

## CHAPTER 4

### **Fire Protection and Prevention Act, 1997**

Amended by: 1997, c. 21, Sched. A, s. 3; 1998, c. 15, Sched. E, s. 12; 2001, c. 25, s. 475.

As of August 14, 2002.

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**PART I  
DEFINITIONS**

## Definitions

### 1. (1) In this Act,

"community fire safety officer" means a community fire safety officer appointed under clause 2 (2) (a) or subsection 2 (4) or by an agreement under clause 3 (2) (a); ("agent local de la sécurité-incendie")

"community fire safety team" means a community fire safety team appointed under clause 2 (2) (a) or subsection 2 (4) or by an agreement under clause 3 (2) (a); ("équipe locale de la sécurité-incendie")

"fire chief" means a fire chief appointed under subsection 6 (1), (2) or (4); ("chef des pompiers")

"fire code" means the fire code established under Part IV; ("code de prévention des incendies")

"fire department" means a group of firefighters authorized to provide fire protection services by a municipality, group of municipalities or by an agreement made under section 3; ("service d'incendie")

"firefighter" means a fire chief and any other person employed in, or appointed to, a fire department and assigned to undertake fire protection services, and includes a volunteer firefighter; ("pompier")

"Fire Marshal" means the Fire Marshal appointed under subsection 8 (1); ("commissaire des incendies")

"fire protection services" includes fire suppression, fire prevention, fire safety education, communication, training of persons involved in the provision of fire protection services, rescue and emergency services and the delivery of all those services; ("services de protection contre les incendies")

"Fire Safety Commission" means the Fire Safety Commission continued under Part X of this Act; ("Commission de la sécurité-incendie")

"Minister" means, in each Part of this Act, the member of the Executive Council to whom the administration of this Act, or of the Part of this Act, is assigned from time to time; ("ministre")

"municipality" means a locality the inhabitants of which are incorporated; ("municipalité")

**Note: Effective January 1, 2003, the definition of "municipality" is repealed by the Statutes of Ontario, 2001, chapter 25, subsection 475 (1) and the following substituted:**

*New definition:* municipality" means local municipality as defined in the *Municipal Act, 2001*; ("municipalité")

**See: 2001, c. 25, ss. 475 (1), 485 (1).**

"prescribed" means prescribed by regulation; ("prescrit")

"regulation" means a regulation made under this Act; ("règlement")

"volunteer firefighter" means a firefighter who provides fire protection services either voluntarily or for a nominal consideration, honorarium, training or activity allowance. ("pompier volontaire")

### **Interpretation of land and premises**

(2) For the purposes of this Act, a reference to land and premises or to land or premises includes any buildings, structures or things situated on or attached to the land or premises.

### **Application of definition of firefighter**

(3) The definition of firefighter in subsection (1) does not apply to Part IX.

### **Automatic aid agreements**

(4) For the purposes of this Act, an automatic aid agreement means any agreement under which,

(a) a municipality agrees to ensure the provision of an initial response to fires, rescues and emergencies that may occur in a part of another municipality where a fire department in the municipality is capable of responding more quickly than any fire department situated in the other municipality; or

(b) a municipality agrees to ensure the provision of a supplemental response to fires, rescues and emergencies that may occur in a part of another municipality where a fire department situated in the municipality is capable of providing the quickest supplemental response to fires, rescues and emergencies occurring in the part of the other municipality.

**Same**

(5) A mutual aid plan established under section 7 does not constitute an automatic aid agreement for the purposes of subsection (4). 1997, c. 4, s. 1.

## **PART II RESPONSIBILITY FOR FIRE PROTECTION SERVICES**

### **Municipal responsibilities**

2. (1) Every municipality shall,

- (a) establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention; and
- (b) provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances.

### **Methods of providing services**

(2) In discharging its responsibilities under subsection (1), a municipality shall,

- (a) appoint a community fire safety officer or a community fire safety team;  
or
- (b) establish a fire department.

### **Services to be provided**

(3) In determining the form and content of the program that it must offer under clause (1) (a) and the other fire protection services that it may offer under clause (1) (b), a municipality may seek the advice of the Fire Marshal.

### **Shared responsibilities**

(4) Two or more municipalities may appoint a community fire safety officer or a community fire safety team or establish a fire department for the purpose of providing fire protection services in those municipalities.

### **Services outside municipality**

(5) A municipality may, under such conditions as may be specified in the agreement, enter into an agreement to,

(a) provide such fire protection services as may be specified in the agreement to lands or premises that are situated outside the territorial limits of the municipality; and

(b) receive such fire protection services as may be specified in the agreement from a fire department situated outside the territorial limits of the municipality.

### **Automatic aid agreements**

(6) A municipality may enter into an automatic aid agreement to provide or receive the initial or supplemental response to fires, rescues and emergencies.

### **Review of municipal fire services**

(7) The Fire Marshal may monitor and review the fire protection services provided by municipalities to ensure that municipalities have met their responsibilities under this section and, if the Fire Marshal is of the opinion that, as a result of a municipality failing to comply with its responsibilities under subsection (1), a serious threat to public safety exists in the municipality, he or she may make recommendations to the council of the municipality with respect to possible measures the municipality may take to remedy or reduce the threat to public safety.

### **Failure to provide services**

(8) If a municipality fails to adhere to the recommendations made by the Fire Marshal under subsection (7) or to take any other measures that in the opinion of the Fire Marshal will remedy or reduce the threat to public safety, the Minister may recommend to the Lieutenant Governor in Council that a regulation be made under subsection (9).

### **Regulation**

(9) Upon the recommendation of the Minister, the Lieutenant Governor in Council may make regulations establishing standards for fire protection services in municipalities and requiring municipalities to comply with the standards.

### **Same**

(10) A regulation under this section may be general or specific in its application and may be restricted to those municipalities specified in the regulation. 1997, c. 4, s. 2.

## **Territory without municipal organization**

**3. (1)** The Fire Marshal, a services board established to provide services in territory without municipal organization or a prescribed person or organization may enter into agreements to provide fire protection services in territory without municipal organization and to govern the provision of those services.

### **Same**

(2) An agreement referred to in subsection (1) may provide for,

(a) the appointment of a community fire safety officer or a community fire safety team; or

(b) the establishment of a fire department. 1997, c. 4, s. 3.

## **Community fire safety officer or team**

**4. (1)** A community fire safety officer or a community fire safety team appointed in a municipality or in a group of municipalities shall provide the program established under clause 2 (1) (a) in the municipality or in the group of municipalities, as the case may be.

### **Same**

(2) A community fire safety officer or a community fire safety team appointed by agreement with the Fire Marshal, a services board or a prescribed person or organization to provide services in territory without municipal organization shall provide a program which includes public education with respect to fire safety and certain components of fire prevention in the territory in accordance with the agreement. 1997, c. 4, s. 4.

**Note: Effective January 1, 2003, section 5 is amended by the Statutes of Ontario, 2001, chapter 25, subsection 475 (2) by adding the following subsection:**

### **Municipalities may establish fire departments**

**5. (0.1)** The council of a municipality may establish, maintain and operate a fire department for all or any part of the municipality.

**See: 2001, c. 25, ss. 475 (2), 485 (1).**

## **Fire departments**

**5. (1)** A fire department shall provide fire suppression services and may provide other fire protection services in a municipality, group of municipalities or in territory without municipal organization.

**Same**

(2) Subject to subsection (3), the council of a municipality may establish more than one fire department for the municipality.

**Exception**

(3) The council of a municipality may not establish more than one fire department if, for a period of at least 12 months before the day this Act comes into force, fire protection services in the municipality were provided by a fire department composed exclusively of full-time firefighters.

**Same**

(4) The councils of two or more municipalities may establish one or more fire departments for the municipalities. 1997, c. 4, s. 5.

**Fire chief, municipalities**

**6. (1)** If a fire department is established for the whole or a part of a municipality or for more than one municipality, the council of the municipality or the councils of the municipalities, as the case may be, shall appoint a fire chief for the fire department.

**Same**

(2) The council of a municipality or the councils of two or more municipalities may appoint one fire chief for two or more fire departments.

**Responsibility to council**

(3) A fire chief is the person who is ultimately responsible to the council of a municipality that appointed him or her for the delivery of fire protection services.

**Fire chief, territory without municipal organization**

(4) If a fire department is established in territory without municipal organization under subsection 3 (2), the agreement shall provide for the appointment of a fire chief.

## **Powers of fire chief**

(5) The fire chief may exercise all the powers assigned to him or her under this Act within the territorial limits of the municipality and within any other area in which the municipality has agreed to provide fire protection services, subject to any conditions specified in the agreement.

## **Delegation**

(6) A fire chief may delegate his or her powers or duties under sections 14, 19 and 20 and such other powers and duties as may be prescribed to any firefighter or class of firefighters, subject to such limitations, restrictions or conditions as may be prescribed or set out in the delegation. 1997, c. 4, s. 6.

## **Fire co-ordinators**

[7. \(1\)](#) The Fire Marshal may appoint fire co-ordinators for such areas as may be designated in the appointment.

## **Duties**

(2) A fire co-ordinator shall, subject to the direction of the Fire Marshal,

(a) establish and maintain a mutual aid plan under which the fire departments that serve the designated area agree to assist each other in the event of an emergency; and

(b) perform such other duties as may be assigned by the Fire Marshal. 1997, c. 4, s. 7.

**Note: Effective January 1, 2003, the Act is amended by the Statutes of Ontario, 2001, chapter 25, subsection 475 (3) by adding the following section:**

## **Municipal by-laws**

[7.1 \(1\)](#) A council of a municipality may pass by-laws,

(a) regulating fire prevention, including the prevention of the spreading of fires;

(b) regulating the setting of open air fires, including establishing the times during which open air fires may be set;

(c) designating private roads as fire routes along which no parking of vehicles shall be permitted and providing for the removal and impounding of any vehicle parked or left along any of the fire routes at the expense of the owner of the vehicle.

### **Definition**

(2) For the purpose of clause (1) (c),

"private road" means any private road, lane, ramp or other means of vehicular access to or from a building or structure and may include part of a parking lot.

### **Scope**

(3) A by-law under this section may deal with different areas of the municipality differently.

### **Officer**

(4) A municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with.

### **Exercise of power**

(5) The exercise of powers by an officer appointed under this section shall be carried out in accordance with Part XIV of the *Municipal Act, 2001*, other than clause 431 (a) of that Act.

**See: 2001, c. 25, ss. 475 (3), 485 (1).**

## **PART III FIRE MARSHAL**

### **Appointment of Fire Marshal**

**8. (1)** There shall be a Fire Marshal who shall be appointed by the Lieutenant Governor in Council.

### **Deputy Fire Marshal**

(2) There shall be a Deputy Fire Marshal, who shall be appointed by the Lieutenant Governor in Council and who shall act in the stead of the Fire Marshal

if he or she is absent or unable to act, and who, when so acting, has all the power and authority of the Fire Marshal. 1997, c. 4, s. 8.

### **Powers of Fire Marshal**

**9. (1)** The Fire Marshal has the power,

- (a) to monitor, review and advise municipalities respecting the provision of fire protection services and to make recommendations to municipal councils for improving the efficiency and effectiveness of those services;
- (b) to issue directives to assistants to the Fire Marshal respecting matters relating to this Act and the regulations;
- (c) to advise and assist ministries and agencies of government respecting fire protection services and related matters;
- (d) to issue guidelines to municipalities respecting fire protection services and related matters;
- (e) to co-operate with any body or person interested in developing and promoting the principles and practices of fire protection services;
- (f) to issue long service awards to persons involved in the provision of fire protection services; and
- (g) to exercise such other powers as may be assigned under this Act or as may be necessary to perform any duty assigned under this Act.

