary of the Financial Corporation established under section 110; or

(g) Her Majesty in right of Ontario. 1998, c. 15, Sched. A, s. 116 (5); 2002, c. 1, Sched. A, s. 24 (2); 2004, c. 23, Sched. A, s. 54 (2).

Legislation Act, 2006, Part III

(6) Part III (Regulations) of the Legislation Act, 2006 does not apply to a transfer order. 1998, c. 15, Sched. A, s. 116 (6); 2006, c. 21, Sched. F, s. 136 (1).

Notice of date

117. (1) The Minister shall, within 90 days after the date that a transfer order is made or amended, publish notice of the date in The Ontario Gazette. 1998, c. 15, Sched. A, s. 117 (1).

Amendments

(2) Notice of the date that a transfer order was amended shall identify the transfer order that was amended. 1998, c. 15, Sched. A, s. 117 (2).

Non-compliance

(3) Non-compliance with this section does not affect the validity of a transfer order or any amendment to a transfer order. 1998, c. 15, Sched. A, s. 117 (3).

Description of things transferred

118. A transfer order may describe officers, employees, assets, liabilities, rights or obligations to be transferred,

(a) by reference to specific officers, employees, assets, liabilities, rights or obligations;

(b) by reference to any class of officers, employees, assets, liabilities, rights or obligations; or

(c) partly in accordance with clause (a) and partly in accordance with clause (b). 1998, c. 15, Sched. A, s. 118.

Approvals under the Power Corporation Act

119. If the approval of the Lieutenant Governor in Council was at any time required under the Power Corporation Act or a predecessor of that Act with respect to an asset, liability, right or obligation that is to be transferred by or pursuant to a transfer order, the approval shall be deemed to have been given. 1998, c. 15, Sched. A, s. 119.

Officers and employees

120. (1) The office or employment of an officer or employee who is transferred by or pursuant to a transfer order is not terminated by the transfer and shall be deemed to have been transferred to the transferee without interruption in service. 1998, c. 15, Sched. A, s. 120 (1).

Service

(2) Service with Ontario Hydro of an officer or employee who is transferred by or pursuant to a transfer order shall be deemed to be service with the transferee for the purpose of determining probationary periods, benefits or any other employment-related entitlements under the Employment Standards Act or any other Act or under any employment contract or collective agreement. 1998, c. 15, Sched. A, s. 120 (2).

No constructive dismissal

(3) An officer or employee who is transferred by or pursuant to a transfer order shall be deemed not to have been constructively dismissed. 1998, c. 15, Sched. A, s. 120 (3).

Future changes

(4) If an officer or employee is transferred by or pursuant to a transfer order, nothing in this Act,
(a) prevents the office or employment from being lawfully terminated after the transfer; or
(b) prevents any term or condition of the office or employment from being lawfully changed after the transfer. 1998, c. 15, Sched. A, s. 120 (4).

Payment for transfer

121. (1) A transfer order may require Ontario Hydro or the transferee to pay for anything transferred by or pursuant to the order and may specify to whom the payment shall be made. 1998, c. 15, Sched. A, s. 121 (1).

Amount of payment

(2) The transfer order may,
(a) fix the amount of the payment;
(b) specify a method for determining the amount of the payment; or
(c) provide that the amount of the payment be determined by the Minister of Finance or a person designated by the Minister of Finance. 1998, c. 15, Sched. A, s. 121 (2).

Form of payment

(3) The transfer order may require that the payment be made in cash, by set off, through the issuance of securities or in any other form specified by the order. 1998, c. 15, Sched. A, s. 121 (3).

Securities

(4) If the transfer order requires that the payment be made through the issuance of securities, it may specify the terms and conditions of the securities or may authorize the Minister of Finance or a person designated by the Minister of Finance to specify the terms and conditions. 1998, c. 15, Sched. A, s. 121 (4).

Valuations

(5) A transfer order may,
(a) fix the value of anything transferred by or pursuant to the order;
(b) specify a method for determining the value of anything transferred by or pursuant to the order; or
(c) provide that the value of anything transferred by or pursuant to the order be determined by the Minister of Finance or a person designated by the Minister of Finance. 1998, c. 15, Sched. A, s. 121 (5).

Province may assume obligations in return for securities

122. (1) If, pursuant to a transfer order, Hydro One Inc. or Ontario Power Generation Inc. issues securities to Ontario Hydro, the Lieutenant Governor in Council, by order,
(a) may authorize Her Majesty in right of Ontario or an agent of Her Majesty in right of Ontario to assume obligations of Hydro One Inc. or Ontario Power Generation Inc. under the securities; and
(b) may require Hydro One Inc. or Ontario Power Generation Inc. to issue, and may authorize Her Majesty in right of Ontario or an agent of Her Majesty in right of Ontario to acquire, additional securities in such amount as the Lieutenant Governor in Council may specify. 1998, c. 15, Sched. A, s. 122 (1); 2002, c. 1, Sched. A, s. 25 (1).

