

## Technical Standards and Safety Act, 2000

### S.O. 2000, CHAPTER 16

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## PURPOSE, APPLICATION, DEFINITIONS

### Purpose

1. The purpose of this Act is to enhance public safety in Ontario by providing for the efficient and flexible administration of technical standards with respect to the matters referred to in section 2. 2000, c. 16, s. 1.

### Application

2. This Act applies with respect to amusement devices, boilers and pressure vessels, elevating devices, fuels, operating engineers and upholstered or stuffed articles, as referred to in the regulations. 2000, c. 16, s. 2; 2006, c. 34, s. 25 (1).

### Definitions

3. In this Act,

“authorization” means any form of authorization under this Act and includes,

- (a) with respect to a person, a certificate, identification, licence or registration, and
- (b) with respect to a thing, an approval, certificate, licence, permit or registration; (“autorisation”)

“Corporation” means the corporation continued by subsection 3.1 (1); (“Société”)

“director” means a person appointed as a director under this Act or a predecessor Act; (“directeur”)

“dwelling” means any premises or any part of a premises occupied exclusively as living accommodation; (“logement”)

“inspector” means a person appointed as an inspector under this Act or a predecessor Act; (“inspecteur”)

“Minister” means the Minister responsible for the administration of this Act; (“ministre”)

“person” means an individual, an association, a partnership or a corporation; (“personne”)

“predecessor Act” means any of the following:

1. *Amusement Devices Act*.
2. *Boilers and Pressure Vessels Act*.
3. *Elevating Devices Act*.
4. *Energy Act*.
5. *Gasoline Handling Act*.
6. *Operating Engineers Act*.
7. *Upholstered and Stuffed Articles Act*; (“loi précédente”)

“prescribed” means prescribed by the regulations; (“prescrit”)

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

“seal” means to mark, tag, seal or label, and its noun has a corresponding meaning. (“apposer les scellés”) 2000, c. 16, s. 3; 2009, c. 28, s. 1.

## CORPORATION

### Corporation continued

**3.1** (1) The Technical Standards and Safety Authority is continued as a corporation without share capital under the name Technical Standards and Safety Authority in English and Office des normes techniques et de la sécurité in French. 2009, c. 28, s. 2.

### Letters patent revoked

(2) The letters patent and supplementary letters patent of the Technical Standards and Safety Authority are revoked. 2009, c. 28, s. 2.

### Composition

**3.2** (1) The Corporation is composed of the members of its board of directors. 2009, c. 28, s. 2.

### Same

(2) A person ceases to be a member of the Corporation when he or she ceases to be a director. 2009, c. 28, s. 2.

### Not Crown agents

**3.3** (1) The Corporation and its members, officers, directors, employees and agents, together with the persons whose services it retains, are not agents of the Crown and shall not hold themselves out as agents of the Crown. 2009, c. 28, s. 2.

### Same

(2) The directors described in subsection (1) include directors appointed by the Minister. 2009, c. 28, s. 2.

### Application of corporate statutes

**3.4** (1) The *Corporations Act* and the *Corporations Information Act* apply to the Corporation. 2009, c. 28, s. 2.

### Conflict

(2) In the event of a conflict between this Act and the *Corporations Act*, this Act prevails. 2009, c. 28, s. 2.

### Powers of a natural person

**3.5** The Corporation has the capacity and the rights, powers and privileges of a natural person, except as limited by this Act or as prescribed. 2009, c. 28, s. 2.

### Objects of the Corporation

**3.6** The following are the objects of the Corporation:

1. To promote and undertake activities which enhance public safety in relation to the matters assigned to the Corporation under this Act and the regulations.

2. To undertake public safety services in relation to the matters assigned to the Corporation under this Act and the regulations, including training, certification, licensing, registration, audit, quality assurance, inspection, investigation and enforcement.
3. To promote and undertake activities which encourage the harmonization of technical safety standards and compliance practices.
4. To inform, educate and work with industry, government and the public in relation to the matters assigned to the Corporation under this Act and the regulations.
5. To encourage industry to enhance safety in a responsible manner in relation to the matters assigned to the Corporation under this Act and the regulations.
6. To promote and undertake additional activities in accordance with the memorandum of understanding under section 3.15.
7. To carry out any additional objects the Minister may by order specify. 2009, c. 28, s. 2.

**Board of directors**

**3.7** (1) The board of directors shall manage or supervise the management of the affairs of the Corporation. 2009, c. 28, s. 2.

**Composition**

(2) The board of directors shall consist of 13 members unless the number is changed by order of the Minister under clause (8) (a). 2009, c. 28, s. 2.

**Appointed directors**

(3) The Minister may appoint at pleasure directors to the board as long as the directors appointed by the Minister do not constitute a majority of the board. 2009, c. 28, s. 2.

**Same**

(4) The directors appointed by the Minister may include representatives of consumer groups, business, government organizations or such other interests as the Minister determines. 2009, c. 28, s. 2.

**Same**

(5) The Corporation shall provide for the payment of reasonable remuneration and expenses to the directors appointed by the Minister. 2009, c. 28, s. 2.

**Number of appointed directors**

(6) Subject to subsection (3), the number of directors appointed by the Minister shall be established by order of the Minister. 2009, c. 28, s. 2.

**Elected directors**

(7) Directors other than the directors appointed by the Minister shall be elected by the members of the board. 2009, c. 28, s. 2.

**Change in number of directors**

- (8) Subject to subsection (3), the Minister may, by order, increase or decrease,
- (a) the number of members of the board; and
  - (b) the number of directors appointed by the Minister. 2009, c. 28, s. 2.

**Qualifications**

(9) A person may be appointed or elected a director under this section only if the person meets the competency criteria approved by the Minister. 2009, c. 28, s. 2.

**Chair and vice-chair**

(10) The Minister shall appoint the chair and the vice-chair of the board from among the directors. 2009, c. 28, s. 2.

**Transition, board of directors**

(11) The persons who are directors of the Technical Standards and Safety Authority immediately before the day this subsection comes into force continue as directors of the Corporation until replaced or removed. 2009, c. 28, s. 2.

#### **By-laws**

**3.8** The board of directors may make by-laws governing the conduct and management of the affairs of the Corporation. 2009, c. 28, s. 2.

#### **Employees and consultants**

**3.9** Subject to the memorandum of understanding under section 3.15, the Corporation may employ or retain the services of any qualified person to carry out any power or duty of the Corporation relating to the administration of this Act and the regulations by the Corporation. 2009, c. 28, s. 2.

#### **Advisory councils**

**3.10** (1) The board of directors shall by by-law establish one or more advisory councils. 2009, c. 28, s. 2.

#### **Composition**

(2) A by-law establishing an advisory council shall provide for the council's composition and may require that the council include consumers or persons who have experience or knowledge relating to any matters assigned to the Corporation under this Act and the regulations. 2009, c. 28, s. 2.

#### **Functions, etc.**

(3) A by-law establishing an advisory council shall provide for the council's functions and for the council members' term of appointment, remuneration and payment of expenses. 2009, c. 28, s. 2.

#### **Chief safety and risk officer**

**3.11** (1) The Corporation shall appoint a chief safety and risk officer with the consent of the Minister. 2009, c. 28, s. 2.

#### **Independent review of Corporation's activities**

(2) The chief safety and risk officer shall independently review the Corporation's activities or proposed activities related to the public safety responsibilities assigned to the Corporation under this Act and the regulations. 2009, c. 28, s. 2.

#### **Reports**

(3) The chief safety and risk officer may prepare a report on any matter related to the Corporation's activities or proposed activities referred to in subsection (2) if the officer considers it in the public interest to do so. 2009, c. 28, s. 2.