### **Duties of Fire Marshal**

**(2)** It is the duty of the Fire Marshal,

- (a) to investigate the cause, origin and circumstances of any fire or of any explosion or condition that in the opinion of the Fire Marshal might have caused a fire, explosion, loss of life or damage to property;
- (b) to advise municipalities in the interpretation and enforcement of this Act and the regulations;
- (c) to provide information and advice on fire safety matters and fire protection matters by means of public meetings, newspaper articles, publications, electronic media and exhibitions and otherwise as the Fire Marshal considers advisable;

(d) to develop training programs and evaluation systems for persons involved in the provision of fire protection services and to provide programs to improve practices relating to fire protection services;

(e) to maintain and operate a central fire college;

(f) to keep a record of every fire reported to the Fire Marshal with the facts, statistics and circumstances that are required under this Act;

(g) to develop and maintain statistical records and conduct studies in respect of fire protection services; and

(h) to perform such other duties as may be assigned to the Fire Marshal under this Act.

### **Public inquiry**

(3) For the purpose of any inquiry or investigation conducted by the Fire Marshal under this Act, the Fire Marshal has and may exercise all the powers of a commission under Part II of the *Public Inquiries Act*, which part applies to such inquiries or investigations as if they were an inquiry under that Act.

### **Employment of expert, etc.**

(4) The Fire Marshal may employ legal, technical, scientific, clerical or other assistance that the Fire Marshal considers advisable or necessary in the conduct of any inquiry or investigation under this Act or in carrying out any of his or her powers or duties under this Act. 1997, c. 4, s. 9.

### **Delegation**

10. (1) The Fire Marshal may delegate any power or duty that is granted to or vested in the Fire Marshal under this Act to any person or class of persons, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation.

### **Same**

(2) Subsection (1) applies with respect to any power or duty held by the Fire Marshal under this Act, including such statutory or discretionary powers as may be assigned to the Fire Marshal under this Act.

### **Certificate of appointment**

(3) A certificate under the hand and seal of the Fire Marshal of the appointment of a person under this Act is proof in the absence of evidence to the contrary of the appointment in any court or elsewhere. 1997, c. 4, s. 10.

### **Assistants to the Fire Marshal**

**11. (1)** The following persons are assistants to the Fire Marshal and shall follow the Fire Marshal's directions in carrying out this Act,

- (a) the fire chief of every fire department;
- (b) the clerk of every municipality that does not have a fire department;
- (c) any member of a fire prevention bureau established by a municipality; and
- (d) every person designated by the Fire Marshal as an assistant to the Fire Marshal.

### **Duty to report**

(2) The assistants to the Fire Marshal shall report to the Fire Marshal all fires and other matters related to fire protection services as may be specified by the Fire Marshal.

### **Submitting report**

(3) A report under subsection (2) shall be made in the form and manner and within the time period specified by the Fire Marshal.

### **Workers' compensation not affected**

(4) The relationship between a person who is an assistant to the Fire Marshal under this section and the municipality or such other person by which he or she is employed continues for the purposes of the *Workers' Compensation Act* as if the person were not an assistant to the Fire Marshal. 1997, c. 4, s. 11.

## **PART IV FIRE CODE**

### **Fire Code**

**12. (1)** The Minister may make regulations that are considered advisable or necessary for the purpose of establishing a fire code for Ontario governing fire

safety standards for equipment, systems, buildings, structures, land and premises including regulations,

- (a) prescribing any method, matter or thing relating to fire protection;
- (b) respecting standards for reducing the risk of, or consequences of, a fire that would seriously endanger the health or safety of any person or the quality of the natural environment for any use that can be made of it;
- (c) requiring and regulating fire protection equipment and systems and respecting the maintenance of such equipment and systems;
- (d) requiring and regulating means of egress, fire separations, finish materials, furnishings and decorations, standards of housekeeping and heating, ventilation, air conditioning and incinerating equipment and systems;
- (e) controlling or prohibiting any material, substance, equipment or system affecting fire safety;
- (f) requiring and regulating procedures respecting fire safety and the keeping and furnishing of records and reports;
- (g) requiring the approval of the Fire Marshal or of a prescribed person in respect of any method, matter or thing;
- (h) requiring notice to be given to the Fire Marshal or to a prescribed person respecting any change in use or occupancy;
- (i) prescribing conditions for use, occupation or demolition;
- (j) exempting any class of building, structure, lands or premises from compliance with the regulations or any provision thereof, and attaching terms and conditions to such exemptions;
- (k) respecting the qualifications and training of persons servicing, maintaining, testing or repairing fire protection devices, equipment or systems and the licensing of such persons;
- (l) adopting by reference, in whole or in part, with such changes as the Minister considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted.

### **Limitation of application**

(2) Any regulation made under this section may be limited in its application territorially or to any class of building, structure, land or premises or to any building, structure, land or premises used for any specified purpose.

### **Buildings under construction**

(3) Subject to subsection (4), the fire code does not apply to the unoccupied parts of a building that is under construction within the meaning of the *Building Code Act, 1992* or of a predecessor to that Act.

### **Same**

(4) The fire code applies to the unoccupied parts of a building that is under construction within the meaning of the *Building Code Act, 1992*, or of a predecessor to that Act, if,

(a) there has been no substantial work related to the construction of the building for at least six months; or

(b) the conditions in the unoccupied portions threaten the safety of the occupied portions.

### **Municipal by-law prevails**

(5) If there is a conflict between a provision of the fire code and a provision of a municipal by-law respecting the keeping and manufacturing of explosives, the provision that is the most restrictive prevails. 1997, c. 4, s. 12.

## **PART V**

### **RIGHTS OF ENTRY IN EMERGENCIES AND FIRE INVESTIGATIONS**

#### **Entry on adjacent lands by firefighters, etc.**

**13. (1)** A firefighter or such other person as may be authorized by the fire chief, the Fire Marshal or an assistant to the Fire Marshal may, without a warrant, enter on lands or premises,

(a) that are adjacent to the lands or premises on which a fire or emergency has occurred, for the purposes of fighting the fire or of providing rescue or emergency services; or

**Note: Effective January 1, 2003, clause (a) is amended by the Statutes of Ontario, 2001, chapter 25, subsection 475 (4) by inserting "or is occurring" after "occurred". See: 2001, c. 25, ss. 475 (4), 485 (1).**

(b) that are adjacent to the lands or premises on which there is a serious threat to the health and safety of any person or the quality of the natural environment, for the purpose of removing or reducing the threat.

**Note: Effective January 1, 2003, section 13 is amended by the Statutes of Ontario, 2001, chapter 25, subsection 475 (5) by adding the following subsection:**

### **Prevention of fire spreading**

(1.1) A firefighter or such other person as may be authorized by the fire chief may, without a warrant, enter on lands or premises on which a fire is occurring, or that are adjacent to those lands or premises, for the purposes of pulling down or removing buildings, structures or things on or attached to the lands or premises on which a fire is occurring or that are adjacent to those lands or premises if, in the opinion of the fire chief, it is necessary to do so to prevent the spread of the fire.

**See: 2001, c. 25, ss. 475 (5), 485 (1).**

### **Entry onto land outside municipality**

(2) A firefighter or such other person as may be authorized by the fire chief may, without a warrant, enter on lands or premises that are outside the territorial limits of the municipality of the fire department that employs the firefighter or fire chief for the purposes of fighting a fire or of providing rescue or emergency services on such lands or premises if,

(a) in the opinion of the fire chief, the fire or emergency threatens persons, property or the environment within the territorial limits of the municipality served by the fire department; and

(b) there is no fire department or other emergency response capability for the area in which the lands or premises are situated.

### **Automatic aid**

(3) A firefighter or such other person as may be authorized by the fire chief may, without a warrant, enter on lands or premises that are outside the territorial limits of the municipality of the fire department that employs the firefighter or fire chief for the purposes of fighting a fire or of providing rescue or emergency services on such lands or premises if the council of the municipality has entered into an automatic aid agreement or any other agreement under which the entry is permitted.

### **Common law right of entry preserved**

(4) Nothing in this section derogates from a firefighter's right of entry at common law. 1997, c. 4, s. 13.

### **Entry where fire has occurred or is likely to occur**

**14. (1)** The Fire Marshal or a fire chief may, without a warrant, enter on land or premises if,

- (a) a fire has occurred on the land or premises; or
- (b) he or she has reason to believe that a substance or device that is likely to cause a fire may be situated on the land or premises.

### **Powers upon entry**

(2) Upon entering on land or premises under subsection (1), the Fire Marshal or a fire chief may,

- (a) close, and prevent entry to, the land or premises for the length of time necessary to complete the examination of the land or premises;
- (b) in the case of an entry under clause (1) (a), remove from the land or premises, retain and examine any article or material, and take such samples or photographs, make videotapes and other images electronic or otherwise that in his or her opinion may be of assistance in determining the cause of the fire under investigation;
- (c) make such excavations on the land or premises as he or she considers necessary;
- (d) require that any machinery, equipment or device be operated, used or set in motion under specified conditions; and
- (e) make any reasonable inquiry of any person, orally or in writing.

### **Entry to adjacent lands**

(3) A person who enters on land or premises under subsection (1), may, without a warrant, enter on adjacent land or premises if the entry is necessary for the purposes of conducting an investigation into the cause of a fire or of determining whether a substance or device that is likely to cause fire is situated on the land or premises.

## **Same**

(4) A person who enters on adjacent land or premises under subsection (3) may exercise any of the powers mentioned in subsection (2) on or with respect to the adjacent land or premises.

## **Use of force**

(5) A person who enters land or premises under subsection (1) or (3) shall not use force to enter the land or premises.

## **Warrant authorizing entry**

(6) A justice of the peace may issue a warrant authorizing the Fire Marshal or a fire chief named in the warrant to enter on land or premises and exercise any of the powers referred to in subsection (2) or (3) if the justice of the peace is satisfied on evidence under oath that there are reasonable grounds to believe that entry on the lands or premises is necessary for the purposes of conducting an investigation into the cause of a fire or of determining whether a substance or device that is likely to cause fire is situated on the land or premises and,

(a) the Fire Marshal or fire chief has been denied entry to the land or premises or has been obstructed in exercising any other of those powers with respect to the land or premises; or

(b) there are reasonable grounds to believe that the Fire Marshal or fire chief will be denied entry to the land or premises or obstructed in exercising any other of those powers with respect to the land or premises.

## **Execution and expiry of warrant**

(7) A warrant issued under subsection (6) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

## **Extension of time**

(8) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

## **Use of force**

(9) A person authorized by a warrant issued under subsection (6) to enter land or premises for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

### **Application without notice**

(10) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupant of the land or premises. 1997, c. 4, s. 14.

### **Immediate threat to life**

**15. (1)** If the Fire Marshal, an assistant to the Fire Marshal or a fire chief has reasonable grounds to believe that a risk of fire poses an immediate threat to life, he or she may, without a warrant, enter on any land or premises and, for the purpose of removing or reducing the threat, may,

- (a) remove persons on the land or premises;
- (b) post a fire watch;
- (c) remove combustible or explosive material or anything that may constitute a fire menace;
- (d) eliminate ignition sources;
- (e) install temporary safeguards, including fire extinguishers and smoke alarms;
- (f) make minor repairs to existing fire safety systems;
- (g) do any other thing that the Fire Marshal, an assistant to the Fire Marshal or a fire chief has reasonable grounds to believe is urgently required to remove or reduce the threat to life.