Exchange of securities

(2) The Lieutenant Governor in Council may by order require Hydro One Inc. or Ontario Power Generation Inc. to issue securities to Ontario Hydro in exchange for securities it previously issued to Ontario Hydro pursuant to a transfer order. 1998, c. 15, Sched. A, s. 122 (2); 2002, c. 1, Sched. A, s. 25 (2).

Application of s. 28 of the Financial Administration Act

(3) Section 28 of the Financial Administration Act does not apply to anything done pursuant to an order under subsection (1) or (2). 1998, c. 15, Sched. A, s. 122 (3).

Terms and conditions of securities

(4) An order under subsection (1) or (2) may specify the terms and conditions of the securities issued under clause (1) (b) or subsection (2) or may authorize the Minister of Finance or a person designated by the Minister of Finance to specify the terms and conditions. 1998, c. 15, Sched. A, s. 122 (4).

Money required

(5) Money required for the purpose of meeting obligations assumed by Her Majesty under clause (1) (a) may be paid out of the Consolidated Revenue Fund. 1998, c. 15, Sched. A, s. 122 (5).

Non-application

(6) Clause (1) (b) and subsection (2) cease to apply with respect to Hydro One Inc. on the date specified in the regulations. 2002, c. 1, Sched. A, s. 25 (3).

Effective date of transfer

123. (1) A transfer order may specify the date that a transfer takes effect and any interest in property that is transferred by the order vests in the transferee on that date. 1998, c. 15, Sched. A, s. 123 (1).

Effective on payment

(2) A transfer order may provide that a transfer not take effect until payment has been made for anything transferred by or pursuant to the order. 1998, c. 15, Sched. A, s. 123 (2).

Retroactive transfer

(3) A transfer order may provide that a transfer shall be deemed to have taken effect on a date earlier than the date the transfer order is made, but the effective date shall not be earlier than the day this section comes into force. 1998, c. 15, Sched. A, s. 123 (3).

Sequence of events

(4) A transfer order may provide that transfers specified in the order and other transactions associated with the transfers shall be deemed to have occurred in a sequence and at times specified in the order. 1998, c. 15, Sched. A, s. 123 (4).

Statements in registered documents

124. (1) A statement, in a registered document to which a person referred to in subsection (2) is a party, that land described in the document was transferred to the person from Ontario Hydro by or pursuant to a transfer order, and any other statement in the document relating to the transfer order, shall be deemed to be conclusive evidence of the facts stated. 1998, c. 15, Sched. A, s. 124 (1).

Persons referred to in subs. (1)

(2) The persons referred to in subsection (1) are:

1. Hydro One Inc. or a subsidiary of it.
2. Ontario Power Generation Inc. or a subsidiary of it.
3. The IESO.
4. The Board.
5. The subsidiary of the Financial Corporation established under section 110.
6. Her Majesty in right of Ontario.
7. The Electrical Safety Authority.
8. Any other person prescribed by the regulations. 1998, c. 15, Sched. A, s. 124 (2); 2002, c. 1, Sched. A, s. 26; 2004, c. 23, Sched. A, s. 55.

No new interest

(3) Subsection (1) does not give any person an interest in land that Ontario Hydro did not have. 1998, c. 15, Sched. A, s. 124 (3).

References to unregistered transfer orders

(4) A document that is otherwise capable of being registered or deposited under the Registry Act or registered under the Land Titles Act and that refers to an unregistered transfer order may be registered or deposited under the Registry Act or registered under the Land Titles Act despite any provision of those Acts. 1998, c. 15, Sched. A, s. 124 (4).

Definitions

(5) In this section,

“land” means land, tenements, hereditaments and appurtenances, or any estate or interest therein; (“bien-fonds”)

“registered document” means a document registered or deposited under the Registry Act or registered under the Land Titles Act. (“document enregistré”) 1998, c. 15, Sched. A, s. 124 (5).

Execution of agreements

125. (1) A transfer order may require Ontario Hydro or a transferee,

- (a) to enter into any written agreement or execute any instrument specified in the order; and
- (b) to register in accordance with the order any agreement or instrument entered into or executed under clause (a). 1998, c. 15, Sched. A, s. 125 (1).

Exception

(2) Subsection (1) does not apply to a transfer agreement referred to in subsection 111 (1). 1998, c. 15, Sched. A, s. 125 (2).