#### **Same**

(4) The chief safety and risk officer shall prepare an annual report and such other reports as may be requested by the board of directors or the Minister. 2009, c. 28, s. 2.

#### **Publication of reports**

(5) Reports prepared by the chief safety and risk officer shall be made available at the Corporation's annual meeting and shall be made available to the public. 2009, c. 28, s. 2.

#### **Administration of this Act and the regulations**

**3.12** (1) The Corporation shall administer,

- (a) all provisions of this Act, except for sections 3.1 to 3.24, 33, 34, 35 and 35.1, subsections 36 (1), (2) and (5) and such other provision as may be specified by a regulation made by the Minister under section 35.1; and
- (b) the regulations, except such regulation or provision of a regulation as may be specified by a regulation made by the Minister under section 35.1. 2009, c. 28, s. 2.

#### **Same**

(2) The Corporation shall carry out the administration of this Act and the regulations as provided under subsection (1) in accordance with the law, this Act, the regulations, Minister's orders and the memorandum of understanding under section 3.15. 2009, c. 28, s. 2.

#### **Interpretation**

(3) In sections 3.1 to 3.24, a reference to the administration of this Act and the regulations by the Corporation is deemed to be a reference to the administration of this Act and the regulations by the Corporation as provided under subsection (1). 2009, c. 28, s. 2.

#### **Duties of the Corporation, enforcement**

**3.13** (1) The Corporation shall co-ordinate its enforcement activities in relation to the investigation of serious incidents with the enforcement activities of other provincial and federal enforcement authorities. 2009, c. 28, s. 2.

**Same, requests of the Minister**

- (2) The Corporation shall respond in an expeditious manner to all requests made by the Minister relating to,
- (a) the governance of the Corporation;
  - (b) the administration of this Act and the regulations by the Corporation;
  - (c) the memorandum of understanding under section 3.15; or
  - (d) a policy direction issued by the Minister under section 3.14. 2009, c. 28, s. 2.

**Policy directions**

**3.14** (1) The Minister may issue policy directions to the Corporation if the Minister considers it in the public interest to do so. 2009, c. 28, s. 2.

**Same**

(2) A policy direction may be issued on any matter relating to the governance of the Corporation and the administration of this Act and the regulations by the Corporation, including, but not limited to, the requirement to develop written policies relating to conflict of interest, political activity and disclosure of wrongdoing. 2009, c. 28, s. 2.

**Same**

(3) The Corporation shall comply and implement measures to comply with the policy directions issued by the Minister. 2009, c. 28, s. 2.

**Memorandum of understanding**

**3.15** (1) The Minister and the Corporation shall enter into a memorandum of understanding, which shall include terms relating to the following matters:

1. The administration of this Act and the regulations by the Corporation.
2. The governance of the Corporation.
3. The maintenance by the Corporation of adequate insurance against liability arising out of its carrying out the administration of this Act and the regulations.
4. Any other matter related to the Corporation's public safety responsibilities. 2009, c. 28, s. 2.

**Minister's terms**

(2) On giving notice to the Corporation that the Minister considers reasonable in the circumstances, the Minister may amend, add or delete a term in the memorandum of understanding if the Minister considers it advisable to do so in the public interest. 2009, c. 28, s. 2.

**Transition, administrative agreement**

(3) The administrative agreement entered into between the Minister and the Technical Standards and Safety Authority under the *Safety and Consumer Statutes Administration Act, 1996* that is in effect immediately before the day this subsection comes into force is deemed to be a memorandum of understanding entered into between the Minister and the Corporation under this section. 2009, c. 28, s. 2.

**No personal liability, directors, inspectors, etc.**

**3.16** (1) No action or other proceeding shall be instituted against a person mentioned in subsection (2) for any act done in good faith in the execution or intended execution of any duty or power under this Act, the regulations or a Minister's order, or for any alleged neglect or default in the execution in good faith of that duty or power. 2009, c. 28, s. 2.

**Same**

(2) Subsection (1) applies to the following persons:

1. A director to whom this Act, the regulations or a Minister's order give duties or powers.
2. A deputy director,
  - i. to whom duties are assigned by a director referred to in paragraph 1, or
  - ii. who is acting as a director referred to in paragraph 1.

3. An inspector.
4. An investigator.
5. An officer or a member of the board of directors of the Corporation.
6. A person whom the Corporation employs or whose services the Corporation retains under section 3.9.
7. An agent of the Corporation.
8. A member of a discipline committee or of an appeals committee under this Act or the regulations. 2009, c. 28, s. 2.

#### **Liability of the Corporation**

(3) Subsection (1) does not relieve the Corporation of any liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (2). 2009, c. 28, s. 2.

#### **No personal liability, employees of the Crown**

**3.17** (1) No action or other proceeding shall be instituted against an employee of the Crown for any act done in good faith in the execution or intended execution of any duty or service under this Act, the regulations or a Minister's order, or for any alleged neglect or default in the execution in good faith of that duty or service. 2009, c. 28, s. 2.

#### **Crown liability**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject. 2009, c. 28, s. 2.

#### **No Crown liability**

(3) No action or other proceeding shall be instituted against the Crown for damages that a person suffers as a result of any act or omission of a person who is not an employee or agent of the Crown. 2009, c. 28, s. 2.

#### **Indemnification**

(4) Subject to the memorandum of understanding under section 3.15, the Corporation shall indemnify the Crown in respect of damages and costs incurred by the Crown for any act or omission of the Corporation or its members, officers, directors, employees or agents in carrying out,

- (a) the administration of this Act and the regulations; or
- (b) its duties under this Act, the regulations, a Minister's order or the memorandum of understanding. 2009, c. 28, s. 2.

#### **Forms and fees**

**3.18** (1) The Corporation may,

- (a) establish forms related to the administration of this Act and the regulations by the Corporation;
- (b) set and collect fees, costs or other charges related to the administration of this Act and the regulations by the Corporation if it does so in accordance with the processes and criteria that it establishes and that the Minister has approved; and
- (c) make rules governing the payment of the fees, costs and charges described in clause (b). 2009, c. 28, s. 2.

#### **Setting fees**

(2) In setting the fees, costs and charges described in clause (1) (b), the Corporation may specify their amounts or the method for determining these amounts. 2009, c. 28, s. 2.

#### **Not public money**

**3.19** The money that the Corporation collects in carrying out the administration of this Act and the regulations is not public money within the meaning of the *Financial Administration Act* and the Corporation may use it to carry out activities in accordance with its objects. 2009, c. 28, s. 2.

#### **Reports**

**3.20** (1) Each year, the board of directors of the Corporation shall report to the Minister on its activities and financial affairs in respect of this Act, the regulations and Minister's orders. 2009, c. 28, s. 2.

#### **Form and contents**

(2) The report shall be in a form acceptable to the Minister and shall provide the information that the Minister requires. 2009, c. 28, s. 2.

#### **Tabling**

- (3) The Minister shall submit the report to the Lieutenant Governor in Council and shall,
- (a) lay the report before the Assembly if it is in session; or
  - (b) deposit the report with the Clerk of the Assembly if the Assembly is not in session. 2009, c. 28, s. 2.

#### **Disclosure by the Corporation**

(4) The board of the Corporation may give a copy of its report under subsection (1) to other persons before the Minister complies with subsection (3). 2009, c. 28, s. 2.

#### **Powers of the Minister to consult and require reviews**

- 3.21** (1) The Minister may,
- (a) consult with the Corporation regarding proposed legislative or policy changes that directly impact on the Corporation and its activities;
  - (b) require that performance, governance, accountability or financial reviews of the Corporation be carried out by or on behalf of the Corporation or such other person or entity as the Minister may specify; and
  - (c) require that policy, legislative or regulatory reviews related to this Act, the regulations and Minister's orders be carried out by or on behalf of the Corporation or such other person or entity as the Minister may specify. 2009, c. 28, s. 2.