### **Notice to owner**

(2) A person who enters land or premises under subsection (1) shall promptly after exercising any powers under this section give notice thereof to the owner if the owner's whereabouts in Ontario are known.

### **Notice to be posted**

(3) The person who gives notice under subsection (2) shall post a copy of the notice on the land or premises.

### **Contents of notice**

(4) The notice shall,

- (a) describe the location of the land or premises;
- (b) state the reason for the entry; and
- (c) state the things done under subsection (1) to remove or reduce the threat to life.

### **Use of force**

(5) A person who enters on land or premises under this section may call on police officers as necessary and may use force as necessary to make the entry. 1997, c. 4, s. 15.

### **Assistance**

**16.** A person who enters on land or premises under section 14 or 15 may call on any other persons he or she considers advisable to assist. 1997, c. 4, s. 16.

### **Identification**

**17.** On the request of an owner or occupant of the land or premises, a person who enters on land or premises under section 14 or 15 shall identify himself or herself and shall explain the purpose of the entry. 1997, c. 4, s. 17.

## **PART VI INSPECTIONS**

### **Interpretation**

**18.** For the purposes of this Part, fire safety includes safety from the risk that a fire, if started, would seriously endanger the health and safety of any person or the quality of the natural environment for any use that can be made of it. 1997, c. 4, s. 18.

### **Inspectors**

**19. (1)** The Fire Marshal, an assistant to the Fire Marshal or a fire chief is an inspector for the purposes of this Part.

### **Inspections**

(2) An inspector may, without a warrant, enter and inspect land and premises for the purposes of assessing fire safety.

### **Time of entry**

(3) The power to enter and inspect land and premises without a warrant may be exercised at all reasonable times.

### **Assistance**

(4) An inspector who enters land or premises under this section may take with him or her a police officer or such other person as he or she considers advisable to assist.

### **Identification**

(5) On the request of an owner or occupant of the land or premises, an inspector shall identify himself or herself and shall explain the purpose of the entry.

### **Powers during inspection**

(6) An inspector conducting an inspection may,

- (a) examine a document or other thing that is relevant to the inspection;
- (b) demand the production for inspection of a document or other thing that is relevant to the inspection;
- (c) remove any thing that is relevant to the inspection for review and examination and remove any document that is relevant to the inspection for review and copying;
- (d) conduct tests, take and remove samples, take photographs and make videotapes and other images, electronic or otherwise, that are relevant to the inspection;
- (e) in order to produce a document in readable form, use data storage, information processing or retrieval devices or systems that are normally used in the premises being inspected; and

(f) question a person on matters relevant to the inspection.

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

(7) If an inspector demands that a document or other thing be produced for inspection, the person who has custody of the document or thing shall produce it and, in the case of a document, shall on request provide any assistance that is reasonably necessary to interpret the document or to produce it in a readable form.

### **Document and thing removed from place**

(8) A document or other thing that has been removed from land or premises,

(a) shall be made available to the person from whom it was removed on request and at a time and place that are convenient for the person and for the inspector; and

(b) shall, if it is possible to return the document or thing to the person, be returned within a reasonable time.

### **Copy admissible in evidence**

(9) A copy of a document that purports to be certified by an inspector 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. 1997, c. 4, s. 19.

### **Warrant authorizing entry**

**20. (1)** A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter on lands or premises and exercise any of the powers referred to in subsection 19 (6) if the justice of the peace is satisfied on evidence under oath that there are reasonable grounds to believe that entry on the lands or premises is necessary to assess fire safety and,

(a) the inspector has been denied entry to the lands or premises or has been obstructed in exercising any other of those powers with respect to the lands or premises; or

(b) there are reasonable grounds to believe that the inspector will be denied entry to the lands or premises or obstructed in exercising any other of those powers with respect to the lands or premises.

### **Execution and expiry of warrant**

(2) A warrant issued under subsection (1) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

### **Extension of time**

(3) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

### **Use of force**

(4) A person authorized under subsection (1) to enter land or premises for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

### **Assistance**

(5) A person named in a warrant issued under subsection (1) may call on any other persons he or she considers advisable to execute the warrant.

### **Application without notice**

(6) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupant of the land or premises.

### **Identification**

(7) On the request of an owner or occupant of the land or premises, a person who exercises a power conferred under subsection (1) shall identify himself or herself and shall explain the purpose of the entry.

### **Application**

(8) Subsections 19 (7), (8) and (9) apply with respect to an inspection carried out under a warrant issued under this section. 1997, c. 4, s. 20.

### **Inspection orders**

**21. (1)** An inspector who has carried out an inspection of land or premises under section 19 or 20 may order the owner or occupant of the land or premises to take

any measure necessary to ensure fire safety on the land and premises and may for that purpose order the owner or occupant,

- (a) to remove buildings or structures from the land or premises;
- (b) to make structural and other repairs or alterations, including material alterations, to the buildings or structures;
- (c) to remove combustible or explosive material or any thing that may constitute a fire hazard;
- (d) to install and use specified equipment or devices as may be necessary to contain hazardous material on the land or premises and, in the event of a fire, to remove or transport the material;
- (e) to discontinue the manufacturing, production or fabrication of any material, device or other thing that creates or poses an undue risk of fire or explosion;
- (f) to do anything respecting fire safety including anything relating to the containment of a possible fire, means of egress, fire alarms and detection, fire suppression and the preparation of a fire safety plan;
- (g) to remedy any contravention of the fire code.

### **Same, closure of premises**

(2) An inspector who has carried out an inspection of land or premises under section 19 or 20 may, with the approval of the Fire Marshal and upon such terms and conditions as the Fire Marshal considers proper,

- (a) order that the owner or occupant of the land or premises close the land or premises and prevent persons from entering thereon until such time as the corrective actions ordered under subsection (1) have been completed; or
- (b) if the inspector is of the opinion that it is necessary for the immediate protection of persons and property that the lands or premises be closed immediately, cause the land or premises to be closed immediately and persons on the premises to be removed and direct that the lands or premises remain closed and that the premises be vacated until such time as the corrective actions ordered under subsection (1) have been completed. 1997, c. 4, s. 21 (1, 2).

### **Same, electrical installations**

(3) If, upon an inspection, it is determined that the electrical installations in a building or structure create or pose a risk of fire because of the inadequacy or want of repair of the installations and their wiring, the inspector may order that the electrical installations in the building or structure be inspected by a representative of the Electrical Safety Authority referred to in Part VIII of the *Electricity Act, 1998* and that the costs of the inspection be paid by the owner or occupant of the building or structure. 1997, c. 4, s. 21 (3); 1998, c. 15, Sched. E, s. 12.

### **Limitation on orders relating to structural repairs**

22. (1) No inspector shall make an order under clause 21 (1) (b) requiring structural repairs or alterations to a building, structure or premises that was constructed in compliance with the building code established under the *Building Code Act, 1992* or under a predecessor to that Act and that continues to comply with that code as it existed at the time of construction, unless the order is necessary to ensure compliance with the provisions of the fire code relating to the retrofitting of existing buildings.

### **Repairs, etc., deemed not to contravene Building Code**

(2) If repairs, alterations or installations are carried out in compliance with an order made under subsection 21 (1) or for the purposes of complying with the fire code, the repairs, alterations or installations shall be deemed not to contravene the building code established under the *Building Code Act, 1992*.

### **Copy of order**

(3) An inspector who makes an order requiring repairs, alterations or installations to be made to a building, structure or premises shall furnish a copy of the order to the proper chief building official appointed under the *Building Code Act, 1992*. 1997, c. 4, s. 22.

### **Contents of order**

23. An order made under subsection 21 (1) or (2) shall set out,

- (a) the reasons for the order;
  - (b) an explanation of the action required by the order;
  - (c) the time within which the owner or occupant must comply with the order;
- and

(d) the right to request a review of the order by the Fire Marshal under section 25 or, in the case of an order made by the Fire Marshal, the right of appeal to the Fire Safety Commission under section 26. 1997, c. 4, s. 23.

### **Service of order**

**24. (1)** A copy of an order made under section 21 shall be served upon the owner and any occupant of the land and premises.

### **Same, multi-unit building**

(2) In the case of an order respecting a building that contains two or more units intended for separate occupancy, the order shall be deemed to be served upon the occupants of the building if a copy of the order is posted in a conspicuous place in or outside the building.

### **Posting and service of order to close premises**

(3) If an order is made under subsection 21 (2) requiring the closing of land or premises, a copy of the order shall be posted on the land or premises and shall be served on the owner of the lands or premises if the owner is in Ontario and his or her whereabouts are known. 1997, c. 4, s. 24.

### **Review of inspection order by Fire Marshal**

**25. (1)** A person who considers himself or herself aggrieved by an order made by an inspector, other than the Fire Marshal, under subsection 21 (1) or (2) may, within 15 days after the order is served, submit a written request to the Fire Marshal for a review of the order.

### **Extension of time**

(2) The Fire Marshal may, upon application by a person referred to in subsection (1), extend the time for making a request under this section if he or she is satisfied that there are apparent grounds for granting relief to the person and that there are reasonable grounds for applying for the extension and may give directions that the Fire Marshal considers proper consequent upon the extension.

### **Same**

(3) An application for an extension of time may be made either before or after the expiration of the time fixed in subsection (1) but shall be made within 30 days after a copy of the order under subsection 21 (1) or (2) is served.

## **Powers of Fire Marshal**

(4) The Fire Marshal may,

(a) refuse to consider the substance of the request and refer the matter to the Fire Safety Commission for a hearing under section 26; or

(b) confirm, amend or rescind the order or make such other order as he or she deems appropriate.

## **No hearing required**

(5) The Fire Marshal is not required to hold a hearing when conducting a review of an order under this section.

## **Lifting of stay**

(6) Despite subsection 25 (1) of the *Statutory Powers Procedure Act*, the Fire Marshal may, upon request therefor by an inspector which may be made without notice, order that the review of the order not operate as a stay of the order pending the outcome of the appeal if, in his or her opinion, the action is necessary in the interest of public safety. 1997, c. 4, s. 25.

## **Appeal to Fire Safety Commission**

**26. (1)** Any person who considers himself or herself aggrieved by an order made by the Fire Marshal under subsection 21 (1) or (2) or section 25 may appeal the order to the Fire Safety Commission.

## **Time for filing appeal**

(2) A notice of appeal from an order referred to in subsection (1) shall be filed with the Fire Safety Commission within 15 days after the order is served.

## **Extension of time**

(3) The Fire Safety Commission may, upon application by a person referred to in subsection (1), extend the time for appealing an order if it is satisfied that there are apparent grounds for granting the appeal and that there are reasonable grounds for applying for the extension and may give directions that it considers proper consequent upon the extension.

## **Same**

(4) An application for an extension of time may be made either before or after expiration of the time fixed in subsection (2) but shall be made within 30 days after a copy of the order from which the appeal is made is served.

### **Hearing by Commission**

(5) If an application is made under subsection (1) or if a matter is referred to the Fire Safety Commission by the Fire Marshal under clause 25 (4) (a), the Commission shall appoint a time for and hold the hearing.

### **Powers of Commission**

(6) The Fire Safety Commission may confirm, amend or rescind the order of the Fire Marshal or make such other order as the Commission deems appropriate.

### **Lifting of stay**

(7) Despite subsection 25 (1) of the *Statutory Powers Procedure Act*, the Fire Safety Commission may, upon application therefor by an inspector or the Fire Marshal which may be made without notice, order that the appeal from the order not operate as a stay of the order pending the outcome of the appeal if, in its opinion, the action is necessary in the interest of public safety. 1997, c. 4, s. 26.