Enforcement of things transferred

126. (1) A transfer order may provide,

- (a) that any liability or obligation that is transferred by the order may be enforced against Ontario Hydro, the transferee, or both of them;
- (b) that any right that is transferred by the order may be enforced by Ontario Hydro, the transferee, or both of them;
- (c) that any liability or obligation that is transferred by the order may be transferred to one or more transferees on a joint and several basis, as specified in the order; and
- (d) that any liability or obligation that is transferred by the order may be allocated among two or more transferees on the basis set out in the order. 1998, c. 15, Sched. A, s. 126 (1); 2000, c. 42, s. 42.

Release of Ontario Hydro

(2) Subject to subsection (1), the transfer of a liability or obligation under this Part releases Ontario Hydro from the liability or obligation. 1998, c. 15, Sched. A, s. 126 (2).

Actions and other proceedings

127. Subject to section 126, any action or other proceeding that was commenced by or against Ontario Hydro before a transfer order takes effect and that relates to an officer, employee, asset, liability, right or obligation that is transferred by the order shall be continued by or against the transferee. 1998, c. 15, Sched. A, s. 127.

Limitation periods

128. An action or other proceeding shall not be commenced against a transferee in respect of any officer, employee, asset, liability, right or obligation that has been transferred to the transferee if, had there been no transfer, the time for commencing the action or other proceeding would have expired. 1998, c. 15, Sched. A, s. 128.

Certain rights not affected by transfer

129. (1) A transfer by or pursuant to a transfer order,
(a) shall be deemed not to constitute,

- (i) a breach, termination, repudiation or frustration of any contract, including a contract of employment or insurance,
 - (ii) a breach of any Act, regulation or municipal by-law, or
 - (iii) an event of default or force majeure;
- (b) shall be deemed not to give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;
- (c) shall be deemed not to give rise to any right to terminate or repudiate a contract, licence, permit or other right; and
- (d) shall be deemed not to give rise to any estoppel. 1998, c. 15, Sched. A, s. 129 (1).

Exemptions

(2) Subsection (1) does not apply to the contracts prescribed by the regulations. 1998, c. 15, Sched. A, s. 129 (2).

No new cause of action

130. Subject to subsection 129 (2), nothing in this Act and nothing done by or pursuant to a transfer order creates any new cause of action in favour of,

- (a) a holder of a debt instrument that was issued by Ontario Hydro and guaranteed by the Province of Ontario before this section comes into force; or
 - (b) a party to a contract with Ontario Hydro that was entered into before this section comes into force.
- 1998, c. 15, Sched. A, s. 130.

Conditions on exercise of powers

131. A transfer order may impose conditions on the exercise of powers by the transferee that are related to officers, employees, assets, liabilities, rights or obligations transferred by the transfer order, including a condition that the powers be exercised only with the approval of the Board. 1998, c. 15, Sched. A, s. 131.

Information

132. Ontario Hydro shall provide a transferee with records or copies of records, and other information, that are in its custody or control and that relate to an officer, employee, asset, liability, right or obligation that is transferred by or pursuant to a transfer order, including personal information. 1998, c. 15, Sched. A, s. 132.

Transfer orders, other matters

133. A transfer order may contain provisions dealing with other matters not specifically referred to in this Part that the Lieutenant Governor in Council considers necessary or advisable in connection with a transfer. 1998, c. 15, Sched. A, s. 133.

Amendment of transfer order

134. The Lieutenant Governor in Council may, at any time within 24 months after making a transfer order, make a further order amending the transfer order in any way that the Lieutenant Governor in Council considers necessary or advisable. 1998, c. 15, Sched. A, s. 134; 2002, c. 1, Sched. A, s. 27 (1).

Exemptions from other Acts

135. The Bulk Sales Act, the Land Transfer Tax Act, the Retail Sales Tax Act and such other Acts or provisions as are prescribed by the regulations do not apply to any transfer of officers, employees, assets, liabilities, rights or obligations by or pursuant to a transfer order. 1998, c. 15, Sched. A, s. 135.

Limitations

136. (1) If possession of land transferred by or pursuant to a transfer order has been taken by another person, the right of Ontario Hydro or the transferee, or anyone claiming under them, to recover it, is not barred by reason of the lapse of time, despite the Real Property Limitations Act or any other Act, or by reason of any claim based on possession adverse to it for any period of time that might otherwise be made lawfully at common law, unless it is shown that it had actual notice in writing of the adverse

possession, and such notice was had by it 10 years before it or the person claiming under it commenced action to recover the land. 1998, c. 15, Sched. A, s. 136 (1); 2002, c. 24, Sched. B, s. 33 (1).

Same

(2) No claim under subsection (1) shall be acquired by possession, prescription, custom, user or implied grant to any way, easement, watercourse or use of water or water right or privilege or flooding privilege of Ontario Hydro or the transferee, or to any way, easement, watercourse, or use of water, or right of drainage along, over, upon, on or from any land, or water, or water right, or privilege of Ontario Hydro or the transferee, despite the Real Property Limitations Act or any other Act or any claim at common law based on lapse of time, or length of enjoyment or use. 1998, c. 15, Sched. A, s. 136 (2); 2002, c. 24, Sched. B, s. 33 (2).