#### **Reviews, terms and conditions**

(2) The Minister may impose terms and conditions relating to any review the Minister requires under clause (1) (b) or (c). 2009, c. 28, s. 2.

#### **Audit**

**3.22** (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of the Corporation, other than an audit required under the *Corporations Act*. 2009, c. 28, s. 2.

#### **Access to records and information**

(2) When the Auditor General conducts an audit under subsection (1), the Corporation shall give the Auditor General and employees of the Auditor General access to all records and other information required to conduct the audit. 2009, c. 28, s. 2.

#### **Administrator**

**3.23** (1) The Minister may appoint an individual as an administrator of the Corporation for the purposes of assuming control of the Corporation and responsibility for its activities if the Minister considers it in the public interest to do so. 2009, c. 28, s. 2.

#### **Notice of appointment**

(2) The Minister shall give the board of directors of the Corporation at least 14 days written notice before appointing the administrator. 2009, c. 28, s. 2.

#### **Immediate appointment**

(3) Subsection (2) does not apply if there are not enough members on the board of directors to form a quorum. 2009, c. 28, s. 2.

#### **Term of appointment**

(4) The appointment of the administrator is valid until it is terminated by order of the Minister. 2009, c. 28, s. 2.

#### **Powers and duties of administrator**

(5) Unless the appointment provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the Corporation. 2009, c. 28, s. 2.

#### **Same**

(6) The Minister may specify the powers and duties of the administrator in the appointment and the terms and conditions governing those powers and duties. 2009, c. 28, s. 2.

#### **Right of access**

(7) The administrator has the same rights as the board of directors in respect of the documents, records and information of the Corporation. 2009, c. 28, s. 2.



#### **Report to the Minister**

(8) The administrator shall report to the Minister as required by the Minister. 2009, c. 28, s. 2.

#### **Minister's directions**

(9) The Minister may issue directions to the administrator with regard to any matter within the jurisdiction of the administrator. 2009, c. 28, s. 2.

#### **Compliance with directions**

(10) The administrator shall carry out every direction issued by the Minister. 2009, c. 28, s. 2.

#### **No personal liability**

(11) No action or other proceeding shall be instituted against the administrator for any act done in good faith in the execution or intended execution of any duty or power under this Act, the regulations, a Minister's order or the appointment under subsection (1), or for any alleged neglect or default in the execution in good faith of that duty or power. 2009, c. 28, s. 2.

#### **Crown liability**

(12) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (11) does not relieve the Crown of any liability to which it would otherwise be subject. 2009, c. 28, s. 2.

#### **Liability of the Corporation**

(13) Subsection (11) does not relieve the Corporation of any liability to which it would otherwise be subject. 2009, c. 28, s. 2.

#### **Offences**

##### **Corporation**

**3.24** (1) The Corporation is guilty of an offence if it knowingly contravenes this Act, the regulations or a Minister's order and on conviction is liable to a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues. 2009, c. 28, s. 2.

##### **Individuals**

(2) A director, officer, employee or agent of the Corporation who knowingly contravenes this Act, the regulations or a Minister's order is guilty of an offence. 2009, c. 28, s. 2.

##### **Parties to offences**

- (3) A director or officer of the Corporation is guilty of an offence who,
- (a) knowingly causes, authorizes, permits or participates in the commission by the Corporation of an offence mentioned in subsection (1); or
  - (b) fails to take reasonable care to prevent the Corporation from committing an offence mentioned in subsection (1). 2009, c. 28, s. 2.

##### **Penalty**

(4) A person who is convicted of an offence under subsection (2) or (3) is liable to a fine of not more than \$25,000 for each day or part of a day on which the offence occurs or continues. 2009, c. 28, s. 2.

### **DIRECTORS AND INSPECTORS**

#### **Appointments of directors, inspectors and investigators**

**4.** (1) The Corporation may appoint directors, inspectors and investigators for the purposes of this Act, the regulations or a Minister's order, including for the purpose of determining whether authorization holders continue to meet the requirements for authorization and of this Act, the regulations and Minister's orders. 2006, c. 34, s. 25 (2); 2009, c. 28, s. 3 (1).

(2) REPEALED: 2009, c. 28, s. 3 (2).

#### **Restrictions**

(3) An appointment is subject to the restrictions, limitations and conditions set out in it. 2000, c. 16, s. 4 (3).

#### **Powers**

5. (1) A director has general supervisory and administrative responsibility in respect of all or any part of this Act, the regulations or a Minister's order with respect to which he or she is appointed. 2000, c. 16, s. 5 (1).

**Powers regarding inspectors and investigators**

- (2) Unless otherwise stated in his or her appointment, a director,
  - (a) may supervise and direct inspectors, investigators and other persons responsible for administering or enforcing this Act, the regulations or a Minister's order; and
  - (b) is an inspector and an investigator and may exercise any of their powers and perform any of their duties. 2006, c. 34, s. 25 (3).

**Delegation**

(3) A director may delegate in writing any of his or her powers or duties to any person subject to the restrictions, limitations and conditions set out in the delegation. 2000, c. 16, s. 5 (3).

**Identification**

(4) A director, inspector or investigator shall produce, on request, evidence of his or her appointment. 2006, c. 34, s. 25 (4).

## AUTHORIZATIONS

**Requirement for authorization**

6. (1) Except as provided in the regulations or a Minister's order, a person is required to obtain an authorization in accordance with this Act, the regulations or a Minister's order before carrying out the activities referred to in the regulations or a Minister's order as requiring an authorization or before operating or otherwise dealing with any thing referred to in the regulations or a Minister's order as requiring an authorization. 2000, c. 16, s. 6 (1).

**Authorizations for persons**

(2) An applicant who applies to a director for an authorization to carry out an activity referred to in the regulations or a Minister's order is entitled to the authorization if all the requirements for it are met. 2000, c. 16, s. 6 (2).

**Refusal re applicant**

(3) The director may refuse to grant an authorization to an applicant who does not meet the requirements for it. 2000, c. 16, s. 6 (3).

**Authorizations for things**

(4) An applicant who applies to a director for an authorization required for a thing is entitled to the authorization if all the requirements for it are met. 2000, c. 16, s. 6 (4).

**Refusal re thing**

(5) The director may refuse to grant an authorization for a thing if the applicant or thing does not meet the requirements for it. 2000, c. 16, s. 6 (5).

**Conditions**

(6) An authorization is subject to such restrictions, limitations and conditions as are prescribed and to the restrictions, limitations and conditions, if any, imposed on it by a director. 2000, c. 16, s. 6 (6).

**Refusals, suspensions, etc.**

(7) A director may refuse to grant, suspend, revoke or refuse to renew an authorization where he or she has reason to believe that the applicant or authorization holder,

- (a) will not carry out the activities permitted by the authorization in accordance with law;
- (b) will not carry out the activities permitted by the authorization safely;
- (c) lacks the basic resources necessary for carrying out the activities permitted by the authorization;
- (d) lacks honesty and integrity;
- (e) is not competent or lacks reasonable skill;
- (f) has failed to comply with this Act, the regulations, a Minister's order, the order of a director or an inspector, or a restriction, limitation or condition of an authorization;

- (g) obtained the authorization through misrepresentation or fraud;
- (h) permitted an unauthorized person to carry out the activities permitted under the authorization. 2000, c. 16, s. 6 (7); 2009, c. 28, s. 4.