### **Appeal to Divisional Court**

[27. \(1\)](#) Any party to the hearing before the Fire Safety Commission under section 26 may appeal from the decision of the Commission to the Divisional Court in accordance with the rules of court on any question that is not a question of fact alone.

### **Minister to be heard**

(2) The Minister is entitled to be heard at a hearing under this section.

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

(3) The judge who hears an appeal under this section may,

(a) refer the matter back to the Commission for reconsideration by the Commission;

(b) confirm or alter the decision of the Commission; or

(c) make such other order as he or she sees fit, including an order that the Fire Marshal or an inspector do any act he or she is authorized to do under this Act. 1997, c. 4, s. 27.

## **PART VII OFFENCES AND ENFORCEMENT**

### **Offences**

**28. (1)** Every person is guilty of an offence if he or she,

(a) hinders, obstructs or interferes with the Fire Marshal, an assistant to the Fire Marshal or a fire chief in the exercise of his or her powers and duties;

(b) prevents an inspector from entering land or premises under section 19 or 20, refuses to answer questions on matters relevant to the inspection or provides the inspector with information, on matters relevant to the inspection, that the person knows, or ought reasonably to know, to be false or misleading;

(c) subject to subsection (2) contravenes any provisions of this Act or the regulations; or

(d) refuses or neglects to obey or carry out the instructions or directions of the Fire Marshal, an assistant to the Fire Marshal or a fire chief given under the authority of this Act.

### **Same**

(2) A person who contravenes a provision in Part IX of this Act is not guilty of an offence.

### **Penalty**

(3) An individual convicted of an offence under subsection (1) is liable to,

(a) in the case of an offence other than one described in clause (b), a fine of not more than \$10,000 or imprisonment for a term of not more than one year, or both; and

(b) in the case of an offence for contravention of the fire code, a fine of not more than \$25,000 or imprisonment for a term of not more than one year, or both.

## **Same**

(4) A corporation convicted of an offence under subsection (1) is liable to a fine of not more than \$50,000.

## **Offence, director or officer of corporation**

(5) A director or officer of a corporation who knows that the corporation is violating or has violated a provision of the fire code is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both.

## **Liability of directors**

(6) Despite subsections (1) and (3), every director or officer of a corporation who knowingly commits an offence under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both. 1997, c. 4, s. 28.

## **Offence, removal of posted notice**

**29.** Any person who removes a copy of an order or of a notice posted in accordance with subsection 15 (3), 24 (2), (3) or 31 (4) without the approval of the Fire Marshal, an assistant to the Fire Marshal or a fire chief is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. 1997, c. 4, s. 29.

## **Offence, failure to comply with inspection order**

**30.** Every person who fails to comply with an order made under section 21, 25 or 26 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for every day during which the default continues, and the imposition or payment of the fine does not relieve the person from complying with the order. 1997, c. 4, s. 30.

## **Order to close premises, etc.**

**31. (1)** The Fire Marshal, an assistant to the Fire Marshal or a fire chief may apply to the Ontario Court (Provincial Division) for an order under this section if,

- (a) a person who has been convicted of an offence under section 30 for failing to comply with an inspection order under section 21 or an order under section 25 or 26 has not complied with the order within 30 days of the conviction; or

(b) a person who has been convicted of an offence under clause 28 (1) (c) for contravening a provision of the fire code has not ceased to contravene the provision or remedied the contravention within 30 days of the conviction.

### **No notice required**

(2) An application under subsection (1) may be made without notice to the person referred to in clause (1) (a) or (b).

### **Order**

(3) Upon an application under subsection (1), a judge may, if in his or her opinion it is necessary in the interest of public safety, order that the Fire Marshal, assistant to the Fire Marshal or fire chief,

(a) close access to, or remove, the building, structure or premises to which the order relates; or

(b) remove any substance, material or thing from the building, structure or premises.

### **Application**

(4) If an order is made under clause (3) (a), subsection 24 (3) applies with necessary modifications to the service and posting of the order. 1997, c. 4, s. 31.

### **Compliance order**

**32. (1)** The Fire Marshal, an assistant to the Fire Marshal or a fire chief may, in addition to any other rights he or she may have under this Act, apply to a judge of the Ontario Court (General Division) for an order,

(a) requiring a person to comply with an inspection order made under section 21 or with an order made under section 25 or 26 if the person has failed to comply with the order; or

(b) requiring a person to remedy any contravention of a provision of the fire code.

### **Powers of judge**

(2) Upon an application being made under subsection (1), a judge may make the order requested or such other order as he or she sees fit.

## **Appeal**

(3) An appeal lies to the Divisional Court from the judge's order. 1997, c. 4, s. 32.

## **Fire Marshal to carry out inspection order**

**33. (1)** If an order made under subsection 21 (1) or (2) or section 25 or 26 requires a thing to be done, an inspector may apply to the Fire Safety Commission for an order authorizing him or her to cause the thing to be done.

## **Hearing**

(2) Upon receiving an application under subsection (1), the Fire Safety Commission shall appoint a time for and hold a hearing.

## **Consolidation of hearings**

(3) If an application is made under this section and an appeal is made under section 26 in respect of the same order, the Fire Safety Commission may, if it considers it practical to do so, consolidate the hearings.

## **Grounds for decision**

(4) The Fire Safety Commission may authorize the inspector to cause to be done any thing required to be done by an order made under subsection 21 (1) or (2) or section 25 or 26 if,

(a) the person required by the order to do the thing,

(i) has refused to comply with or is not complying with the order,

(ii) is not likely, in the Commission's opinion, to comply with the order promptly,

(iii) is not likely, in the Commission's opinion, to carry out the order competently, or

(iv) requests the assistance of the inspector in complying with the order;  
and

(b) in the Commission's opinion, failure to do the thing would seriously endanger the health or safety of any person or the quality of the natural environment for any use that can be made of it.

## **Powers of Commission**

(5) The Fire Safety Commission may, in addition to authorizing an inspector to cause to be done any thing required to be done by an order under subsection 21 (1) or (2) or section 25 or 26,

(a) rescind the order; or

(b) amend the order, or make such other order as the Commission deems should have been made under the relevant section, and order the inspector to do the thing in accordance with the amended order or the other order. 1997, c. 4, s. 33.

## **Warrant authorizing entry**

**34. (1)** If a justice of the peace is satisfied on evidence under oath that there are reasonable grounds to believe that entry on certain land or premises is necessary for the purpose of doing a thing that the Fire Safety Commission has authorized to be done under section 33, the justice of the peace may issue a warrant authorizing the person named in the warrant to enter and do the thing on the land or premises including, where necessary, entering an adjacent property in order to access the property named in the warrant.

## **Execution and expiry of warrant**

(2) A warrant issued under subsection (1) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

## **Extension of time**

(3) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

## **Use of force**

(4) A person authorized under subsection (1) to enter land or premises for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

## **Assistance**

(5) A person named in a warrant issued under subsection (1) may call on any other persons he or she considers advisable to execute the warrant.

### **Application without notice**

(6) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupant of the land or premises.

### **Identification**

(7) On the request of an owner or occupant of the land or premises, a person who exercises a power conferred under subsection (1) shall identify himself or herself and shall explain the purpose of the entry. 1997, c. 4, s. 34.

## **PART VIII RECOVERY OF COSTS**

### **Fire Marshal's order to pay costs**

**35. (1)** The Fire Marshal, a fire chief or an assistant to the Fire Marshal may issue an order to pay the costs incurred by the Province of Ontario or a municipality,

(a) in doing any thing done in accordance with an authorization given under section 33, to any person required by an order made under subsection 21 (1) or (2) or section 25 or 26 to do the thing; or

(b) in entering land or premises and doing any thing under section 15, to the owner or the person having control of the land or premises.

### **Idem**

(2) An order under subsection (1) to pay costs shall include,

(a) a description of the things done for which the costs were incurred and a statement of the authority for doing the things;

(b) a detailed account of the costs incurred by the Province of Ontario or the municipality, as the case may be; and

(c) a direction that the person to whom the order is issued pay the costs to the Minister of Finance or the municipality, as the case may be. 1997, c. 4, s. 35.

### **Appeal to Fire Safety Commission**

**36. (1)** A person to whom an order to pay costs is issued may, by written notice served on the person who issued the order and on the Fire Safety Commission within 15 days after service on the person of a copy of the order, require a hearing by the Commission.

### **Costs specified in order to pay may be increased by Commission**

(2) At a hearing by the Fire Safety Commission on an order to pay costs, the Fire Marshal or an assistant to the Fire Marshal or a fire chief may, on reasonable notice to all parties, ask the Commission to amend the order by adding new items of cost or by increasing the amounts set out in the order.

### **What Commission may consider at hearing**

(3) At a hearing by the Fire Safety Commission on an order to pay costs, the Commission shall consider only whether any of the costs specified in the order,

(a) are unreasonable having regard to what was done; or

(b) do not relate to a thing,

(i) that the person to whom the order to pay costs was issued was required to do by an order made under subsection 21 (1) or (2) or section 25 or 26 or on any appeal from any such order, or

(ii) that the Fire Marshal, an assistant to the Fire Marshal or a fire chief was authorized to do under section 15.

### **Appeal to Divisional Court**

(4) Any party to a hearing by the Fire Safety Commission on an order to pay costs may appeal from the decision of the Commission to the Divisional Court on any question that is not a question of fact alone.

### **Idem**

(5) Subsections 27 (2) and (3) apply with necessary modification to an appeal under subsection (4). 1997, c. 4, s. 36.

### **Enforcement of order to pay costs**

**37. (1)** An order to pay costs may be filed with the Ontario Court (General Division) and enforced as if it were an order of the court.

## **Interest**

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. 1997, c. 4, s. 37.

## **Instructions for municipality to recover costs**

**38. (1)** The Fire Marshal, a fire chief or an assistant to the Fire Marshal may inform a municipality as to the amount of any of the following expenses incurred by the municipality or the Province of Ontario that relate to things done in connection with land or premises in the municipality and instruct the municipality to recover the amounts:

1. Expenses incurred in carrying out an order made under subsection 31 (3) that relates to the land or premises.
2. Where an order to pay costs has been issued under section 35 to a person who owns the lands or premises in the municipality,
  - i. expenses incurred in doing anything done in accordance with an authorization given under section 33 to do things to the land or premises, or
  - ii. expenses incurred in doing a thing under section 15 in order to remove or reduce an immediate threat to life on the land or premises.

## **Municipal lien**

(2) Upon receiving instructions under subsection (1), a municipality shall have a lien against the land or premises in respect of which expenses referred to in subsection (1) were incurred for the amount of the expenses.

## **Collection of lien amount as municipal taxes**

(3) The amount of any expenses referred to in subsection (1) shall be deemed to be municipal taxes and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

## **Remitting costs to Province**

(4) Subject to subsection (7), money collected in accordance with subsection (3) in order to recover expenses referred to in subsection (1) that were incurred by the

Province of Ontario shall be paid by the municipality to the Minister of Finance; but the municipality may retain such amounts as may be reasonably attributable to the collection.

### **Same**

(5) A lien created under subsection (2) in favour of a municipality for amounts incurred by the Province of Ontario is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act*.

### **Definition**

(6) In subsections (7) and (8),

"cancellation price" has the same meaning as in the *Municipal Tax Sales Act*.