Pensions

137. (1) A transfer order shall not include any provision relating to,

(a) the Ontario Hydro Pension and Insurance Plan or the Pension and Insurance Fund of Ontario Hydro, referred to in section 24 of the Power Corporation Act, as continued by Part VII of this Act; or

(b) the pension benefits and ancillary benefits within the meaning of the Pension Benefits Act that are provided under a pension plan with respect to officers or employees transferred by or pursuant to a transfer order. 1998, c. 15, Sched. A, s. 137 (1).

Exception

(2) Despite clause (1) (a), a transfer order may include provisions relating to the following matters:

1. The disability benefits and life insurance described in subsection 98 (7) and the amount referred to in subsection 98 (8).

2. Any liability or obligation associated with a proceeding or potential proceeding relating to the Ontario Hydro Pension and Insurance Plan and the Pension and Insurance Fund of Ontario Hydro or relating to the Ontario Hydro Financial Corporation Pension Plan and the pension fund for it. 1998, c. 15, Sched. A, s. 137 (2).

Other transfer orders

Pension subsidiary of Financial Corporation

138. (1) The Lieutenant Governor in Council may make orders transferring officers, employees, assets, liabilities, rights and obligations of the subsidiary of the Financial Corporation established under section 110 to Hydro One Inc., Ontario Power Generation Inc., the IESO, the Board, the Electrical Safety Authority or any other person. 1998, c. 15, Sched. A, s. 138 (1); 2002, c. 1, Sched. A, s. 28 (1); 2004, c. 23, Sched. A, s. 56 (1).

Financial Corporation assets, etc.

(1.1) The Lieutenant Governor in Council may make orders transferring the following assets, liabilities, rights and obligations to Hydro One Inc., Ontario Power Generation Inc., the IESO, the Electrical Safety Authority or any other person:

1. Assets, liabilities, rights and obligations of, or relating to, the Ontario Hydro Pension and Insurance Plan and the Pension and Insurance Fund of Ontario Hydro.

2. Assets, liabilities, rights and obligations of, or relating to, the Ontario Hydro Financial Corporation Pension Plan and the Ontario Hydro Financial Corporation Pension Fund.

3. Assets, liabilities, rights and obligations of the Financial Corporation relating to an act or omission by the Financial Corporation in connection with its rights or duties under Part VII or by any other person in connection with the person's rights or duties under that Part. 2000, c. 42, s. 43 (1); 2002, c. 1, Sched. A, s. 28 (2); 2004, c. 23, Sched. A, s. 56 (2).

Restriction on scope of order

(1.2) An order under subsection (1.1) shall not contain a provision that conflicts with a provision of an agreement entered into under section 111. 2000, c. 42, s. 43 (1).

Applications of this Part

- (2) This Part, except section 137, applies with necessary modifications to an order made under subsection (1) or (1.1) and, for that purpose,
- (a) a reference in this Part to a transfer order shall be deemed to be a reference to an order made under subsection (1) or (1.1), as the case may be;
 - (b) a reference in this Part to Ontario Hydro in connection with an order made under subsection (1) shall be deemed to be a reference to the subsidiary of the Financial Corporation established under section 110; and
 - (c) a reference in this Part to Ontario Hydro in connection with an order made under subsection (1.1) shall be deemed to be a reference to the Financial Corporation. 2000, c. 42, s. 43 (2).

Provincial liability not limited

139. The liability of the Province of Ontario as guarantor of a security or other liability of Ontario Hydro pursuant to a written guarantee given by the Province before this section comes into force is not limited by anything in this Act or by any transfer by or pursuant to a transfer order. 1998, c. 15, Sched. A, s. 139. Regulations, Part X

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

- (a) supplementing the provisions of this Part and governing the transfer of officers, employees, assets, liabilities, rights and obligations under this Part;
- (a.1) prescribing a date for the purposes of subsection 122 (6);
- (b) prescribing persons for the purpose of paragraph 8 of subsection 124 (2);
- (c) prescribing contracts or classes of contracts to which subsection 129 (1) does not apply, subject to such conditions or restrictions as may be prescribed by the regulations;
- (d) prescribing Acts or provisions of Acts that do not apply to a transfer for the purpose of section 135, subject to such conditions or restrictions as may be prescribed by the regulations. 1998, c. 15, Sched. A, s. 140 (1); 2002, c. 1, Sched. A, s. 29.

General or particular

(2) A regulation made under this section may be general or particular in its application. 1998, c. 15, Sched. A, s. 140 (2).