**Notice of proposal**

7. (1) Subject to subsection (2), if a director proposes to refuse to grant an authorization, or to suspend, revoke or refuse to renew an authorization, the director shall serve notice of the proposal to that effect, together with written reasons, on the applicant or authorization holder. 2000, c. 16, s. 7 (1).

**Exceptions**

- (2) A notice of proposal is not required,
  - (a) in the case of a provisional suspension of an authorization or a refusal to renew an authorization under section 9;
  - (b) in the case of a suspension for a failure to pay under section 13. 2000, c. 16, s. 7 (2).

**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. 2000, c. 16, s. 7 (3).

**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 establishes to 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. 2000, c. 16, s. 7 (4).

**Deemed service, electronic transmission**

(5) If a fax or other form of electronic transmission is used, the notice shall be deemed to have been served on the day after the fax or other transmission was sent unless the person on whom notice is being served establishes to 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. 2000, c. 16, s. 7 (5).

**Hearing**

8. (1) A notice of proposal shall inform the applicant or authorization holder of the right to a hearing before the director if the applicant or holder applies for the hearing within 15 days after being served with the notice. 2000, c. 16, s. 8 (1).

**Where no hearing requested**

(2) If the applicant or authorization holder does not apply for a hearing, the director may carry out the proposal stated in the notice. 2000, c. 16, s. 8 (2).

**Where hearing requested**

(3) If the applicant or authorization holder applies for a hearing, the director shall set a time for and hold the hearing after issuing a notice of hearing to the applicant or authorization holder. 2000, c. 16, s. 8 (3).

**Extension of time for hearing**

(4) The director to whom application for a hearing is made may extend the time for making the application either before or after the 15-day period if he or she is satisfied that,

- (a) there are reasonable grounds for applying for the extension; and
- (b) there are apparent grounds for granting to the applicant or authorization holder the relief sought at the hearing. 2000, c. 16, s. 8 (4).

**Directions**

(5) In granting an extension, the director may give any directions he or she considers appropriate. 2000, c. 16, s. 8 (5).

**Findings of fact**

(6) On a hearing, the findings of fact made by a director 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*. 2000, c. 16, s. 8 (6).

**Decision**

(7) After a hearing, the director may refuse to grant the authorization or revoke, suspend or refuse to renew the authorization if the authorization holder is in contravention of this Act, the regulations, a Minister's order or a restriction, limitation or condition in the authorization. 2000, c. 16, s. 8 (7).

**Delayed effect**

(8) A revocation, suspension or refusal to renew under subsection (7) does not take effect until the later of the final disposition of an appeal under section 11 and the expiration of the 30-day period for filing an appeal, unless there is or may be, in the director's opinion, a threat to public safety or to the safety of any person. 2000, c. 16, s. 8 (8).

**Provisional suspension or refusal to renew where safety involved**

**9.** (1) A director may, by notice to an authorization holder and without a hearing, provisionally suspend or refuse to renew an authorization where the carrying on of the operations under the authorization is, in the director's opinion, an immediate threat to public safety or the safety of any person. 2000, c. 16, s. 9 (1).

**Notice**

(2) The notice under subsection (1) shall state the director's reasons for the decision to provisionally suspend or refuse to renew the authorization and inform the authorization holder of the right to a hearing before the director if the holder applies for the hearing within 15 days after being served with the notice. 2000, c. 16, s. 9 (2).

**Application of provisions**

(3) Subsections 7 (3), (4) and (5) apply with respect to a notice under this section and subsections 8 (3) to (6) apply for the purposes of a hearing under this section. 2000, c. 16, s. 9 (3).

**Opportunity to achieve compliance and evidence**

**10.** (1) Notice of a hearing shall afford to the applicant or authorization holder a reasonable opportunity to show or to achieve compliance with all lawful requirements for the granting, retention or renewal of the authorization before the hearing. 2000, c. 16, s. 10 (1).

**Examination of documentary evidence**

(2) An applicant or authorization holder shall be given an opportunity to examine before a hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 2000, c. 16, s. 10 (2).

**Recording of evidence**

(3) The oral evidence taken before the director at a hearing shall be recorded at the request of the applicant, the authorization holder or the director. 2000, c. 16, s. 10 (3).

**Cost of recording of evidence**

(4) The recording shall be at the cost of the person making the request and, where copies of the transcript are requested, they shall be provided at the cost of the person making the request. 2000, c. 16, s. 10 (4).

**Appeals**

**11.** (1) An applicant or authorization holder may appeal to the Divisional Court if, after a hearing, the director,

- (a) refuses to grant or to renew an authorization;
- (b) grants or renews an authorization subject to conditions or restrictions; or
- (c) revokes or suspends an authorization. 2000, c. 16, s. 11 (1).

**How to appeal**

(2) An appeal shall be made by filing a notice of appeal with the court within 30 days after receiving notice of the director's decision. 2000, c. 16, s. 11 (2).

**Decision**

(3) In deciding an appeal, the court may order the director to take such action as the court considers proper. 2000, c. 16, s. 11 (3).

**Director is party**

(4) The director is a party to every appeal under this section. 2000, c. 16, s. 11 (4).

**Immediate threat to safety**

(5) The bringing of an appeal under this section does not suspend or otherwise affect the decision appealed from where that decision was based on the director's opinion that there was an immediate threat to public safety or the safety of any person. 2000, c. 16, s. 11 (5).

#### **Appeal from decision of director**

**12.** (1) Any person who deems himself or herself aggrieved by a decision of a director under this Act, the regulations or a Minister's order may, within 10 days after the decision comes to the person's attention, appeal to the Divisional Court by notice in writing sent by registered mail to the director and the court. 2000, c. 16, s. 12 (1).

#### **Powers of court on appeal**

(2) Where a person has appealed under subsection (1), the court shall appoint a time for a hearing and shall hear the appeal and may affirm, rescind or vary the decision of the director and may direct the director to take any action that he or she is authorized to take under this Act, the regulations or a Minister's order as the court considers proper, and for such purpose the court may substitute its opinion for that of the director. 2000, c. 16, s. 12 (2).

#### **Application of subss. 8 (4) and (5)**

(3) Subsections 8 (4) and (5) apply with necessary modifications to an appeal under this section. 2000, c. 16, s. 12 (3).

#### **Parties**

(4) The director, the appellant and such other persons as the court may specify are parties to an appeal under this section 2000, c. 16, s. 12 (4).

#### **Decision final**

(5) A decision of the court under this section is final. 2000, c. 16, s. 12 (5).

#### **Suspension of authorization for default in payment**

**13.** (1) If an authorization holder is in default of the payment of a fee, a cost or other charge owing to the Corporation, of a fine imposed on conviction for an offence under this Act or an order made under clause 69 (2) (a) or (b) of the *Provincial Offences Act*, a director may,

- (a) suspend the holder's authorization; or
- (b) refuse to grant an authorization to the holder or to renew the holder's authorization. 2000, c. 16, s. 13 (1); 2009, c. 28, s. 5 (1).

#### **Reinstatement of suspended authorization**

(2) If an authorization is suspended under clause (1) (a), 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. 2000, c. 16, s. 13 (2).

#### **Granting of authorization or renewal**

(3) If an application for an authorization or for the renewal of an authorization is refused under clause (1) (b), the applicant is entitled to the authorization on providing proof to the director that the applicant is no longer in default. 2000, c. 16, s. 13 (3); 2009, c. 28, s. 5 (2).

#### **Notice**

(4) A director is not required to give notice or to hold a hearing before acting under subsection (1). 2000, c. 16, s. 13 (4).

### **SAFETY AND COMPLIANCE ORDERS**

#### **Safety orders**

**14.** (1) A director may give a safety order to any person or class of persons with respect to any matter governed by this Act that pertains to safety. 2000, c. 16, s. 14 (1).