### **Proceeds of tax sale**

(7) If there is a sale of land under the *Municipal Tax Sales Act* and amounts are payable out of the proceeds to the Minister of Finance under this Act, the *Environmental Protection Act* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land.

### **Cancellation price**

(8) Despite any provision of the *Municipal Tax Sales Act*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Environmental Protection Act* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act*. 1997, c. 4, s. 38.

### **Instructions for Crown to recover costs**

**39. (1)** The Fire Marshal, an assistant to the Fire Marshal or a fire chief may inform the Land Tax Collector appointed under the *Provincial Land Tax Act* as to the amount of any of the following expenses incurred by the Province of Ontario that relate to things done in connection with land and premises in territory without municipal organization and instruct the Land Tax Collector to recover the amounts:

1. Expenses incurred in carrying out an order made under subsection 31 (3) that relates to the land or premises.

2. Where an order to pay costs has been issued under section 35 to a person who owns the lands or premises in territory without municipal organization,

i. expenses incurred in doing anything done in accordance with an authorization given under section 33 to do things to the land or premises, or

ii. expenses incurred in doing a thing under section 15 in order to remove or reduce an immediate threat to life on the land or premises.

### **Crown lien**

(2) Upon receiving instructions under subsection (1), the Crown shall have a lien against the land or premises in respect of which expenses referred to in subsection (1) were incurred for the amount of the expenses.

### **Collection of lien amount as taxes**

(3) The amount of any expenses referred to in subsection (1) shall be deemed to be taxes in respect of the land or premises imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act. 1997, c. 4, s. 39.

### **Expenses related to work on other lands**

40. The amount to be recovered by way of municipal taxes against land or premises under section 38 or 39 shall include all expenses incurred in doing any thing in connection with the land or premises that the Fire Marshal, an assistant to the Fire Marshal or a fire chief was authorized to do under an order or authorization referred to in subsection 38 (1), whether or not the thing was done on the land or premises. 1997, c. 4, s. 40.

## **PART IX FIREFIGHTERS: EMPLOYMENT AND LABOUR RELATIONS**

### Definitions

### **Definitions**

41. (1) In this Part,

"Board" means the Ontario Labour Relations Board; ("Commission")

"collective agreement" means an agreement in writing between an employer and a bargaining agent that represents firefighters employed by the employer containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the bargaining agent or the firefighters; ("convention collective")

"employer" means a municipality, person or organization that employs firefighters; ("employeur")

"firefighter" means a person regularly employed on a salaried basis in a fire department and assigned to fire protection services and includes technicians but does not include a volunteer firefighter. ("pompier")

### **Managers not firefighters**

- (2) For the purposes of this Part, a person shall be deemed not to be a firefighter if,
- (a) in the opinion of the Board, he or she exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations; or
  - (b) he or she is a person designated under subsection 54 (4).

### **Application of *LRA, 1995***

(3) Sections 110 to 112, subsections 114 (1) and (3), sections 116 to 118 and 120 to 123 of the *Labour Relations Act, 1995* apply with necessary modifications to proceedings before the Board under this Act and the Board may exercise the powers under those provisions as if they were part of this Act.

### **Transition**

(4) An agreement made under section 5 of the *Fire Departments Act*, or a decision or award made under section 6 of that Act, that is in effect immediately before the day this Part comes into force shall, on and after that day, remain in effect and be deemed to be a collective agreement to which this Part applies.

### **Same**

(5) If a request to bargain was made under section 5 of the *Fire Departments Act* before the day this Part comes into force, this Part applies as if notice had been given under section 47 on that day. 1997, c. 4, s. 41.

## **Strike and lock outs**

**42. (1)** No firefighter shall strike and no employer of firefighters shall lock them out.

## **Definitions**

(2) In this section,

"lock-out" and "strike" have the same meaning as in the *Labour Relations Act, 1995*, 1997, c. 4, s. 42.

## **Hours of work**

**43. (1)** In every municipality having a population of not less than 10,000, the firefighters assigned to firefighting duties shall work according to,

(a) the two-platoon system where the firefighters are divided into two platoons, the hours of work of which shall be,

(i) for each platoon 24 consecutive hours on duty followed immediately by 24 consecutive hours off duty, or

(ii) for one platoon in day-time ten consecutive hours on duty followed immediately by 14 consecutive hours off duty and for the other platoon in night-time 14 consecutive hours on duty followed immediately by 10 consecutive hours off duty,

and the platoons shall alternate at least every two weeks from night work to day work and vice versa;

(b) the three-platoon system where the firefighters are divided into three platoons, the hours of work of which shall be eight consecutive hours on duty followed immediately by 16 consecutive hours off duty, and the platoons shall rotate in their periods of duty and time off as may be arranged for the purpose of changing shifts at least every two weeks; or

(c) any other system of platoons or hours of work under which the maximum hours of work or hours on duty on average in any work week are not more than 48 hours.

## **Other personnel**

(2) Firefighters assigned to duties other than fire-fighting duties shall work such hours as are determined, but in no case shall such hours of work exceed the average work week of the other full-time firefighters.

### **Maximum hours**

(3) No firefighters shall be required to be on duty on average in any work week more than 48 hours.

### **Weekly day off duty**

(4) Every firefighter shall be off duty for one full day of 24 hours in every calendar week, but where a two-platoon system or a three-platoon system is in operation, the 24 hours release at the change of platoons shall not be regarded as a day off duty for the purposes of this section.

### **Time off duty**

(5) Nothing in this Part prohibits any municipality from granting the firefighters more than one day off duty in every calendar week.

### **Off duty**

(6) The hours off duty of firefighters shall be free from fire department duties.

### **Exception for emergencies**

(7) Despite subsections (1) to (6), the fire chief may call in off-duty firefighters if, as a result of a major emergency, the fire department needs the services of more firefighters than are on duty. 1997, c. 4, s. 43.

### **Termination of employment**

**44. (1)** The employment of a firefighter may be terminated upon seven days' notice. The notice must be accompanied by written reasons for the termination.

### **Independent review**

(2) A firefighter who has received a notice of termination of employment may require a review of the termination to be conducted, unless a collective agreement provides for another review mechanism.

### **Same**

(3) If a review of a termination is required under subsection (2), the municipality in which the firefighter is employed shall appoint a person who is not employed in the fire department to conduct the review.

### **Review, no hearing**

(4) A person appointed to conduct a review shall conduct the review within 10 days after the day the review is required. The person is not required to hold a hearing in conducting a review under this section.

### **Decision**

(5) A person conducting a review of a termination under this section may uphold the termination, order that the firefighter be returned to duties under such conditions as may be specified in the order or make such other order as he or she considers proper.

### **Probationary period**

(6) The employment of a firefighter may be terminated without cause at any time during the first 12 months, unless a collective agreement provides otherwise. Subsections (2) to (5) do not apply with respect to a termination during that period. 1997, c. 4, s. 44.

## **Establishment of Bargaining Rights by Certification**

### **Bargaining unit**

[45. \(1\)](#) The firefighters employed in a fire department constitute a bargaining unit for the purposes of collective bargaining under this Act.

### **Exclusion**

(2) The bargaining unit shall not include persons who are deemed not to be firefighters under subsection 41 (2). 1997, c. 4, s. 45.

### **Bargaining agent**

[46. \(1\)](#) The majority of firefighters in a bargaining unit may request an association of firefighters to represent them and act as their bargaining agent for purposes of collective bargaining under this Part.

### **Transition**

(2) An association of firefighters that, immediately before the day this Part comes into force, was a party to, or bound by, an agreement made under section 5 of the *Fire Departments Act* or was bound by the decision or award of a board of arbitration under section 6 of that Act shall, on and after the day this Part comes into force and until such time as a new bargaining agent is requested under subsection (1), be deemed to be the bargaining agent for the firefighters in the bargaining unit. 1997, c. 4, s. 46.

## Collective Bargaining

### Notice of desire to bargain

[47. \(1\)](#) If no collective agreement is in effect, a bargaining agent acting pursuant to subsection 46 (1), shall give written notice to the employer of its desire to bargain with a view to making a collective agreement.

### Same

(2) The employer or the bargaining agent may give written notice of its desire to bargain with a view to making a collective agreement within the period of 90 days before the expiry date set out in the collective agreement or, if no expiry date is set out in the agreement, within the period of 90 days before the expiry date referred to in subsection 52 (1). 1997, c. 4, s. 47.

### Obligation to bargain

[48. \(1\)](#) The employer and the bargaining agent shall meet within 15 days after the notice is given, or within such longer period as they may agree upon, and they shall bargain in good faith and make every reasonable effort to make a collective agreement.

### Parties

(2) The employer and the bargaining agent are the parties to the bargaining. 1997, c. 4, s. 48.

### Conciliation

[49. \(1\)](#) After notice is given under section 47 or after the parties have met and bargained, and upon the request of either party, a conciliation officer shall be appointed in accordance with the regulations to endeavour to effect a collective agreement.

### Duties

(2) The conciliation officer shall confer with the parties and endeavour to effect a collective agreement.

### **Report to Minister**

(3) Within 14 days after being appointed or within such longer period as the parties may agree upon, the conciliation officer shall report the results of his or her endeavour to the Minister. The Minister may also extend the 14-day period if the conciliation officer advises him or her that, with the extension, an agreement may be made within a reasonable period of time.

### **Report to parties**

(4) The Minister shall forthwith, by notice in writing, inform the parties of the conciliation officer's report. 1997, c. 4, s. 49.

### **Arbitration**

**50.** Where the Minister has informed the parties that the conciliation officer has been unable to effect a collective agreement, the matters remaining in dispute between the parties shall be decided by arbitration in accordance with this Part. 1997, c. 21, Sched. A, s. 3 (1).

### **Appointment of single arbitrator**

**50.1 (1)** Where the parties agree to have the matters in dispute between them decided by a single arbitrator, they shall, within the time set out in subsection 50.2 (1), jointly appoint a person who agreed to act.

### **Single arbitrator's powers**

(2) The person appointed under subsection (1) shall constitute the board of arbitration for the purposes of this Part and he or she shall have the powers and duties of the chair of a board of arbitration.

### **Notice to Minister**

(3) As soon as the parties appoint a person to act as a single arbitrator, they shall notify the Minister of the name and address of the person appointed. 1997, c. 21, Sched. A, s. 3 (1).

### **Appointment of board of arbitration**

**50.2 (1)** Within seven days after the day upon which the Minister has informed the parties that the conciliation officer has been unable to effect a collective agreement, each of the parties shall appoint to a board of arbitration a member who has agreed to act.

#### **Extension of time**

(2) The parties by a mutual agreement in writing may extend the period of seven days mentioned in subsection (1) for one further period of seven days.

#### **Failure to appoint member**

(3) Where a party fails to appoint a member of a board of arbitration within the period or periods mentioned in subsection (1), the Minister, upon the written request of either of the parties, shall appoint such member.

#### **Third member**

(4) Within ten days after the day on which the second of the members was appointed, the two members appointed by or on behalf of the parties shall appoint a third member who has agreed to act, and such third member shall be the chair.

#### **Failure to appoint third member**

(5) Where the two members appointed by or on behalf of the parties fail within ten days after the appointment of the second of them to agree upon the third member, notice of such failure shall be given forthwith to the Minister by the parties, the two members or either of them and the Minister shall appoint as a third member a person who is, in the opinion of the Minister, qualified to act.

#### **Notice of appointment by party**

(6) As soon as one of the parties appoints a member to a board of arbitration, that party shall notify the other party and the Minister of the name and address of the member appointed.

#### **Notice of appointment by members**

(7) As soon as the two members appoint a third member, they shall notify the Minister of the name and address of the third member appointed.