PART XI

TRANSITION — MUNICIPAL ELECTRICITY UTILITIES

Interpretation, Part XI

141. (1) In this Part,

“transfer by-law” means a by-law made under section 145; (“règlement municipal de transfert ou de mutation”)

“transferee” means the corporation incorporated under the Business Corporations Act pursuant to section 142; (“destinataire”)

“transferor” means the municipal corporation, commission or other body whose employees, assets, liabilities, rights or obligations are transferred pursuant to a transfer by-law. (“auteur”) 1998, c. 15, Sched. A, s. 141 (1).

Same

(2) For the purposes of this Part, a municipal corporation generates, transmits, distributes or retails electricity indirectly if it carries on any of those activities through,

- (a) a commission established under the Public Utilities Act or any other general or special Act; or
- (b) any other body, however established. 1998, c. 15, Sched. A, s. 141 (2).

Incorporation of municipal electricity businesses

142. (1) One or more municipal corporations may cause a corporation to be incorporated under the Business Corporations Act for the purpose of generating, transmitting, distributing or retailing electricity. 1998, c. 15, Sched. A, s. 142 (1).

Holding companies

(1.1) A corporation that one or more municipal corporations caused to be incorporated under the Business Corporations Act after November 6, 1998 and before May 2, 2003 to acquire, hold, dispose of and otherwise deal with shares of a corporation that was incorporated pursuant to this section shall be considered to be a corporation incorporated pursuant to this section. 2004, c. 31, Sched. 11, s. 7.

Conversion of existing electricity businesses

(2) Not later than the second anniversary of the day this section comes into force, every municipal corporation that generates, transmits, distributes or retails electricity, directly or indirectly, shall cause a corporation to be incorporated under subsection (1) for the purpose of carrying on those activities. 1998, c. 15, Sched. A, s. 142 (2).

Two or more municipal corporations

(3) Two or more municipal corporations may incorporate a single corporation for the purpose of complying with subsection (2). 1998, c. 15, Sched. A, s. 142 (3).

Ownership

(4) The municipal corporation or corporations that incorporate a corporation pursuant to this section shall subscribe for all the initial shares issued by the corporation that are voting securities. 1998, c. 15, Sched. A, s. 142 (4).

Same

(5) A municipal corporation may acquire, hold, dispose of and otherwise deal with shares of a corporation incorporated pursuant to this section that carries on business in the municipality. 2002, c. 1, Sched. A, s. 30.

Not a local board, etc.

(6) A corporation incorporated pursuant to this section shall be deemed not to be a local board, public utilities commission or hydro-electric commission for the purposes of any Act. 1998, c. 15, Sched. A, s. 142 (6).

(7) Repealed: 2004, c. 23, Sched. A, s. 57.

No new commissions

143. Except as provided by section 142, a municipal corporation shall not, after section 142 comes into force,

- (a) establish a commission or other body to generate, transmit, distribute or retail electricity; or
- (b) authorize a commission or other body that was established before section 142 came into force to generate, transmit, distribute or retail electricity, if the commission or other body was not authorized to carry on that activity immediately before section 142 came into force. 1998, c. 15, Sched. A, s. 143.

Restriction on municipal electricity activity

144. (1) After the second anniversary of the day section 142 comes into force, a municipal corporation shall not generate, transmit, distribute or retail electricity, directly or indirectly, except through a corporation incorporated under the Business Corporations Act pursuant to section 142. 1998, c. 15, Sched. A, s. 144.

Exception, renewable energy generation facilities

(2) Despite subsection (1) and section 143, a municipal corporation, a municipal service board, a city board or municipal services corporation may, subject to the prescribed rules, generate electricity by means other than through a corporation incorporated under the Business Corporations Act if,

- (a) the generation facility is a renewable energy generation facility that does not exceed 10 megawatts or such other capacity as may be prescribed by regulation; or
- (b) the generation facility meets the prescribed criteria. 2009, c. 12, Sched. B, s. 15.

Definition

(3) In this section,

“municipal services corporation” means a corporation established by a municipal corporation under section 203 of the Municipal Act, 2001 or under section 148 of the City of Toronto Act, 2006. 2009, c. 12, Sched. B, s. 15.

Transfer by-laws

145. (1) The council of a municipality may make by-laws transferring employees, assets, liabilities, rights and obligations of the municipal corporation, or of a commission or other body through which the municipal corporation generates, transmits, distributes or retails electricity, to a corporation incorporated under the Business Corporations Act pursuant to section 142 for a purpose associated with the generation, transmission, distribution or retailing of electricity by the corporation incorporated pursuant to section 142. 1998, c. 15, Sched. A, s. 145 (1).

