

## **Sustainable Water and Sewage Systems Act, 2002**

S.O. 2002, chapter 29

Notice of Currency:\* All amendments have been incorporated into this document.

A proclamation has been issued naming January 1, 2007 as the day on which the amendments made by 2006, c. 32, Sched. C, s. 62 come into force.

\*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the Table of Public Statutes – Legislative History Overview.

Amended by: 2006, c. 32, Sched. C, s. 62.

Note: THIS ACT IS NOT YET IN FORCE. It comes into force on a day to be named by proclamation of the Lieutenant Governor. See: 2002, c. 29, s. 25.

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## Interpretation and Application

### Interpretation

1. (1) In this Act,

“approved cost recovery plan” means a plan approved by a regulated entity under section 9 or 10, or deemed to be approved by a regulated entity under section 12; (“plan de recouvrement des coûts approuvé”)

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

“municipal auditor” means,

(a) an auditor appointed by a regulated entity under section 296 of the Municipal Act, 2001, or

Note: On the latest of the day section 1 comes into force, the day the Statutes of Ontario, 2006, chapter 11, section 139 comes into force and the day the Statutes of Ontario, 2006, chapter 32, Schedule C, subsection 62 (1) comes into force, clause (a) is repealed by the Statutes of Ontario, 2006, chapter 32, Schedule C, subsection 62 (1) and the following substituted:

(a) an auditor appointed by a regulated entity under section 296 of the Municipal Act, 2001 or section 139 of the City of Toronto Act, 2006, as the case may be, or

See: 2006, c. 32, Sched. C, ss. 62 (1), 71 (3).

(b) a person specified by the Minister in a direction given under section 5 or 11; (“vérificateur municipal”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“professional engineer” means professional engineer as defined in the regulations; (“ingénieur”)

“raw water supply” includes any ground water or surface water in the natural environment; (“source d’approvisionnement en eau brute”)

“regulated entity” means a municipality designated by regulation under section 2; (entité réglementée”)

“source protection costs” means the prescribed costs that relate to a source protection measure financed in whole or in part by a regulated entity and includes any prescribed charges or fees

imposed on a regulated entity under the authority of an Act, regulation or by-law; (“coûts de protection des sources d’eau”)

“source protection measure” means a measure specified in the regulations to protect the quantity or quality of any raw water supply that a regulated entity relies upon or may rely upon in the future for the provision of water services or waste water services to the public. (“mesure de protection des sources d’eau”) 2002, c. 29, s. 1 (1).

#### Provision of water services

(2) The provision of water services to the public includes any source protection measure related to the provision of water services and extracting, treating and distributing water. 2002, c. 29, s. 1 (2).

#### Provision of waste water services

(3) The provision of waste water services to the public includes any source protection measure related to the provision of waste water services and collecting, treating and discharging waste water. 2002, c. 29, s. 1 (3).

#### Municipal auditor

(4) For the purposes of doing anything under this Act, a municipal auditor may exercise any power of an auditor of a municipality under section 297 of the Municipal Act, 2001. 2002, c. 29, s. 1 (4).

Note: On the latest of the day section 1 comes into force, the day the Statutes of Ontario, 2006, chapter 11, section 235 comes into force and the day the Statutes of Ontario, 2006, chapter 32, Schedule C, subsection 62 (2) comes into force, subsection (4) is amended by the Statutes of Ontario, 2006, chapter 32, Schedule C, subsection 62 (2) by adding “or section 235 of the City of Toronto Act, 2006, as the case may be” at the end. See: 2006, c. 32, Sched. C, ss. 62 (2), 71 (3).

#### Designation of regulated entities

2. (1) This Act applies to those municipalities that provide water services or waste water services to the public and that are designated by regulation as regulated entities. 2002, c. 29, s. 2 (1).

#### Same

(2) A municipality shall be deemed to be providing water services or waste water services to the public for the purposes of this Act even if it has, before or after being designated under subsection (1),

(a) transferred all or part of its authority for doing so to a municipal service board, a corporation established under section 203 of the Municipal Act, 2001 or any other person or entity; or

(b) entered into an agreement with a corporation established under section 203 of the Municipal Act, 2001 or any other person or entity to do so on its behalf. 2002, c. 29, s. 2 (2).