#### **Selection of method**

(8) If the chair of the board of arbitration was appointed by the Minister, subject to subsections (9) to (11), the Minister shall select the method of arbitration and shall advise the chair of the board of arbitration of the selection.

**Same, mediation-arbitration**

(9) The method selected shall be mediation-arbitration unless the Minister is of the view that another method is more appropriate.

**Same, final offer selection**

(10) The method selected shall not be final offer selection without mediation.

**Same, mediation-final offer selection**

(11) The method selected shall not be mediation-final offer selection unless the Minister in his or her sole discretion selects that method because he or she is of the view that it is the most appropriate method having regard to the nature of the dispute.

**Vacancies**

(12) If a person ceases to be a member of a board of arbitration by reason of resignation, death or otherwise before it has completed its work, the Minister shall appoint a member in his or her place after consulting the party whose point of view was represented by such person.

**Replacement of member**

(13) If, in the opinion of the Minister, a member of a board of arbitration has failed to enter on or to carry on his or her duties so as to enable it to render a decision within the time set out in subsection 50.5 (5) or within the time extended under subsection 50.5 (6), the Minister may appoint a member in his or her place after consulting the party whose point of view was represented by such person.

**Replacement of chair**

(14) If the chair of a board of arbitration is unable to enter on or to carry on his or her duties so as to enable it to render a decision within the time set out in subsection 50.5 (5) or within the time extended under subsection 50.5 (6), the Minister may appoint a person to act as chair in his or her place.

**Where single arbitrator unable to act**

(15) If the person appointed jointly by the parties as a single arbitrator dies before completing his or her work or is unable to enter on or to carry on his or her duties so as to enable him or her to render a decision within the time set out in subsection 50.5 (5) or within the time extended under subsection 50.5 (6), the Minister may, upon notice or complaint to him or her by either of the parties and after consulting the parties, inform the parties in writing that the arbitrator is unable to enter on or to carry on his or her duties and the provisions of this section relating to the appointment of a board of arbitration shall thereupon apply with necessary modifications.

### **Time and place of hearings**

(16) Subject to subsection (17), the chair of the board of arbitration shall fix the time and place of the first or any subsequent hearing and shall give notice thereof to the Minister and the Minister shall notify the parties and the members of the board of arbitration thereof.

### **When hearings commence**

(17) The board of arbitration shall hold the first hearing within 30 days after the last (or only) member of the board is appointed.

### **Exception**

(18) If the method of arbitration selected by the Minister under subsection (8) is mediation-arbitration or mediation-final offer selection, the time limit set out in subsection (18) does not apply in respect of the first hearing but applies instead, with necessary modifications, in respect of the commencement of mediation.

### **Failure of member to attend**

(19) Where a member of a board of arbitration appointed by a party or by the Minister is unable to attend the first hearing at the time and place fixed by the chair, the party shall, upon the request in writing of the chair, appoint a new member in place of such member and where such appointment is not made within five days of the date of the request, the Minister shall, upon the written request of the chair, appoint a new member in place of such member.

### **Order to expedite proceedings**

(20) Where a board of arbitration has been established, the chair shall keep the Minister advised of the progress of the arbitration and where the Minister is advised that the board has failed to render a decision within the time set out in

subsection 50.5 (5) or within the time extended under subsection 50.5 (6), the Minister may, after consulting the parties and the board, issue whatever order he or she considers necessary in the circumstances to ensure that a decision will be rendered within a reasonable time.

### **Procedure**

(21) Subject to the other provisions of this section, a board of arbitration shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

### **Same**

(22) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chair governs.

### **Time for submission of information**

(23) If the method of arbitration selected by the Minister under subsection (8) is mediation-arbitration or mediation-final offer selection, the chair of the board of arbitration may, after consulting with the parties, set a date after which a party may not submit information to the board unless,

- (a) the information was not available prior to the date;
- (b) the chair permits the submission of the information; and
- (c) the other party is given an opportunity to make submissions concerning the information.

### **Decision**

(24) The decision of a majority of the members of a board of arbitration is the decision of the board, but, if there is no majority, the decision of the chair is the decision of the board.

### **Notice of agreement to recommence**

(25) If any member of the board of arbitration was appointed by the Minister, the parties may, at any time before the arbitrator or board renders a decision, jointly serve written notice on the Minister that they have agreed that the arbitration should be recommenced before a different board of arbitration.

## **Termination of appointments**

(26) If notice is served on the Minister under subsection (25), the appointments of all the members of the board of arbitration are terminated.

## **Effective date of terminations**

(27) The terminations are effective on the day the Minister is served with the notice.

## **Obligation to appoint**

(28) Within seven days after the day the Minister is served with the notice, the parties shall jointly appoint, under subsection 50.1 (1), a person who agreed to act or shall each appoint, under subsection (1) of this section, a member who has agreed to act and section 50.1 and this section apply with respect to such appointments.

## **Powers**

(29) The chair and the other members of a board of arbitration established under this Act have, respectively, all the powers of a chair and the members of a board of arbitration under the *Labour Relations Act, 1995*. 1997, c. 21, Sched. A, s. 3 (1).

## **Appointment or proceedings of board not subject to review**

**50.3** Where a person has been appointed as a single arbitrator or the three members have been appointed to a board of arbitration, it shall be presumed conclusively that the board has been established in accordance with this Part and no application shall be made, taken or heard for judicial review or to question the establishment of the board or the appointment of the member or members, or to review, prohibit or restrain any of its proceedings. 1997, c. 21, Sched. A, s. 3 (1).

## **Single arbitration of several disputes**

**50.4 (1)** Where there are matters in dispute between parties to be decided by more than one arbitration in accordance with this Part, the parties may agree in writing that the matters in dispute shall be decided by one board of arbitration.

## **Parties**

(2) For the purposes of section 50.2, the bargaining agents for or on behalf of any firefighters to whom this Part applies shall be one party and the employers of such firefighters shall be the other party.

## **Powers of board**

(3) In an arbitration to which this section applies, the board may, in addition to the powers conferred upon a board of arbitration by this Part,

- (a) make a decision on matters of common dispute between all of the parties; and
- (b) refer matters of particular dispute to the parties concerned for further bargaining.

## **Same**

(4) Where matters of particular dispute are not resolved by further collective bargaining under clause (3) (b), the board shall decide the matters. 1997, c. 21, Sched. A, s. 3 (1).

## **Duty of board**

**50.5 (1)** The board of arbitration shall examine into and decide on matters that are in dispute and any other matters that appear to the board necessary to be decided in order to conclude a collective agreement between the parties.

## **Criteria**

(2) In making a decision, the board of arbitration shall take into consideration all factors the board considers relevant, including the following criteria:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the decision, if current funding and taxation levels are not increased.
3. The economic situation in Ontario and in the municipality.
4. A comparison, as between the firefighters and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified firefighters.

## **Restriction**

(3) Nothing in subsection (2) affects the powers of the board of arbitration.

### **Board to remain seized of matters**

(4) The board of arbitration shall remain seized of and may deal with all matters in dispute between the parties until a collective agreement is in effect between the parties.

### **Time for decision**

(5) The board of arbitration shall give a decision within 90 days after the last (or only) member of the board is appointed.

### **Extension**

(6) The parties may agree to extend the time described in subsection (5), either before or after the time has passed.

### **Remuneration and expenses**

(7) The remuneration and expenses of the members of a board of arbitration shall be paid as follows:

1. A party shall pay the remuneration and expenses of a member appointed by or on behalf of the party.
2. Each party shall pay one-half of the chair's remuneration and expenses.

### **Enforcement of arbitration decisions**

(8) Where a party or firefighter has failed to comply with any of the terms of the decision of an arbitration board, any party or firefighter affected by the decision may file in the Ontario Court (General Division) a copy of the decision, exclusive of the reasons therefor, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

### **Non-application**

(9) The *Arbitration Act, 1991* and the *Statutory Powers Procedure Act* do not apply with respect to an arbitration under this Part. 1997, c. 21, Sched. A, s. 3 (1).

### **Where agreement reached**

**50.6 (1)** Where, during the bargaining under this Part or during the proceedings before the board of arbitration, the parties agree on all the matters to be included in

a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement.

### **Failure to make agreement**

(2) If the parties fail to put the terms of all the matters agreed upon by them in writing or if having put the terms of their agreement in writing either of them fails to execute the document within seven days after it was executed by the other of them, they shall be deemed not to have made a collective agreement and the provisions of sections 49 to 50.5 apply, with necessary modifications.

### **Decision of board**

(3) Where, during the bargaining under this Part or during the proceedings before the board of arbitration, the parties have agreed upon some matters to be included in the collective agreement and have notified the board in writing of the matters agreed upon, the decision of the board shall be confined to the matters not agreed upon by the parties and to such other matters that appear to the board necessary to be decided to conclude a collective agreement between the parties.

### **Same**

(4) Where the parties have not notified the board of arbitration in writing that, during the bargaining under this Part or during the proceedings before the board of arbitration, they have agreed upon some matters to be included in the collective agreement, the board shall decide all matters in dispute and such other matters that appear to the board necessary to be decided to conclude a collective agreement between the parties.

### **Execution of agreement**

(5) Within five days of the date of the decision of the board of arbitration or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute a document giving effect to the decision of the board and any agreement of the parties, and the document thereupon constitutes a collective agreement.

### **Preparation of agreement by board**

(6) If the parties fail to prepare and execute a document in the form of a collective agreement giving effect to the decision of the board and any agreement of the parties within the period mentioned in subsection (5), the parties or either of them shall notify the chair of the board in writing forthwith, and the board shall prepare

a document in the form of a collective agreement giving effect to the decision of the board and any agreement of the parties and submit the document to the parties for execution.

### **Failure to execute agreement**

(7) If the parties or either of them fail to execute the document prepared by the board within a period of five days from the day of its submission by the board to them, the document shall come into effect as though it had been executed by the parties and the document thereupon constitutes a collective agreement. 1997, c. 21, Sched. A, s. 3 (1).

### **Delegation**

[50.7 \(1\)](#) The Minister may delegate in writing to any person the Minister's power to make an appointment, order or direction under this Act.

### **Proof of appointment**

(2) An appointment, an order or a direction made under this Act that purports to be signed by or on behalf of the Minister shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in it without proof of the signature or the position of the person appearing to have signed it. 1997, c. 21, Sched. A, s. 3 (1).

### **Existing proceedings discontinued**

[50.8 \(1\)](#) Proceedings before a board of arbitration under this Part or a predecessor to this Act in which a hearing was commenced before the date on which subsection 3 (1) of the *Public Sector Dispute Resolution Act, 1997* comes into force are terminated and any decision in such proceedings is void.

### **Exception, completed proceedings**

(2) This section does not apply with respect to proceedings in which a hearing was commenced before June 3, 1997 if,

(a) a final decision is issued on or before June 3, 1997; or

(b) a final decision is issued after June 3, 1997 and the decision is served before the date on which subsection 3 (1) of the *Public Sector Dispute Resolution Act, 1997* comes into force.

### **Exception, by agreement**

(3) This section does not apply if the parties agree in writing after the date on which subsection 3 (1) of the *Public Sector Dispute Resolution Act, 1997* comes into force to continue the proceedings. 1997, c. 21, Sched. A, s. 3 (1).

## Operation of Collective Agreements

### **Collective agreement**

**51. (1)** Every collective agreement must be set out in writing.

### **Binding effect**

(2) A collective agreement is binding upon the employer, the bargaining agent and the members of the bargaining unit.