Debentures

(2) Despite subsection (1), a transfer by-law may not transfer any liabilities, rights or obligations arising under a debenture issued or authorized to be issued by a municipal corporation. 1998, c. 15, Sched. A, s. 145 (2).

Binding on all persons

(3) A transfer by-law is binding on the transferee, the transferor and all other persons. 1998, c. 15, Sched. A, s. 145 (3).

Same

(4) Subsection (3) applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers. 1998, c. 15, Sched. A, s. 145 (4).

No consent required

(5) A transfer by-law does not require the consent of the transferor, the transferee or any other person. 1998, c. 15, Sched. A, s. 145 (5).

Description of things transferred

146. A transfer by-law may describe employees, assets, liabilities, rights or obligations to be transferred, (a) by reference to specific employees, assets, liabilities, rights or obligations; (b) by reference to any class of employees, assets, liabilities, rights or obligations; or (c) partly in accordance with clause (a) and partly in accordance with clause (b). 1998, c. 15, Sched. A, s. 146.

Employees

147. (1) The employment of an employee who is transferred by or pursuant to a transfer by-law is not terminated by the transfer and shall be deemed to have been transferred to the transferee without interruption in service. 1998, c. 15, Sched. A, s. 147 (1).

Service

(2) Service with the transferor of an employee who is transferred by or pursuant to a transfer by-law shall be deemed to be service with the transferee for the purpose of determining probationary periods, benefits or any other employment-related entitlements under the Employment Standards Act or any other Act or under any employment contract or collective agreement. 1998, c. 15, Sched. A, s. 147 (2).

No constructive dismissal

(3) An employee who is transferred by or pursuant to a transfer by-law shall be deemed not to have been constructively dismissed. 1998, c. 15, Sched. A, s. 147 (3).

Future changes

(4) If an employee is transferred by or pursuant to a transfer by-law, nothing in this Act, (a) prevents the employment from being lawfully terminated after the transfer; or (b) prevents any term or condition of the employment from being lawfully changed after the transfer. 1998, c. 15, Sched. A, s. 147 (4).

Reserve funds

148. (1) If employees or assets are transferred by or pursuant to a transfer by-law, the by-law or another transfer by-law shall transfer to the transferee,

(a) the portion of any reserve fund established under section 33 of the Development Charges Act, 1997 that relates to development charges collected in respect of electrical power services; and

(b) the portion of any reserve fund referred to in section 63 of the Development Charges Act, 1997 that relates to development charges collected in respect of electrical power services. 1998, c. 15, Sched. A, s. 148 (1).

Use of amount transferred

(2) Any amount transferred under subsection (1) shall be used by the transferee only to pay for capital costs in respect of electrical power services for which the amount transferred was collected. 1998, c. 15, Sched. A, s. 148 (2).

Effect on municipal by-law

(3) A municipal by-law that relates to development charges in respect of which an amount is transferred under subsection (1) ceases to apply in respect of electrical power services on the date of the transfer but otherwise continues to have effect, with necessary modifications. 1998, c. 15, Sched. A, s. 148 (3).

Payment for transfer

149. (1) A transfer by-law may require the transferor or the transferee to pay for anything transferred by or pursuant to the by-law and may specify to whom the payment shall be made. 1998, c. 15, Sched. A, s. 149 (1).

Amount of payment

(2) The transfer by-law may,

(a) fix the amount of the payment;

(b) specify a method for determining the amount of the payment; or

(c) provide that the amount of the payment be determined by a person designated by the by-law. 1998, c. 15, Sched. A, s. 149 (2).

Form of payment

(3) The transfer by-law may require that the payment be made in cash, by set off, through the issuance of securities or in any other form specified by the by-law. 1998, c. 15, Sched. A, s. 149 (3).

Securities

(4) If the transfer by-law requires that the payment be made through the issuance of securities, it may specify the terms and conditions of the securities or may authorize a person designated by the by-law to specify the terms and conditions. 1998, c. 15, Sched. A, s. 149 (4).

Valuations

(5) A transfer by-law may,

(a) fix the value of anything transferred by or pursuant to the by-law;

(b) specify a method for determining the value of anything transferred by or pursuant to the by-law; or

(c) provide that the value of anything transferred by or pursuant to the by-law be determined by a person designated by the by-law. 1998, c. 15, Sched. A, s. 149 (5).

Effective date of transfer

150. (1) A transfer by-law may specify a date not later than the second anniversary of the day section 142 comes into force as the date that a transfer takes effect and any interest in property that is transferred by the by-law vests in the transferee on that date. 1998, c. 15, Sched. A, s. 150 (1).

Effective on payment

(2) A transfer by-law may provide that a transfer not take effect until payment has been made for anything transferred by or pursuant to the by-law. 1998, c. 15, Sched. A, s. 150 (2).