#### **Same**

(2) The safety order may require that any thing or part of a thing, or class of things, be dealt with as set out in the order, including,

- (a) being shut down;
- (b) being used only in accordance with the order; and
- (c) not being used. 2000, c. 16, s. 14 (2).

**Imminent hazard, safety order**

(2.1) Without limiting the generality of subsection (2), the safety order may,

- (a) authorize an inspector to take or cause to be taken in respect of a thing, part of a thing or class of things such measures as the director considers advisable to limit, reduce or remove an imminent hazard to public safety or the safety of any person; and
- (b) require an authorization holder, a former authorization holder or another person subject to this Act, who is responsible for the thing, part of a thing or class of things, in respect of which measures were taken or caused to be taken under clause (a), to pay the costs of the measures within the time specified in the order. 2009, c. 28, s. 6 (1).

**Same, limitations**

(2.2) Nothing in subsection (2) authorizes the safety order to require the cleanup, remediation or restoration of lands or premises. 2009, c. 28, s. 6 (1).

**Same**

(2.3) The part of the safety order referred to in clause (2.1) (b) shall,

- (a) be given in writing as soon as practicable in the circumstances and in no case later than five days after the measures were taken or caused to be taken under clause (2.1) (a); and
- (b) have attached to it a statement describing the measures and providing details of the costs incurred in taking or causing them to be taken. 2009, c. 28, s. 6 (1).

**Form of order**

(3) Subject to clause (2.3) (a), the safety order may be given orally or in writing, and be made without prior notice or the holding of a hearing. 2000, c. 16, s. 14 (3); 2009, c. 28, s. 6 (2).

**Timeliness of written order**

(4) A safety order that is given orally shall be provided in writing as soon as practicable in the circumstances and in no case later than seven days after the oral order is given. 2000, c. 16, s. 14 (4).

**Immediate effect**

(5) The safety order is effective immediately but, except for the part of the safety order referred to in clause (2.1) (a), may be suspended pending a hearing under subsection (6) with the consent of the director who made it. 2000, c. 16, s. 14 (5); 2009, c. 28, s. 6 (3).

**Hearing**

(6) On the request of the person affected by the safety order, except for the part of the safety order referred to in clause (2.1) (a), the director shall hold a hearing on the matter. 2000, c. 16, s. 14 (6); 2009, c. 28, s. 6 (4).

**Appeal, part of order referred to in clause (2.1) (b)**

(7) The person affected by a safety order referred to in subsection (2.1) may appeal at any time to a director the part of the order referred to in clause (2.1) (b). 2009, c. 28, s. 6 (5).

**Appeal not required to be in writing**

(8) The appeal under subsection (7) is not required to be in writing but if a director so requires, the grounds for the appeal shall be specified in writing before the appeal is heard. 2009, c. 28, s. 6 (5).

**Hearing of subs. (7) appeal**

(9) On receiving an appeal under subsection (7), the director shall hold a hearing as soon as is reasonably possible, but such an appeal does not affect the operation of the safety order appealed from pending disposition of the appeal. 2009, c. 28, s. 6 (5).

**Decision on subs. (7) appeal**

(10) After the hearing of an appeal under subsection (7), the director may affirm, rescind or vary the safety order appealed from. 2009, c. 28, s. 6 (5).

**Appeal under s. 12**

(11) Where the director affirms or varies a safety order under subsection (10), the affected person may appeal to the Divisional Court under section 12. 2009, c. 28, s. 6 (5).

**Suspension for failure to comply with safety order**

15. (1) The director may, without prior notice or the holding of a hearing, suspend any authorization granted to a person who fails to comply with a safety order. 2000, c. 16, s. 15 (1).

**Reinstatement**

(2) If an authorization is suspended under subsection (1), a new application must be made for the authorization. 2000, c. 16, s. 15 (2).

**Conditions for reinstatement**

(3) A suspended authorization shall not be reinstated unless the applicant provides proof of having complied with all outstanding safety orders affecting the applicant, in addition to satisfying all other requirements for the reinstatement of the authorization. 2000, c. 16, s. 15 (3).

**Compliance order**

16. (1) If it appears to a director that a person is not complying with any provision of this Act, the regulations or a Minister's order, the director may apply to a judge of the Superior Court of Ontario for an order directing compliance. 2000, c. 16, s. 16 (1).

**Same**

(2) The judge may make any order he or she considers just. 2000, c. 16, s. 16 (2).

**Clarification**

(3) The director may make an application under subsection (1) even if a penalty or some other sanction has been applied against the person in respect of the failure to comply and regardless of any other rights the person may have. 2000, c. 16, s. 16 (3).

**Appeal**

(4) An appeal lies to the Divisional Court from an order made under subsection (2). 2000, c. 16, s. 16 (4).

**INSPECTIONS****Inspection**

17. (1) An inspector may conduct an inspection and may, as part of that inspection, enter and inspect at any reasonable time the lands and premises where any of the things, parts of things or classes of things to which this Act, the regulations or a Minister's order apply are used, operated, installed, made, manufactured, repaired, renovated or offered for sale for the purpose of,

- (a) ensuring compliance with this Act, the regulations or a Minister's order;
- (b) ensuring that an authorization holder remains entitled to the authorization; or
- (c) determining whether a hazardous condition exists. 2006, c. 34, s. 25 (5).

**Limitations on power to enter**

- (2) An inspector shall not,
- (a) use force to enter and inspect lands or 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. 25 (5).

**Powers on inspection**

18. (1) An inspector conducting an inspection on lands or premises, including the premises of an authorization holder, may,

- (a) examine all documents, records and 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) 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. 25 (6).

(2) REPEALED: 2006, c. 34, s. 25 (7).

#### **Assistance**

(3) An inspector may be accompanied by any person or persons who may be of assistance to him or her in carrying out the inspection. 2000, c. 16, s. 18 (3).

#### **Seal**

(4) An inspector conducting an inspection may seal any thing where the thing may be sealed under section 29. 2000, c. 16, s. 18 (4).

(5) REPEALED: 2006, c. 34, s. 25 (7).

#### **Entry, inspection, etc.**

**19.** (1) Every person shall,

(a) furnish all necessary means in his or her power to facilitate any entry, inspection, examination, test or inquiry by an inspector in the exercise of his or her powers and the carrying out of his or her duties; and

(b) pay the fees required by the Corporation for an inspection, examination, test or inquiry under clause (a). 2000, c. 16, s. 19 (1); 2009, c. 28, s. 7 (1).

#### **Written request**

(2) An inspector who requires that a record or other thing be produced for inspection must do so in writing and state the nature of the record or thing required. 2000, c. 16, s. 19 (2).

#### **Obligation to produce and assist**

(3) A person who is required to produce a document, record or other thing under subsection 18 (1) shall produce it and shall, on request by the inspector, provide any assistance that is reasonably necessary, including any 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. 25 (8).

(4) REPEALED: 2009, c. 28, s. 7 (2).

#### **Copy and return of removed things**

(5) An inspector who removes any document, record or other thing under clause 18 (1) (d) may make a copy of it and shall promptly return it to the person being inspected. 2006, c. 34, s. 25 (9).

#### **Admissibility of copies**

(6) 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. 25 (9).

#### **Obstruction**

**20.** (1) No person shall hinder, obstruct or interfere with an inspector conducting an inspection, refuse to answer questions on matters relevant to the inspection or provide the inspector with information on matters relevant to the inspection that the person knows to be false or misleading. 2000, c. 16, s. 20 (1).

#### **Withholding, destruction prohibited**

(1.1) No person shall withhold from an inspector or conceal, alter or destroy any document, record or thing that is relevant to the inspection. 2006, c. 34, s. 25 (10).