Note: On the latest of the day section 1 of this Act comes into force, the day the Statutes of Ontario, 2006, chapter 11, section 141 comes into force and the day the Statutes of Ontario, 2006, chapter 32, Schedule C, subsection 62 (3) comes into force, subsection (2) is repealed by the Statutes of Ontario, 2006, chapter 32, Schedule C, subsection 62 (3) and the following substituted:

Same

(2) A municipality is deemed to be providing water services or waste water services to the public for the purposes of this Act even if it has, before or after being designated under subsection (1),

(a) transferred all or part of its authority for doing so to a municipal service board established under the Municipal Act, 2001, a city board established under the City of Toronto Act, 2006 or any other person or entity; or

(b) entered into an agreement with a person or entity described in clause (a) to do so on its behalf. 2006, c. 32, Sched. C, s. 62 (3).

See: 2006, c. 32, Sched. C, ss. 62 (3), 71 (3).

Report on Full Cost of Services

Report on full cost of water services

3. (1) Every regulated entity that provides water services to the public shall prepare and approve a written report about those services. 2002, c. 29, s. 3 (1).

Auditor's review

(2) The regulated entity shall not approve the report before giving the report to the municipal auditor for review and receiving the written opinion of the municipal auditor on the report. 2002, c. 29, s. 3 (2).

Same

(3) The opinion of the municipal auditor shall address the prescribed matters, contain the prescribed information and be in the prescribed form and shall be submitted to the regulated entity by the date specified by the regulated entity, which shall not be later than 30 days before the regulated entity is required to submit its report to the Minister. 2002, c. 29, s. 3 (3).

Report submitted to Minister

(4) The regulated entity shall submit the approved report and the municipal auditor's opinion on it to the Minister by the date specified by regulation. 2002, c. 29, s. 3 (4).

Contents

(5) The report must contain the following information:

1. An inventory of and management plan for the infrastructure needed to provide the water services, prepared and certified by a professional engineer.

2. An assessment of the full cost of providing the water services and the revenue obtained to provide them.

3. Any other matter specified by the regulations. 2002, c. 29, s. 3 (5).

#### Form

(6) The report must be made in a form approved by the Minister. 2002, c. 29, s. 3 (6).

#### Components of full cost

(7) The full cost of providing the water services includes the source protection costs, operating costs, financing costs, renewal and replacement costs and improvement costs associated with extracting, treating or distributing water to the public and such other costs as may be specified by regulation. 2002, c. 29, s. 3 (7).

#### Report on full cost of waste water services

4. (1) Every regulated entity that provides waste water services to the public shall prepare and approve a written report about those services. 2002, c. 29, s. 4 (1).

#### Auditor's review

(2) The regulated entity shall not approve the report before giving the report to the municipal auditor for review and receiving the written opinion of the municipal auditor on the report. 2002, c. 29, s. 4 (2).

#### Same

(3) The opinion of the municipal auditor shall address the prescribed matters, contain the prescribed information and be in the prescribed form and shall be submitted to the regulated entity by the date specified by the regulated entity, which shall not be later than 30 days before the regulated entity is required to submit its report to the Minister. 2002, c. 29, s. 4 (3).

#### Report submitted to Minister

(4) The regulated entity shall submit the approved report and the municipal auditor's opinion on it to the Minister by the date specified by regulation. 2002, c. 29, s. 4 (4).

#### Contents

(5) The report must contain the following information:

1. An inventory of and management plan for the infrastructure needed to provide the waste water services, prepared and certified by a professional engineer.

2. An assessment of the full cost of providing the waste water services and the revenue obtained to provide them.

3. Any other matter specified by the regulations. 2002, c. 29, s. 4 (5).

#### Form

(6) The report must be made in a form approved by the Minister. 2002, c. 29, s. 4 (6).

#### Components of full cost

(7) The full cost of providing the waste water services includes the source protection costs, operating costs, financing costs, renewal and replacement costs and improvement costs associated with collecting, treating or discharging waste water and such other costs as may be specified by regulation. 2002, c. 29, s. 4 (7).

#### Joint reports

5. (1) The Minister may direct two or more regulated entities to prepare a joint report under subsection 3 (1) or 4 (1) if the Minister considers it appropriate to do so. 2002, c. 29, s. 5 (1).

#### Same

(2) The Minister may specify that the joint report is required in lieu of, or in addition to, a report from each of the regulated entities under subsection 3 (1) or 4 (1). 2002, c. 29, s. 5 (2).

#### Same

(3) This Act applies, with necessary modifications, with respect to a joint report as if it were a report by a single regulated entity. 2002, c. 29, s. 5 (3).

#### Municipal auditor who reviews joint report

(4) The municipal auditor who is required to review and provide an opinion on the joint report for the purpose of section 3 or 4 shall be,

(a) if the regulated entities that prepared the joint report have delegated their authority to provide water services or waste water services to the same municipal service board, the municipal auditor who is responsible for that board;

(b) if clause (a) does not apply, the municipal auditor of one of the regulated entities or any other person, as specified by the Minister in the direction given under subsection (1). 2002, c. 29, s. 5 (4).