Retroactive transfer

(3) A transfer by-law may provide that a transfer shall be deemed to have taken effect on a date earlier than the date the transfer by-law is made, but the effective date shall not be earlier than the day this section comes into force. 1998, c. 15, Sched. A, s. 150 (3).

Sequence of events

(4) A transfer by-law may provide that transfers specified in the by-law and other transactions associated with the transfers shall be deemed to have occurred in a sequence and at times specified in the by-law. 1998, c. 15, Sched. A, s. 150 (4).

Statements in registered documents

151. (1) A statement, in a registered document to which a corporation incorporated under the Business Corporations Act pursuant to section 142 is a party, that land described in the document was transferred to the corporation, by or pursuant to a transfer by-law, from a municipal corporation or from a commission or other body through which a municipal corporation generated, transmitted, distributed or retailed electricity, and any other statement in the document relating to the transfer by-law, shall be deemed to be conclusive evidence of the facts stated. 1998, c. 15, Sched. A, s. 151 (1).

No new interest

(2) Subsection (1) does not give any person an interest in land that the municipal corporation or the commission or other body did not have. 1998, c. 15, Sched. A, s. 151 (2).

References to unregistered transfer by-laws

(3) A document that is otherwise capable of being registered or deposited under the Registry Act or registered under the Land Titles Act and that refers to an unregistered transfer by-law may be registered or deposited under the Registry Act or registered under the Land Titles Act despite any provision of those Acts. 1998, c. 15, Sched. A, s. 151 (3).

Definitions

(4) In this section,

“land” means land, tenements, hereditaments and appurtenances, or any estate or interest therein; (“bien-fonds”)

“registered document” means a document registered or deposited under the Registry Act or registered under the Land Titles Act. (“document enregistré”) 1998, c. 15, Sched. A, s. 151 (4).

Execution of agreements

152. A transfer by-law may require the transferor or the transferee,

(a) to enter into any written agreement or execute any instrument specified in the by-law; and

(b) to register in accordance with the by-law any agreement or instrument entered into or executed under clause (a). 1998, c. 15, Sched. A, s. 152.

Enforcement of things transferred

153. (1) A transfer by-law may provide,

(a) that any liability or obligation that is transferred by the by-law may be enforced against the transferor, the transferee, or both of them; and

(b) that any right that is transferred by the by-law may be enforced by the transferor, the transferee, or both of them. 1998, c. 15, Sched. A, s. 153 (1).

Release of transferor

(2) Subject to subsection (1), the transfer of a liability or obligation under this Part releases the transferor from the liability or obligation. 1998, c. 15, Sched. A, s. 153 (2).

Actions and other proceedings

154. Subject to section 153, any action or other proceeding that was commenced by or against the transferor before a transfer by-law takes effect and that relates to an employee, asset, liability, right or obligation that is transferred by the by-law shall be continued by or against the transferee. 1998, c. 15, Sched. A, s. 154.

Limitation periods

155. An action or other proceeding shall not be commenced against a transferee in respect of any employee, asset, liability, right or obligation that has been transferred to the transferee if, had there been no transfer, the time for commencing the action or other proceeding would have expired. 1998, c. 15, Sched. A, s. 155.

Certain rights not affected by transfer

156. (1) A transfer by or pursuant to a transfer by-law,

(a) shall be deemed not to constitute,

(i) a breach, termination, repudiation or frustration of any contract, including a contract of employment or insurance,

(ii) a breach of any Act, regulation or municipal by-law, or

(iii) an event of default or force majeure;

(b) shall be deemed not to give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;

(c) shall be deemed not to give rise to any right to terminate or repudiate a contract, licence, permit or other right; and

(d) shall be deemed not to give rise to any estoppel. 1998, c. 15, Sched. A, s. 156 (1).

Exemptions

(2) Subsection (1) does not apply to the contracts prescribed by the regulations. 1998, c. 15, Sched. A, s. 156 (2).

Information

157. A transferor shall provide a transferee with records or copies of records, and other information, that are in its custody or control and that relate to an employee, asset, liability, right or obligation that is transferred by or pursuant to a transfer by-law, including personal information. 1998, c. 15, Sched. A, s. 157.

Transfer by-laws, other matters

158. A transfer by-law may contain provisions dealing with other matters not specifically referred to in this Part that the municipal council considers necessary or advisable in connection with a transfer. 1998, c. 15, Sched. A, s. 158.

Exemptions from other Acts

159. The Bulk Sales Act, the Land Transfer Tax Act, the Retail Sales Tax Act and such other Acts or provisions as are prescribed by the regulations do not apply to any transfer of employees, assets, liabilities, rights or obligations by or pursuant to a transfer by-law. 1998, c. 15, Sched. A, s. 159.