#### **Operation of thing**

(2) No person shall operate, use or cause or permit the operation or use of a thing in contravention of an order issued under section 21 or where the thing has been sealed. 2000, c. 16, s. 20 (2).

#### **Removal of seal**

(3) No person shall remove a seal affixed by an inspector,

(a) without the inspector's consent;

(b) except as provided in the regulations or a Minister's order. 2000, c. 16, s. 20 (3).



**When order revoked**

(4) Subsection (3) does not apply upon the revocation of the order that was made when the seal was affixed. 2000, c. 16, s. 20 (4).

**Inspection order**

**21.** (1) If an inspector finds that any provision of this Act, the regulations or a Minister's order is being contravened, or that a thing under this Act is unsafe or is not being operated or used in accordance with the authorization relating to it, the inspector may,

- (a) serve the person he or she believes to be the contravener or that person's supervisor or employer, or both, with an order in writing directing compliance with the provision or authorization and may require that the terms of the order be carried out forthwith or within such other time specified in the order; or
- (b) seal any thing to which this Act or the regulations apply where there is or may be a demonstrable threat to public safety, whether or not the thing is subject to an authorization. 2000, c. 16, s. 21 (1).

**Same**

(2) An inspector who has reason to believe that there is a contravention of this Act, the regulations or a Minister's order that does not present an immediate hazard may serve the contravener or a person who has authority to correct the contravention with a written order directing that the correction be carried out within the time specified in the order. 2000, c. 16, s. 21 (2).

**Revocation of order**

(3) An inspector may revoke an order, or consent to the removal of a seal, if he or she is satisfied that a potential danger does not exist, that all provisions of this Act, the regulations or a Minister's order are being complied with or that a thing is being operated in accordance with the authorization relating to it, as the case may be. 2000, c. 16, s. 21 (3).

**Content of order**

(4) An inspector's order under this section shall contain sufficient information to specify the nature of any contravention. 2000, c. 16, s. 21 (4).

**Not guilty of offence**

(5) Any person who receives an order under subsection (2) and complies with it or who has made all reasonable efforts to comply with it is not guilty of an offence in respect of the contravention or other matter that formed the basis of the order. 2000, c. 16, s. 21 (5).

**Report**

(6) Following an inspection, the inspector shall make a report to a director on the inspection in such manner and with respect to such things as may be determined by the director. 2000, c. 16, s. 21 (6).

**Appeal**

**22.** (1) Any person affected by an order under clause 21 (1) (a), the affixing of a seal under subsection 18 (4) or clause 21 (1) (b) or a requirement to pay fees under clause 19 (1) (b) may appeal at any time to a director. 2000, c. 16, s. 22 (1).

**When required to be in writing**

(2) The appeal is not required to be in writing but if a director so requires, the grounds for the appeal shall be specified in writing before the appeal is heard. 2000, c. 16, s. 22 (2).

**Hearing**

(3) On receiving an appeal, the director shall hold a hearing as soon as is reasonably possible, but such an appeal does not affect the operation of the order appealed from pending disposition of the appeal. 2000, c. 16, s. 22 (3).

**Decision**

(4) After a hearing, the director may,

- (a) substitute his or her findings for that of the inspector;
- (b) revoke the order if the director is satisfied,
  - (i) that a demonstrable threat to public safety does not or may not exist, or
  - (ii) that all provisions of this Act, the regulations or a Minister's order are being complied with or that the thing is being operated in accordance with the authorization relating to it; or

(c) affirm the order if the director is not satisfied under clause (b). 2000, c. 16, s. 22 (4).

#### **Appeal**

(5) Where the director affirms an inspector's order under clause (4) (c), the affected person may appeal to the Divisional Court under section 11. 2000, c. 16, s. 22 (5).

#### **Affixing of seals, etc.**

(6) After a hearing, the director may by order confirm the affixing of seals or direct the inspector to remove them. 2000, c. 16, s. 22 (6).

#### **No disposal of article**

(7) If the appeal relates to the destruction of an article, the appellant shall not dispose of the article pending the appeal. 2000, c. 16, s. 22 (7).

(8) REPEALED: 2009, c. 28, s. 8.

#### **Right to examine person under oath**

(9) For the purpose of an inspection or an investigation under this Act, a director may, by notice in writing, require the attendance of any person at the time and place named in the notice and may examine such person under oath regarding any matter pertaining to the inspection or investigation. 2000, c. 16, s. 22 (9).

#### **Search warrant**

**22.1** (1) On application made without notice by an investigator appointed under section 4, 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 Act, the regulations or a Minister's order or has committed an offence that is relevant to the person's fitness for holding an authorization under this Act; and
- (b) there is,
  - (i) on any lands or in any building, dwelling, receptacle or place any thing relating to the contravention of this Act, the regulations or a Minister's order or to the person's fitness for holding an authorization, or
  - (ii) information or evidence relating to the contravention of this Act, the regulations or a Minister's order 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. 25 (11).

#### **Powers under warrant**

(2) Subject to any conditions contained in the warrant, a warrant issued under subsection (1) authorizes an investigator appointed under section 4 to,

- (a) enter or access the lands, building, dwelling, receptacle 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. 25 (11).

#### **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. 25 (11).

#### **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. 25 (11).

**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. 25 (11).

**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. 25 (11).

**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. 25 (11).

**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 an investigator, extend the date of expiry for an additional period of no more than 30 days. 2006, c. 34, s. 25 (11).

**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. 25 (11).

**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. 25 (11).

**Return of seized thing**

(11) Subject to subsection (12), an investigator 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. 25 (11).

**Return of seized items not required**

(12) An investigator is not required to return a thing seized under this section where the investigator believes on reasonable grounds that the thing was used, sold or offered for sale in contravention of this Act or the regulations. 2006, c. 34, s. 25 (11).

**Admissibility**

(13) A copy of a document or record certified by an investigator as being 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. 25 (11).

**No warrant required in exigent circumstances**

**22.2** (1) Although a warrant issued under subsection 22.1 (1) would otherwise be required, an investigator may exercise any of the powers described in subsection 22.1 (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. 25 (11).

**Dwellings**

(2) Subsection (1) does not apply to any part of a building that is being used as a dwelling. 2006, c. 34, s. 25 (11).

**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. 25 (11).

**Application of other provisions**

(4) Subsections 22.1 (6), (10), (11), (12) and (13) apply, with necessary modifications, to the exercise of powers under this section. 2006, c. 34, s. 25 (11).

**Seizure of things in plain view**

**22.3** (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 Act, the regulations or a Minister's order. 2006, c. 34, s. 25 (11).

**Return of seized thing**

(2) Subsections 22.1 (11), (12) and (13) apply, with necessary modifications, to any thing seized under this section. 2006, c. 34, s. 25 (11).

**ADDITIONAL POWERS AND DUTIES OF DIRECTORS****Director's confirmation**

**23.** (1) A director may issue a written confirmation with respect to,

- (a) any authorization or non-authorization;
- (b) the revocation or suspension of an authorization;
- (c) the restrictions or conditions to which an authorization is subject;
- (d) the filing or non-filing of any document or material required or permitted to be filed with the director; or
- (e) any other matter that may be prescribed or set out in a Minister's order. 2000, c. 16, s. 23 (1).

**Effect of confirmation**

(2) A confirmation is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature. 2000, c. 16, s. 23 (2).

**Information confidential**

**24.** (1) An inspector shall not disclose to any person any information, record, report or statement obtained under the powers conferred under this Act and the regulations except,

- (a) for the purposes of carrying out his or her duties under this Act and the regulations; or
- (b) as authorized under the *Regulatory Modernization Act, 2007*. 2007, c. 4, s. 42.