### **Commencement**

(3) A collective agreement comes into effect according to its terms. If the agreement does not provide for its commencement date, it comes into effect at the beginning of the first fiscal period in respect of which the employer budgets for expenditures under the agreement.

### **Same**

(4) Despite subsection (3), if a collective agreement provides that it comes into effect on a specified day and that day occurs before the beginning of the first fiscal period in respect of which the employer can budget for expenditures under the agreement, the agreement shall be deemed to provide that it comes into effect at the beginning of that first fiscal period. 1997, c. 4, s. 51.

### **Minimum term of collective agreements**

**52. (1)** If a collective agreement does not provide for its term of operation or provides for its operation for an unspecified term or for a term of less than one year, it shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate.

### **Extension of term of collective agreement**

(2) Despite subsection (1), the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement and the continuation of the

collective agreement may be terminated by either party upon 30 days notice to the other party.

### **Early termination of collective agreements**

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Board on the joint application of the parties.

### **Revision by mutual consent**

(4) Nothing in this section prevents the revision by mutual consent of the parties at any time of any provision of a collective agreement other than a provision relating to its term of operation. 1997, c. 4, s. 52.

### **Arbitration provision required**

**53. (1)** Every collective agreement shall provide for the final and binding settlement by arbitration of all differences between the parties arising from the interpretation, application, administration or alleged violation of the collective agreement, including any question as to whether a matter is arbitrable, by a single arbitrator.

### **Same**

(2) If a collective agreement does not contain the provision mentioned in subsection (1), it shall be deemed to contain the following provision:

If a difference arises between the parties relating to the interpretation, application, administration of this agreement, including any question as to whether a matter is arbitrable, or if an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established in this agreement, notify the other party in writing of its desire to submit the difference or allegation to a single arbitrator.

### **Selection of single arbitrator**

(3) If a matter is referred to arbitration, the arbitrator shall be selected in accordance with the regulations.

### **Commencement of proceedings**

(4) The arbitrator shall begin the arbitration proceedings within 30 days after his or her appointment or within such longer period as the parties may agree upon or as the arbitrator may determine.

### **Time for decision**

(5) An arbitrator shall give a decision within 30 days after hearings on the matter submitted to arbitration are concluded.

### **Same**

(6) The time described in subsection (5) for giving a decision may be extended,

(a) with the consent of the parties to the arbitration; or

(b) in the discretion of the arbitrator so long as he or she states in the decision the reasons for extending the time.

### **Oral decision**

(7) An arbitrator may give an oral decision and, if he or she does so, subsection (5) does not apply and the arbitrator,

(a) shall give the decision promptly after hearings on the matter are concluded;

(b) shall give a written decision, without reasons, promptly upon the request of either party; and

(c) shall give written reasons for the decision within a reasonable period of time upon the request of either party.

### **Orders re decisions**

(8) If the arbitrator does not give a decision within the time described in subsection (5) or does not provide written reasons within the time described in subsection (7), the Minister may,

(a) make such orders as he or she considers necessary to ensure that the decision or reasons will be given without undue delay; and

(b) make such orders as he or she considers appropriate respecting the remuneration and expenses of the arbitrator.

## **Powers of arbitrators**

(9) An arbitrator has power,

- (a) to require any party to furnish particulars before or during a hearing;
- (b) to require any party to produce documents or things that may be relevant to the matter and to do so before or during the hearing;
- (c) to fix dates for the commencement and continuation of hearings;
- (d) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases;
- (e) to administer oaths and affirmations,
- (f) to accept the oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;
- (g) to enter any premises where work is being done or has been done by the firefighters or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to the arbitrator, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences;
- (h) to authorize any person to do anything that the arbitrator may do under clause (g) and to report to the arbitrator thereon;
- (i) to make interim orders concerning procedural matters;
- (j) to interpret and apply human rights and other employment-related statutes, despite any conflict between those statutes and the terms of the collective agreement.

## **Restriction re interim orders**

(10) An arbitrator shall not make an interim order under clause (9) (i) requiring an employer to reinstate a firefighter in employment.

## **Extension of time**

(11) Except where a collective agreement states that this subsection does not apply, an arbitrator may extend the time for the taking of any step in the grievance procedure under a collective agreement, despite the expiration of the time, where the arbitrator is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension.

### **Substitution of penalty**

(12) Where an arbitrator determines that a firefighter has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator may substitute such other penalty for the discharge or discipline as to the arbitrator seems just and reasonable in all the circumstances.

### **Effect of arbitrator's decision**

(13) The decision of an arbitrator is binding upon the parties and the firefighters who are covered by the agreement and affected by the decision.

### **Costs of arbitration**

(14) Each party shall assume its own costs in the arbitration proceedings and pay one-half of the costs of the arbitrator.

### **Non-application**

(15) The *Arbitration Act, 1991* and the *Statutory Powers Procedure Act* do not apply with respect to an arbitration under this section. 1997, c. 4, s. 53.

### **Managers, etc.**

**54. (1)** An employer may assign a person employed by it to a position which, in the opinion of the employer, involves the exercise of managerial functions or employment in a confidential capacity in matters relating to labour relations, but, subject to subsection (4), the assignment is not conclusive of the question of whether the person does exercise such functions or is employed in such capacity.

### **Board to decide status**

(2) Subject to subsection (4), the Board, on application of an employer, has exclusive jurisdiction to determine any question as to whether a person exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations, and its decision is final and conclusive for all purposes.

## **Same**

(3) Subject to subsection (4), a person shall remain in the bargaining unit until the Board makes a determination under subsection (2), unless the parties otherwise agree.

## **Designation**

(4) Subject to subsections (5) and (8), an employer may, in its sole discretion, designate a person described in subsection (1) as a person who shall for purposes of this Act be conclusively deemed to be exercising managerial functions or acting in a confidential capacity in matters relating to labour relations.

## **Consent required**

(5) An employer shall not designate a person under subsection (4) unless the person consents to the designation.

## **If no consent**

(6) If a person does not consent to a designation under subsection (4), the employer shall assign the person to a position in the bargaining unit. If the position to which a person is assigned has a lower salary than the position held by the person before the assignment, he or she is entitled to be paid the same salary and to receive the same benefits after the assignment as he or she was paid and received before the assignment.

## **Revocation**

(7) A designation under subsection (4) may be revoked by the employer at any time.

## **Restriction**

(8) An employer shall not designate under subsection (4) more than,

(a) two persons, if the employer employs fewer than 25 persons;

(b) three persons, if the employer employs 25 or more but fewer than 150 persons;

(c) four persons, if the employer employs 150 or more but fewer than 300 persons; or

(d) five persons, if the employer employs 300 or more persons. 1997, c. 4, s. 54 (1-8).

### **Amalgamations**

(8.1) If, after the day on which subsection 3 (2) of the *Public Sector Dispute Resolution Act, 1997* comes into force, two or more municipalities that are employers of firefighters amalgamate, the amalgamated municipality is entitled under subsection (4) to designate the number of persons that is equal to the sum of the numbers of persons that each of the amalgamating municipalities would have been able to designate immediately before the amalgamation.

### **Dissolutions and incorporations**

(8.2) If, after the day on which subsection 3 (2) of the *Public Sector Dispute Resolution Act, 1997* comes into force, two or more municipalities that are employers of firefighters are dissolved and the inhabitants of the municipalities are incorporated in a new municipality, subsection (8.1) shall apply as if the dissolved municipalities were amalgamating municipalities and the new municipality was an amalgamated municipality. 1997, c. 21, Sched. A, s. 3 (2).

### **Calculating number of persons employed**

(9) For the purposes of subsection (8), the number of persons employed by the employer is the sum of,

(a) the number of persons employed by the employer who are firefighters;  
and

(b) the number of persons who are performing or conclusively deemed to be performing managerial functions with respect to firefighters or acting in a confidential capacity in matters relating to labour relations with respect to firefighters. 1997, c. 4, s. 54 (9).

### **Enforcement of decisions**

**55. (1)** If a person or bargaining agent fails to comply with a decision of an arbitrator under section 53, the person or bargaining agent affected by the decision may file a copy of the decision (excluding the reasons for the decision) with the Ontario Court (General Division).

### **Same**

(2) The decision shall not be filed with the court until 30 days have elapsed after the date the decision was released or after the date specified in the decision for complying with it.

### **Effect of filing**

(3) When it is filed with the court, the decision shall be entered in the same way as a judgment or order of the court and is enforceable as such. 1997, c. 4, s. 55.

### **Working conditions not to be altered**

**56. (1)** If notice has been given under section 47 by a bargaining agent for a unit of firefighters or an employer and no collective agreement is in operation,

(a) the employer shall not, except with the consent of the bargaining agent, alter the rates of wages or any other term or condition of employment or any right, privilege or duty of the employer or the firefighters until the right of the bargaining agent to represent the firefighters has been terminated; and

(b) the bargaining agent shall not, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the bargaining agent or the firefighters until the right of the bargaining agent to represent the firefighters has been terminated.

### **Arbitration if no agreement**

(2) If notice has been given under subsection 47 (2) and no collective agreement is in operation, any difference between the parties as to whether or not subsection (1) was complied with may be referred to arbitration by either of the parties as if the collective agreement was still in operation and the arbitration shall proceed in accordance with section 53. 1997, c. 4, s. 56.

## **Regulations**

### **Regulations**

**57.** The Minister may make regulations,

(a) governing the appointment of conciliation officers under this Act;

(b) governing the selection of arbitrators under section 53. 1997, c. 21, Sched. A, s. 3 (3).

## **PART X FIRE SAFETY COMMISSION**

### **Fire Safety Commission**

**58. (1)** The Fire Code Commission is continued under the name the Fire Safety Commission in English and Commission de la sécurité-incendie in French and is composed of such number of members as is determined by the Lieutenant Governor in Council.

### **Appointment of members**

(2) The Lieutenant Governor in Council shall appoint the members to the Commission, none of whom shall be persons in the public service of Ontario or of a municipality, and may designate one of the members as chair and one or more of the members as vice-chair.

### **Remuneration**

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

### **Quorum**

(4) Three members of the Commission constitute a quorum. 1997, c. 4, s. 58.

## **PART XI FIRE MARSHAL'S PUBLIC FIRE SAFETY COUNCIL**

### **Definition: "Council"**

**59.** In this Part,

"Council" means the Fire Marshal's Public Fire Safety Council. 1997, c. 4, s. 59.

### **Council established**

**60. (1)** A corporation without share capital is hereby constituted to be known in English as the Fire Marshal's Public Fire Safety Council and in French as Conseil public du commissaire des incendies sur la sécurité-incendie.

### **Membership**

(2) The Council shall consist of its board of directors and such other persons who are appointed as members of the Council by the Fire Marshal.

### **Non-application of corporate Acts**

(3) The *Corporations Act* and *Corporations Information Act* do not apply to the Council.

### **Conflict of interest**

(4) Section 132 of the *Business Corporations Act* applies to the Council and to its directors and officers. 1997, c. 4, s. 60.

### **Objects**

**61.** The objects of the Council are,

- (a) to promote fire safety throughout the province;
- (b) to produce and distribute materials for public education with respect to fire safety;
- (c) to provide or endorse training, education and fire prevention activities;
- (d) to facilitate and co-ordinate the public exchange of information and ideas on matters of fire safety;
- (e) to solicit, receive, manage and distribute money and other property to support the objects described in clauses (a), (b), (c) and (d);
- (f) to enter into partnerships and agreements with persons or organizations in the private sector or with public bodies or organizations to further the objects described in clauses (a), (b), (c), (d) and (e); and
- (g) to advise the Fire Marshal on matters of fire safety. 1997, c. 4, s. 61.