159.1 Repealed: 2004, c. 23, Sched. A, s. 58.

159.2 Repealed: 2004, c. 23, Sched. A, s. 59.

159.3 Repealed: 2004, c. 23, Sched. A, s. 60.

Regulations, Part XI

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

(a) supplementing the provisions of this Part and governing the transfer of employees, assets, liabilities, rights and obligations under this Part;

(b) prescribing contracts or classes of contracts to which subsection 156 (1) does not apply, subject to such conditions or restrictions as may be prescribed by the regulations;

(c) prescribing Acts or provisions of Acts that do not apply to a transfer for the purpose of section 159, subject to such conditions or restrictions as may be prescribed by the regulations. 1998, c. 15, Sched. A, s. 160 (1).

General or particular

(2) A regulation made under this section may be general or particular in its application. 1998, c. 15, Sched. A, s. 160 (2).

Conflict with other Acts

161. (1) This Part applies despite the provisions of the Municipal Act, 2001 relating to the production, manufacture, distribution or supply of a public utility by a municipality or a municipal service board and despite any other general or special Act. 1998, c. 15, Sched. A, s. 161; 2002, c. 17, Sched. F, Table. Same

(2) This Part applies despite the provisions of the City of Toronto Act, 2006 relating to the production, manufacture, distribution or supply of a public utility by the City or by a city board as defined in subsection 3 (1) of that Act. 2006, c. 11, Sched. B, s. 4 (2).

PART XI.1

TRANSITION — ONTARIO POWER AUTHORITY, ONTARIO ENERGY BOARD, INDEPENDENT ELECTRICITY SYSTEM OPERATOR

Definitions, Part XI.1

161.1 In this Part,

“transfer order” means an order made under section 161.2; (“décret de transfert”)

“transferee” means a person to whom assets, liabilities, rights or obligations are transferred by a transfer order; (“destinataire”)

“transferor” means the person from whom assets, liabilities, rights or obligations are transferred by a transfer order. (“auteur”) 2004, c. 23, Sched. A, s. 61.

Transfer orders

161.2 (1) The Lieutenant Governor in Council may make orders transferring the following:

1. Assets, liabilities, rights and obligations of the IESO relating to market surveillance and the Market Surveillance Panel to the Board.
2. Assets, liabilities, rights and obligations of the IESO relating to the forecasting of electricity demand and the adequacy and reliability of electricity resources for the medium and long term to the OPA. 2004, c. 23, Sched. A, s. 61.

Binding on all persons

(2) A transfer order is binding on the transferor, transferee and all other persons and does not require the consent of any person. 2004, c. 23, Sched. A, s. 61.

Same

(3) Subsection (2) applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers. 2004, c. 23, Sched. A, s. 61.

Legislation Act, 2006, Part III

(4) Part III (Regulations) of the Legislation Act, 2006 does not apply to a transfer order. 2004, c. 23, Sched. A, s. 61; 2006, c. 21, Sched. F, s. 136 (1).

Application of provisions of Part X

161.3 Sections 117, 118, 121 and 123, subsection 125 (1) and sections 126 to 135 apply for the purposes of this Part and, in the application of those provisions, references to Ontario Hydro shall be deemed to be references to the transferor under the transfer order. 2004, c. 23, Sched. A, s. 61.

Regulations

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

(a) supplementing the provisions of this Part and governing the transfer of assets, liabilities, rights and obligations under this Part;

(b) prescribing contracts or classes of contracts to which subsection 129 (1), as made applicable by section 161.3, does not apply, subject to such conditions or restrictions as may be prescribed by the regulations;

(c) prescribing Acts or provisions of Acts that do not apply to a transfer for the purpose of section 135, as made applicable by section 161.3, subject to such conditions or restrictions as may be prescribed by the regulations;

(d) requiring the IESO, OPA and the Board to enter into contracts relating to the provision of services and such other matters as the Lieutenant Governor in Council considers necessary or advisable,
(i) to assist the Board and the Market Surveillance Panel with respect to market surveillance of the IESO-administered markets,
(ii) to assist the OPA with respect to the forecasting of electricity demand and the adequacy and reliability of electricity resources for the medium and long term. 2004, c. 23, Sched. A, s. 61.

General or particular

(2) A regulation under this section may be general or particular in its application. 2004, c. 23, Sched. A, s. 61.

162. Omitted (provides for coming into force of provisions of this Act). 1998, c. 15, Sched. A, s. 162.

163. Omitted (enacts short title of this Act). 1998, c. 15, Sched. A, s. 163.

Note: The Crown and its agents are protected from certain liabilities relating to or resulting from amendments made to this Act by the Electricity Pricing, Conservation and Supply Act, 2002, or from any action taken pursuant to those amendments or pursuant to regulations made under those amendments. See: 2002, c. 23, s. 6.