#### Report prepared by Minister

6. (1) The Minister may prepare a report on behalf of a regulated entity if the Minister considers it appropriate to do so. 2002, c. 29, s. 6 (1).

#### Same

(2) The regulated entity shall reimburse the Crown for the costs incurred by the Minister in connection with the preparation of the report, in the amount determined by the Minister and within the period specified by the Minister. 2002, c. 29, s. 6 (2).

Same

(3) If the Minister prepares a report on behalf of a regulated entity, the entity is not required to prepare or submit a report under section 3 or 4 and the entity shall be deemed to have approved the report prepared by the Minister. 2002, c. 29, s. 6 (3).

Approval of report

7. (1) The Minister may approve the contents of the report of a regulated entity or may require the entity to make specified changes to the report before approving it. 2002, c. 29, s. 7 (1).

Same

(2) If the Minister requires a regulated entity to make specified changes to a report, the entity shall make the changes within the period specified by the Minister and then shall give the Minister the revised report. 2002, c. 29, s. 7 (2).

Deemed approval

(3) The Minister shall be deemed to have approved the contents of a report prepared by the Minister. 2002, c. 29, s. 7 (3).

Effect of approval of report

8. The estimate of the full cost of providing water services or waste water services that is set out in the report approved by a regulated entity under section 3 or 4 shall be deemed, for the purposes of this Act, to be the full cost of providing those services. 2002, c. 29, s. 8.

Cost Recovery Plan

Cost recovery plan for water services

9. (1) Every regulated entity that provides water services to the public shall prepare and approve a plan describing how the entity intends to pay the full cost of providing those services. 2002, c. 29, s. 9 (1).

Auditor's review

(2) The regulated entity shall not approve the plan before giving the plan to the municipal auditor for review and receiving the written opinion of the municipal auditor on the plan. 2002, c. 29, s. 9 (2).

Same

(3) The opinion of the municipal auditor shall address the prescribed matters, contain the prescribed information and be in the prescribed form and shall be submitted to the regulated

entity by the date specified by the regulated entity, which shall not be later than 30 days before the regulated entity is required to submit its plan to the Minister. 2002, c. 29, s. 9 (3).

#### Plan submitted to Minister

(4) The regulated entity shall submit the approved plan and the municipal auditor's opinion on it to the Minister by the day that is six months after,

(a) the date prescribed for the purpose of subsection 3 (4);

(b) if an extension is granted for the purpose of sub-section 3 (4), the extended date; or

(c) if the Minister prepared a report on behalf of the entity, the date the Minister gave the report to the entity. 2002, c. 29, s. 9 (4).

#### Contents

(5) The plan must meet the requirements of this Act and the regulations. 2002, c. 29, s. 9 (5).

#### Form

(6) The plan must be made in a form approved by the Minister. 2002, c. 29, s. 9 (6).

#### Sources of revenue

(7) The regulations may specify those sources of revenue that a regulated entity is, or is not, permitted to include in the plan and may impose conditions or restrictions with respect to different sources of revenue. 2002, c. 29, s. 9 (7).

#### Restriction

(8) The regulations may specify the maximum amount by which a regulated entity may increase the charges for the provision of the water services for any customer or class of customer over any period of time. 2002, c. 29, s. 9 (8).

#### Cost recovery plan for waste water services

10. (1) Every regulated entity that provides waste water services to the public shall prepare and approve a plan describing how the entity intends to pay the full cost of providing those services. 2002, c. 29, s. 10 (1).

#### Auditor's review

(2) The regulated entity shall not approve the plan before giving the plan to the municipal auditor for review and receiving the written opinion of the municipal auditor on the plan. 2002, c. 29, s. 10 (2).

#### Same

(3) The opinion of the municipal auditor shall address the prescribed matters, contain the prescribed information and be in the prescribed form and shall be submitted to the regulated

entity by the date specified by the regulated entity, which shall not be later than 30 days before the regulated entity is required to submit its plan to the Minister. 2002, c. 29, s. 10 (3).

#### Plan submitted to Minister

(4) The regulated entity shall submit the approved plan and the municipal auditor's opinion on it to the Minister by the day that is six months after,

(a) the date prescribed for the purpose of subsection 4 (4);

(b) if an extension is granted for the purpose of sub-section 4 (4), the extended date; or

(c) if the Minister prepared a report on behalf of the entity, the date the Minister gave the report to the entity. 2002, c. 29, s. 10 (4).