**Compellability in civil proceeding**

(2) An inspector is a compellable witness in a civil proceeding respecting any information, record, report or statement obtained under the powers conferred under this Act or the regulations. 2000, c. 16, s. 24 (2).

**Refusal or conditional permission**

(3) Despite subsection (2) but subject to subsection (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 Act and the regulations, including requiring the payment of a fee for the inspector's attendance as set out in the schedule of fees published by the Corporation. 2000, c. 16, s. 24 (3); 2009, c. 28, s. 9 (1).

**Limitation**

(4) Subsection (3) 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 Corporation is a party to the proceeding. 2000, c. 16, s. 24 (4); 2009, c. 28, s. 9 (2).

**Written decision**

(5) A director shall provide in writing a decision to refuse to permit an inspector to attend as a witness or to permit an inspector to attend as a witness subject to conditions. 2000, c. 16, s. 24 (5).

**Exception**

(6) The director may disclose or publish information, records, reports or statements obtained under the powers conferred under this Act and the regulations unless he or she obtained them while acting as an inspector. 2000, c. 16, s. 24 (6).

**Investigation of accident**

**25.** A director shall order such investigation as he or she considers necessary on being notified of an accident or incident. 2000, c. 16, s. 25.

**Requirement to provide information**

**26.** If a director receives a complaint alleging non-compliance with an authorization, the authorization holder shall, on request, provide the director with such information respecting the matter complained of as the director requires. 2000, c. 16, s. 26.

**Limited use**

**27.** A director may,

- (a) establish the limits of operation and use of things that are found to be defective or do not conform with its authorization after fabrication or installation;
- (b) permit the operation and use of such thing within such limits as are prescribed, or if there are no such limits, as the director considers safe. 2000, c. 16, s. 27.

**Proof of inspection**

**28.** A director may issue a proof of inspection with respect to things that have been inspected and found capable of being used or operated safely and may cancel such a proof. 2000, c. 16, s. 28.

**Use of sealed things**

**29.** (1) A director shall determine the operation and use of things that have been sealed by an inspector. 2000, c. 16, s. 29 (1).

**Same**

- (2) A director shall determine the use and removal of seals. 2000, c. 16, s. 29 (2).

**Retention of information**

**30.** (1) A director may establish the information, records, documents, plans, log books, drawings, instructions, specifications or any other thing to be kept or provided with respect to any matter. 2000, c. 16, s. 30 (1).

**Reports**

(2) A director may provide for reports, including what information is to be reported, by whom and to whom, and the time, manner and frequency of reporting. 2000, c. 16, s. 30 (2).

**Director's order, public safety**

**31.** In cases where there is or may be a demonstrable threat to public safety, a director may make an order with respect to the following matters if they have not otherwise been provided for in this Act, the regulations or a Minister's order:

1. Requiring and establishing the form and location of notices, markings or other forms of identification to be used in conjunction with equipment or other things that are prescribed.
2. Regulating, governing and providing for the authorization of the design, fabrication, processing, handling, installation, operation, access, use, repair, maintenance, inspection, location, construction, removing, alteration, service, testing, filling, replacement, blocking, dismantling, destruction, removal from service and transportation of any thing, whether new or used, or a part of a thing and any equipment or attachment used in connection with it. 2000, c. 16, s. 31.

**Qualifications and training**

**32.** (1) If the regulations do not provide for these matters, a director may establish the qualifications, training and experience that are required for persons to whom this Act, the regulations or a Minister's order apply, and establish their duties and responsibilities. 2000, c. 16, s. 32 (1).

**Equivalency**

(2) A director may recognize training and experience of an applicant for an authorization if the director is of the opinion that such training or experience is equivalent to the requirements of this Act or the regulations. 2000, c. 16, s. 32 (2).

**Re-examination**

(3) A director may establish conditions for the re-examination of applicants who have taken examinations that may be prescribed. 2000, c. 16, s. 32 (3).

**Appeal**

(4) A person required by the director to be re-examined under this section may appeal to the Divisional Court under section 11. 2000, c. 16, s. 32 (4); 2009, c. 28, s. 10.

## ORDERS AND REGULATIONS

### Minister's orders

- 33.** (1) The Minister may make orders,
- (a) requiring the use of notices, markings and other forms of identification in conjunction with equipment or other things that are prescribed;
  - (b) respecting and governing the granting, term, renewal, posting, transfer and reinstatement of authorizations;
  - (c) governing actions that may be taken or not taken in connection with an accident in order to preserve evidence;
  - (d) governing service of any notice or order required to be given or served under this Act or the regulations;
  - (e) establishing the qualifications for inspectors upon consideration of any advice that may be obtained from directors;
  - (f) providing for the assigning of identifying symbols to welding operators and requiring and providing for the imprinting of the symbol by the welding operator on welds made by him or her;
  - (g) establishing the circumstances under which an inspection may be carried out by an insurer who meets the prescribed requirements;
  - (h) establishing and governing reports to be made by insurers;
  - (i) requiring distributors to file proposed safety procedures, directors to establish safety procedures and distributors to comply with those procedures;
  - (j) establishing grades of gasoline and associated products, and providing for their identification;
  - (k) establishing methods of determining the capacity, content and rating of equipment and other things;
  - (l) establishing the form of labels required or authorized to be affixed to upholstered or stuffed articles, or any class of them, adopting labels affixed under the laws of any other designated jurisdiction and designating jurisdictions for that purpose. 2000, c. 16, s. 33 (1).

### Same

- (2) A Minister's order under subsection (1) may be general or particular in its application. 2000, c. 16, s. 33 (2).

### Concurrent authority

(3) The Lieutenant Governor in Council may make a regulation in respect of any matter in respect of which the Minister has authority to make an order under this section and may amend or revoke any order made by the Minister under this section or any regulation made by the Minister under section 35.1 or 36. 2000, c. 16, s. 33 (3); 2009, c. 28, s. 11 (1).

### Same

(4) Where the Minister has authority to make an order under section 33 or a regulation under section 35.1 or 36, he or she may amend or revoke a provision of a regulation if the provision was made or amended by the Lieutenant Governor in Council under subsection (3). 2000, c. 16, s. 33 (4); 2009, c. 28, s. 11 (2).

### Lieutenant Governor in Council regulations

- 34.** (1) The Lieutenant Governor in Council may make regulations,
- (a) prescribing any matter or thing required or permitted to be prescribed under this Act or otherwise referred to as being prescribed under this Act;
  - (b) regulating, governing and providing for the authorization of the design, fabrication, processing, handling, installation, operation, access, use, repair, maintenance, inspection, location, construction, removing, alteration, service, testing, filling, replacement, blocking, dismantling, destruction, removal from service and transportation of any thing, whether new or used, or a part of a thing, and any equipment or attachment used in connection with it;
  - (c) prohibiting any person from doing anything that is not in compliance with this Act, the regulations or a Minister's order;
  - (d) establishing the powers, duties and responsibilities of persons with respect to whom this Act, the regulations or a Minister's order apply;
  - (e) classifying,

- (i) any thing or part of a thing referred to in this Act, the regulations or a Minister's order, and any equipment or attachment used in connection with it, and
- (ii) persons and authorizations;
- (f) governing the non-application of this Act, the regulations, or any part of them, or of a Minister's order to any person or thing or to any class of them, including the conditions of such non-application;
- (g) requiring the payment of fees, costs and other amounts;
- (h) establishing qualifications, training and experience for persons with respect to whom this Act, the regulations or a Minister's order apply, requiring that they obtain such qualifications, training and experience and establishing their duties and responsibilities;
- (i) defining accident and classes of accidents and respecting and governing the reporting of accidents;
- (j) providing for the isolation of things by means of seals or otherwise;
- (k) prohibiting the sale, purchase, renting, installation and use of any thing to which this Act, the regulations or a Minister's order apply that does not bear the label of an organization designated by a director under clause 36 (3) (b);
- (l) establishing a system of authorization numbers to be used for the identification of things and requiring inspectors and insurers to use such numbers for stamping or otherwise permanently identifying every thing inspected by them that does not have such a number;
- (m) requiring welding operators to weld according to procedures established and approved by a director;
- (n) governing the conduct of persons in or about elevating devices and amusement devices;
- (o) requiring owners of pipelines to develop procedures for locating pipelines and providing for the establishment of such procedures by a director;
- (p) governing proceedings under this Act or the regulations, including the right of the Corporation to recover from the parties to the proceedings the costs and expenses that it incurs in respect of the proceedings;
- (q) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 2000, c. 16, s. 34 (1); 2009, c. 28, s. 12.