### **Board**

**62. (1)** The affairs of the Council shall be managed by its board of directors.

### **Composition**

(2) The board shall be composed of the Fire Marshal, or if he or she is absent or unable to act, the Deputy Fire Marshal, and at least six directors appointed from among the members by the Minister on the recommendation of the Fire Marshal.

### **Term of office**

(3) A director is appointed for a term not exceeding three years, and may be reappointed for successive terms not exceeding three years each.

### **Chair**

(4) The Fire Marshal, or if he or she is absent or unable to act, the Deputy Fire Marshal, is chair of the board.

### **Vice-chairs**

(5) The Fire Marshal shall designate one or more other directors to be vice-chairs.

### **Same**

(6) If the Fire Marshal or Deputy Fire Marshal is absent from a meeting of the board or is unable to act, a vice-chair shall act as and have all the powers of the chair.

### **Quorum**

(7) A majority of the directors constitutes a quorum.

### **Vacancies**

(8) If a director's position becomes vacant, the Minister may appoint another person to the board for the remainder of his or her term.

### **Remuneration**

(9) The appointed directors shall receive such remuneration and reimbursement for reasonable expenses as may be determined by the Council. 1997, c. 4, s. 62.

### **Powers of Council**

**63. (1)** The Council has the capacity and the rights, powers and privileges of a natural person, subject to the limitations set out in this Act, for the purpose of carrying out its objects.

## **Same**

(2) Without limiting the generality of subsection (1), the board of directors of the Council may,

(a) enter into agreements with any organization with objects similar to or consistent with those of the Council;

(b) authorize any person or organization to use the Council's logo to indicate the Council's endorsement of a product, service, training course, education course or activity;

(c) otherwise endorse any product, service, training course, education course or activity;

(d) solicit, receive, manage, invest, transfer, use and distribute money and other property to support the objects of the Council.

## **Logo**

(3) The board of directors shall by by-law adopt a logo for the Council. 1997, c. 4, s. 63.

## **Borrowing powers**

**64. (1)** The board of directors of the Council may borrow money on the credit of the Council for the purposes of the Council and may use any money or property of the Council as security for such borrowing.

## **Limitation on borrowing powers**

(2) The amount that may be borrowed under subsection (1), together with the total of any previous borrowing that remains unpaid, shall not exceed \$50,000 at any one time without the approval of the Minister, but no lender shall be required to inquire into the board's compliance with this section and all loans to the Council shall be deemed to have been lawfully made under the authority of this section despite any non-compliance of the board. 1997, c. 4, s. 64.

## **By-laws**

**65.** The board of directors of the Council may pass by-laws,

(a) regulating its proceedings;

- (b) establishing the fiscal year for the Council;
- (c) specifying the powers, duties and remuneration of its officers and employees;
- (d) establishing an executive committee and other committees and delegating powers of the board to such committees;
- (e) providing for membership in the Council, establishing classes of membership and prescribing the qualifications, conditions and rights of membership, the fees, if any, to be paid for membership and providing for and regulating members' meetings;
- (f) generally for the management of the Council. 1997, c. 4, s. 65.

### **Council's property to be dedicated to objects**

**66. (1)** All the property of the Council and all its income, revenue and profits shall be devoted and applied solely to carrying out the objects of the Council.

### **Investment**

(2) Any funds of the Council that are not immediately required for promoting and carrying out its objects, and the proceeds of any property of the Council, subject to any trust affecting them, not immediately required for such purpose, may be invested and reinvested as the board of directors considers proper.

### **Money vests in Council**

(3) All amounts in the Consolidated Revenue Fund credited, immediately before this section comes into force, to an advisory committee that was established under the *Fire Marshals Act*, being chapter F.17 of the Revised Statutes of Ontario, 1990, are hereby vested in the Council. 1997, c. 4, s. 66.

### **Employees**

**67. (1)** The board of directors of the Council may employ or contract for the services of such persons, including any persons who are appointed directors, as it considers necessary for the functioning of the Council.

### **Not Crown employees**

(2) Persons employed or whose services are contracted under subsection (1) shall be deemed not to be employed by the Crown and are not Crown employees within the meaning of the *Public Service Act*. 1997, c. 4, s. 67.

### **Ministry support**

**68.** The Office of the Fire Marshal may, on request, provide administrative, technical or expert advice or assistance to the Council. 1997, c. 4, s. 68.

### **Protection from personal liability**

**69. (1)** No action or other proceeding for damages may be instituted against a director or a member of the Council or any employee of the Council for any act done in good faith in the execution or intended execution of the person's power or duty or for any alleged neglect or default in the execution in good faith of the person's power or duty.

### **Same**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

### **Indemnification for legal costs**

(3) With the approval of the Minister, a person described in subsection (1) or a former director, member or employee of the Council shall be indemnified by the Crown in right of Ontario for his or her reasonable legal costs in respect of any proceeding in which the person's execution in good faith of his or her duties is in issue, if the person acted in good faith. 1997, c. 4, s. 69.

### **Auditors**

**70.** The board of directors of the Council shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Council for each fiscal year. 1997, c. 4, s. 70.

### **Annual and other reports**

**71.** The board of directors of the Council shall submit an annual report to the Minister on the affairs and transactions of the Council in the preceding fiscal year and shall submit such other reports as the Minister may request. 1997, c. 4, s. 71.

### **Winding-up**

**72.** Upon the winding-up or dissolution of the Council, all its assets, after discharging all outstanding liabilities, shall vest in the Crown. 1997, c. 4, s. 72.

### **Review**

**73.** The Minister shall, five years after this Part comes into force, undertake a review of the activities of the Council and submit to the Lieutenant Governor in Council a report that recommends the continuation, amendment or repeal of this Part. 1997, c. 4, s. 73.

## **PART XII MISCELLANEOUS**

### **Protection from personal liability**

**74. (1)** No action or other proceeding for damages shall be instituted against a firefighter, a fire co-ordinator, a community fire safety officer, a member or employee of the Fire Safety Commission, an assistant to the Fire Marshal, the Deputy Fire Marshal, the Fire Marshal, or a person acting under his or her authority, for any act done in good faith in the execution or intended execution of his or her power or duty or for any alleged neglect or default in the execution in good faith of his or her power or duty.

### **Crown, municipality not relieved of liability**

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown or a municipal corporation of liability in respect of a tort committed by a person referred to in subsection (1) to which they would otherwise be subject. 1997, c. 4, s. 74.

### **Indemnification**

**75. (1)** A firefighter, a fire co-ordinator, a community fire safety officer, a member or employee of the Fire Safety Commission, an assistant to the Fire Marshal, the Deputy Fire Marshal, the Fire Marshal or a person acting under his or her authority shall be indemnified for reasonable legal costs incurred,

- (a) in the defence of a civil action, if the person is not found to be liable;
- (b) in the defence of a criminal prosecution, if the person is found not guilty;
- (c) in respect of any other proceeding in which the person's execution of his or her duties is an issue, if the person acted in good faith.

## **Same**

(2) Indemnification under subsection (1) shall be made by,

(a) in the case of a firefighter, community fire safety officer or assistant to the Fire Marshal who is employed by a municipality, the municipal corporation;

(b) in the case of a firefighter, community fire safety officer or assistant to the Fire Marshal who is working under an agreement with the Crown or in the case of a fire co-ordinator, a member or employee of the Fire Safety Commission, the Deputy Fire Marshal, the Fire Marshal or a person acting under his or her authority, the Crown.

## **Effect of collective agreement**

(3) A collective agreement made under Part IX or a decision under section 53 may provide for indemnification of the legal costs of firefighters, except the legal costs of a firefighter who is found guilty of a criminal offence, and if such an agreement exists, the municipal corporation shall indemnify the firefighters in accordance with the agreement and subsections (1) and (2) shall not apply. 1997, c. 4, s. 75.

## **No action for damages from accidental fire**

**76.** No action shall be brought against any person in whose house or building or on whose land any fire accidentally begins, nor shall any recompense be made by that person for any damage suffered thereby; but no agreement between a landlord and tenant is defeated or made void by this Act. 1997, c. 4, s. 76.

## **Manner of service**

**77. (1)** Where a copy of an order or notice is required to be given to, or served on, a person under this Act, the copy may be served personally, by regular letter mail, by electronic transmission, by telephone transmission of a facsimile or by some other method that allows proof of receipt.

## **Deemed receipt**

(2) Service by regular letter mail under subsection (1) shall be deemed to be received by the person on the fifth day after mailing unless the person establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive a copy until a later date than the deemed date of receipt.

## Same

(3) Service by electronic transmission or by telephone transmission of a facsimile under subsection (1) shall be deemed to be received the day after it is sent or, if that day is a Saturday or holiday, on the next day that is not a Saturday or holiday, unless the person establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive a copy until a later date than the deemed date of receipt. 1997, c. 4, s. 77.

## Regulations

78. (1) The Minister may make regulations,

- (a) respecting the operation and administration of fire departments and community fire safety teams established or appointed by an agreement made under section 3 and respecting the functions of community fire safety officers appointed by such an agreement;
- (b) prescribing persons or organizations for the purposes of subsections 3 (1) and 4 (2);
- (c) prescribing powers and duties that a fire chief may delegate in addition to those mentioned in subsection 6 (6);
- (d) prescribing limitations, restrictions, or conditions that apply to a delegation of powers or duties of a fire chief under subsection 6 (6), including restricting the type of power or duty that may be delegated or the class of person to whom the power or duty may be delegated;
- (e) respecting the records and returns to be used, kept and made by fire chiefs in respect of their inspections of any class of premises or premises used for any specified purpose;
- (f) requiring any person to furnish such statistical and other information to the Fire Marshal as he or she considers necessary;
- (g) requiring the following persons or entities to report to the Fire Marshal the particulars of any insurance loss or claim,
  - (i) a fire insurance company authorized to transact business in Ontario,
  - (ii) a person adjusting a claim against a fire insurance company, whether the insurance company is licensed to transact business in Ontario or not and whether the adjuster represents the company or the claimant, or

- (iii) a person sustaining or claiming to have sustained a loss by fire on property in Ontario insured wholly or partially by an insurance company that is not licensed or registered under the Insurance Act;
- (h) defining "regularly employed" for the purposes of the definition of "firefighter" in subsection 41 (1) and "activity allowance" for the purposes of the definition of "volunteer firefighter" in subsection 1 (1);
- (i) respecting standards for fire protection devices, equipment and systems;
- (j) providing for licensing and regulating the manufacture, sale, installation, servicing, maintenance, testing and repairing of fire protection devices, equipment and systems;
- (k) respecting practices and standards for fire protection services and certification and training of firefighters, including full-time, volunteer and part-time firefighters;
- (l) prescribing fees and allowances for services and training provided by or on behalf of the Province or municipalities and respecting the person or body to whom the fees or allowances shall be paid;
- (m) governing the inspection of hotels;
- (n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

## **Same**

(2) A regulation made under this section may be general or specific in its application. 1997, c. 4, s. 78.

## **Municipal by-laws superseded**

**79.** A regulation, including the fire code, supersedes all municipal by-laws respecting fire safety standards for land and premises. 1997, c. 4, s. 79.

**80.-93.** Omitted (amends or repeals other Acts). 1997, c. 4, ss. 80-93.

**94.** Omitted (provides for coming into force of provisions of this Act). 1997, c. 4, s. 94.

**95.** Omitted (enacts short title of this Act). 1997, c. 4, s. 95.