#### Contents

(5) The plan must meet the requirements of this Act and the regulations. 2002, c. 29, s. 10 (5).

#### Form

(6) The plan must be made in a form approved by the Minister. 2002, c. 29, s. 10 (6).

#### Sources of revenue

(7) The regulations may specify those sources of revenue that a regulated entity is, or is not, permitted to include in the plan and may impose conditions or restrictions with respect to different sources of revenue. 2002, c. 29, s. 10 (7).

#### Restriction

(8) The regulations may specify the maximum amount by which a regulated entity may increase the charges for the provision of the waste water services for any customer or class of customer over any period of time. 2002, c. 29, s. 10 (8).

#### Joint plans

11. (1) The Minister may direct two or more regulated entities to prepare a joint plan under section 9 or 10 if the Minister considers it appropriate to do so. 2002, c. 29, s. 11 (1).

#### Same

(2) The Minister may specify that the joint plan is required in lieu of, or in addition to, a plan from each of the regulated entities under section 9 or 10. 2002, c. 29, s. 11 (2).

#### Same

(3) This Act applies, with necessary modifications, with respect to a joint plan as if it were a plan of a single regulated entity. 2002, c. 29, s. 11 (3).

#### Municipal auditor who reviews joint plan

(4) The municipal auditor who is required to review and provide an opinion on the joint plan for the purpose of section 9 or 10 shall be,

(a) if the regulated entities that prepared the joint plan have delegated their authority to provide water services or waste water services to the same municipal service board, the municipal auditor who is responsible for that board;

(b) if clause (a) does not apply, the municipal auditor of one of the regulated entities or any other person, as specified by the Minister in the direction given under subsection (1). 2002, c. 29, s. 11 (4).

#### Plan prepared by Minister

12. (1) The Minister may prepare a plan on behalf of a regulated entity if the Minister considers it appropriate to do so. 2002, c. 29, s. 12 (1).

#### Same

(2) The regulated entity shall reimburse the Crown for the costs incurred by the Minister in connection with the preparation of the plan, in the amount determined by the Minister and within the period specified by the Minister. 2002, c. 29, s. 12 (2).

#### Same

(3) If the Minister prepares a plan on behalf of a regulated entity, the entity is not required to prepare or submit a plan under section 9 or 10 and the entity shall be deemed to have approved the plan prepared by the Minister. 2002, c. 29, s. 12 (3).

#### Charges to customers increased beyond prescribed limits

13. (1) A regulated entity may increase the charges to any customer or class of customer for the provision of water services or waste water services beyond the limit prescribed under section 9 or 10 with the written approval of the Minister under subsection (2). 2002, c. 29, s. 13 (1).

#### Minister's approval

(2) The Minister may approve the requested increase in the charges or may approve a lower increase in the charges than that requested by the regulated entity if the Minister is of the opinion that,

(a) the regulated entity's approved cost recovery plan requires the increase to pay for the full costs of providing water services or waste water services; or

(b) it is in the public interest to increase the charges. 2002, c. 29, s. 13 (2).

#### Conditions

(3) The Minister may attach conditions to an approval under subsection (2). 2002, c. 29, s. 13 (3).

#### Effect of approval of plan

14. A regulated entity shall implement its approved cost recovery plan and shall do so no later than the date specified by regulation. 2002, c. 29, s. 14.

#### Other Reporting Requirements

##### Periodic reports to the Minister

15. (1) Every regulated entity shall give the Minister progress reports, at such intervals as may be prescribed by regulation, concerning the implementation of its approved cost recovery plan. 2002, c. 29, s. 15 (1).

##### Auditor's review

(2) The regulated entity shall not give the Minister a progress report before giving the report to the municipal auditor for review and receiving the written opinion of the municipal auditor on the report. 2002, c. 29, s. 15 (2).

##### Same

(3) The opinion of the municipal auditor shall address any matters that, in the opinion of the auditor, should be brought to the attention of the regulated entity regarding its implementation of or actions with respect to its cost recovery plan, and other prescribed matters, shall contain the prescribed information, shall be in the prescribed form and shall be submitted to the regulated entity by the date specified by the regulated entity, which shall not be later than 30 days before the regulated entity is required to submit the progress report to the Minister. 2002, c. 29, s. 15 (3).

##### Same

(4) Each report must be accompanied by the municipal auditor's opinion on it. 2002, c. 29, s. 15 (4).

##### Contents

(5) Each report must contain the information required by regulation. 2002, c. 29, s. 15 (5).

##### Form

(6) Each report must be made in a form approved by the Minister. 2002, c. 29, s. 15 (6).