**Same**

- (2) A regulation under subsection (1) may be general or particular in its application. 2000, c. 16, s. 34 (2).

**Classes**

- (3) A regulation may establish different requirements for different classes of person, premises or activity. 2000, c. 16, s. 34 (3).

**Definitions**

**35.** Any word or expression used in this Act, the regulations or a Minister's order may be defined in the regulations or order for the purposes of the regulations or order. 2000, c. 16, s. 35.

**Minister's regulations, s. 3.12**

**35.1** (1) The Minister may make regulations specifying any provision of this Act, any regulation or any provision of a regulation for the purposes of clause 3.12 (1) (a) or (b). 2009, c. 28, s. 13.

**Same, insurance**

(2) The Minister may make regulations requiring every person who is subject to this Act or the regulations to obtain and maintain liability insurance, in at least the prescribed amount and in accordance with the prescribed conditions, including deductibles. 2009, c. 28, s. 13.

**Same**

- (3) Subsections 34 (2) and (3) apply with necessary modifications to regulations made under subsection (2). 2009, c. 28, s. 13.

**Codes, etc., variances and exemptions**

**Minister's regulations, codes, etc.**

- 36.** (1) The Minister may make regulations,

- (a) adopting by reference, in whole or in part and with such changes as he or she considers necessary, any code, standard, guideline or procedure governing the matters set out in section 2 and require compliance with the thing as adopted;
- (b) amending or repealing codes and standards adopted by reference by a regulation of the Lieutenant Governor in Council before or after this section came into force. 2000, c. 16, s. 36 (1); 2006, c. 34, s. 25 (12).

**Rolling incorporation**

(2) If a regulation under subsection (1) so provides, a code, standard, guideline or procedure adopted by reference shall be a reference to it, as amended from time to time, whether before or after the regulation is made. 2000, c. 16, s. 36 (2); 2009, c. 33, Sched. 10, s. 14.

**Temporary codes, etc., testing organizations, variances**

- (3) 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 or procedures or changes to codes, standards, guidelines 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 or specifications are established under this Act 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 and specifications;
  - (c) subject to such conditions as he or she may specify, allow a variance from any regulation or Minister's order made under this Act if, in his or her opinion, the variance would not detrimentally affect the safe use of the thing to which the regulation or Minister's order applies or the health or safety of any person. 2000, c. 16, s. 36 (3).

**Legislation Act, 2006, Part III**

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to subsection (3). 2000, c. 16, s. 36 (4); 2006, c. 21, Sched. F, s. 136 (1).

**Exemptions**

(5) The Minister may, in writing and subject to such conditions as may be specified, exempt any thing or part of any thing or any class of thing or any class of person from any provision of this Act, the regulations or a Minister's order. 2000, c. 16, s. 36 (5).

**Disclosure**

(6) Permissions, authorizations, variances, exemptions, requirements, designations and matters provided for under subsection (3) are public information and shall be disclosed by a director to the public on request. 2000, c. 16, s. 36 (6).

**Transitional**

(7) Codes and standards adopted by reference under a predecessor Act to which this section applies are continued in force until repealed and may be amended or varied as provided in this section. 2000, c. 16, s. 36 (7).

MISCELLANEOUS

**Offences**

- 37.** (1) Every person who,
- (a) contravenes or fails to comply with any provision of this Act, the regulations or a Minister's order;
  - (b) knowingly makes a false statement or furnishes false information under this Act, the regulations or a Minister's order;
  - (c) contravenes or fails to comply with a term or condition of an authorization;
  - (d) contravenes or fails to comply with an order or requirement of a director or an inspector, or obstructs an inspector,

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, or, if the person is a body corporate, to a fine of not more than \$1,000,000. 2000, c. 16, s. 37 (1); 2009, c. 28, s. 14 (1).

**Duty of director or officer**

(2) Every director or officer of a body corporate has a duty to take all reasonable care to prevent the body corporate from committing an offence under subsection (1). 2000, c. 16, s. 37 (2); 2009, c. 28, s. 14 (2).



#### **Offence**

(3) Every director or officer of the body corporate who has a duty under subsection (2) and who 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. 2000, c. 16, s. 37 (3).

#### **Separate offence**

(4) Where a person contravenes any of the provisions of this Act, the regulations, a Minister's order 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. 2000, c. 16, s. 37 (4).

(5) REPEALED: 2009, c. 28, s. 14 (3).

#### **Time limit**

(6) No proceeding in respect of an alleged offence under this Act may be commenced after two years following the date on which the facts that gave rise to the alleged offence were discovered. 2000, c. 16, s. 37 (6).

#### **Non application**

(7) This section does not apply to the Corporation and its directors, officers, employees and agents. 2009, c. 28, s. 14 (4).

#### **Crown bound**

**38.** This Act binds the Crown. 2000, c. 16, s. 38.

#### **Municipal by-laws**

**39.** This Act, the regulations and a Minister's order prevail over any municipal by-law. 2000, c. 16, s. 39.

#### **Priority of use, natural gas**

**40.** (1) Despite anything in this or any other Act, or in any contract for the supply of natural gas made between a distributor and a consumer, the Minister may, if the supply of natural gas to the distributor is interrupted or curtailed, order the distributor to halt or reduce the supply of natural gas to a consumer or a class of consumers if he or she considers it advisable in the circumstances. 2000, c. 16, s. 40 (1).

#### **Compliance**

(2) Every person to whom an order referred to in this section is directed shall comply with it in accordance with its terms. 2000, c. 16, s. 40 (2).

#### **Definitions**

(3) In this section,

“distributor” means a person who supplies a hydrocarbon to an end user, and “distribute” and “distribution” have corresponding meanings; (“distributeur”, “distribuer”, “distribution”)

“hydrocarbon” means a chemical compound of hydrogen and carbon used as a fuel, either liquid or gaseous. (“hydrocarbure”) 2000, c. 16, s. 40 (3).

#### **Duties of employers, contractors**

**41.** Every contractor and employer shall take all reasonable precautions to ensure that they and their agents and employees comply with this Act, the regulations or a Minister's order. 2000, c. 16, s. 41.

#### **Environmental Bill of Rights, 1993**

**42.** The *Environmental Bill of Rights, 1993* applies to this Act with respect to matters to which the predecessor *Gasoline Handling Act* would have applied had it not been repealed by this Act. 2000, c. 16, s. 42.

**43., 44.** REPEALED: 2009, c. 28, s. 15.

**45., 46.** OMITTED (AMENDS OR REPEALS OTHER ACTS). 2000, c. 16, ss. 45, 46.

**47.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2000, c. 16, s. 47.

**48.** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2000, c. 16, s. 48.

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