##### Other information

(7) Every regulated entity shall give the Minister such information as the Minister may request concerning the provision of water services and waste water services to the public and shall do so within the period specified by the Minister. 2002, c. 29, s. 15 (7).

##### Inspection and audit

16. Upon request, every regulated entity shall promptly make its records concerning the provision of water services and waste water services to the public available to the Minister for inspection and audit. 2002, c. 29, s. 16.

#### Revisions to Reports and Plans

##### Revised report to Minister

17. (1) A regulated entity shall prepare a revised report setting out its estimate of the full cost of providing water services or waste water services to the public,

(a) if the entity has reasonable grounds to believe that the estimate does not reflect the full cost of providing the services, as a result of a change in circumstances;

(b) if, as a result of a change in circumstances, any other information in the report needs to be updated or corrected;

(c) if the requirements set out in the regulations governing the preparation of the report change; or

(d) if the Minister directs the entity to revise its report or to make specified changes to the report. 2002, c. 29, s. 17 (1).

Same

(2) The regulated entity shall give the revised report to the Minister within the period specified in the regulations or, if the Minister has directed the entity to revise its report or make specified changes to the report under clause (1) (d) and has specified a different period in the direction, within the period specified in the direction. 2002, c. 29, s. 17 (2).

Same

(3) Sections 3 to 6, 20 and 21 apply, with necessary modifications, with respect to the revised report. 2002, c. 29, s. 17 (3).

##### Revised cost recovery plan

18. (1) A regulated entity shall prepare a revised plan describing how the entity intends to pay the full cost of providing water services or waste water services to the public,

(a) if the entity is required to revise its estimate of the full cost of providing the services;

(b) if, as a result of a change in circumstances, the plan needs to be changed;

(c) if the requirements set out in the regulations governing the preparation of the plan change; or

(d) if the Minister directs the entity to revise the plan or to make specified changes to the plan. 2002, c. 29, s. 18 (1).

Same

(2) The regulated entity shall give the revised plan to the Minister within the period specified in the regulations or, if the Minister has directed the entity to revise its plan or make specified changes to the plan under clause (1) (d) and has specified a different period in the direction, within the period specified in the direction. 2002, c. 29, s. 18 (2).

Same

(3) Sections 9 to 13, 20 and 21 apply, with necessary modifications, with respect to the revised plan. 2002, c. 29, s. 18 (3).

Approvals

19. (1) Sections 7 and 8 apply, with necessary modifications, with respect to a revised report. 2002, c. 29, s. 19 (1).

Same

(2) Sections 13 and 14 apply, with necessary modifications, with respect to a revised plan. 2002, c. 29, s. 19 (2).

Enforcement

Extension of deadlines

20. (1) The Minister may, by order, extend the deadline by which a regulated entity is required to submit a report or plan under this Act and may make the order before or after the deadline has passed. 2002, c. 29, s. 20 (1).

Same

(2) An extension to a deadline to submit a report under section 3 or 4 shall not exceed six months. 2002, c. 29, s. 20 (2).

Minister's orders

21. (1) This section applies if, in the opinion of the Minister, any of the following circumstances exist:

1. A regulated entity is not implementing its approved cost recovery plan.
2. A regulated entity is not taking all necessary steps to pay the full cost of providing water services or waste water services, as the case may be, to the public. 2002, c. 29, s. 21 (1).

Same

(2) The Minister may order a regulated entity to do or refrain from doing such things as the Minister considers advisable to ensure that the entity pays the full cost of providing water services or waste water services, as the case may be, to the public. 2002, c. 29, s. 21 (2).

Same

(3) Without limiting the generality of subsection (2), an order may require the regulated entity to generate revenue in a specified manner or from a specified source to pay all or part of the cost of providing the services and to make specified or necessary amendments to existing contracts, resolutions or by-laws. 2002, c. 29, s. 21 (3).

#### General

#### Financial management

22. Every regulated entity shall establish and maintain a dedicated reserve account that segregate from its general revenues the revenue allocated in its approved cost recovery plan to pay the full cost (including source protection costs and operating and capital costs) of providing water services or waste water services, and shall do so in accordance with the regulations. 2002, c. 29, s. 22.

#### Delegation

23. The Minister may, in writing, delegate any of his or her powers or duties under this Act (including the power to give directions and make orders) to any person or entity, subject to such conditions or restrictions as the Minister considers appropriate. 2002, c. 29, s. 23.

#### Regulations

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

(a) prescribing those things that are required or permitted by this Act to be prescribed or done by regulation;

(b) exempting a regulated entity from any requirement of this Act or a regulation, subject to such conditions or restrictions as may be prescribed;

(c) prescribing accounting standards and rules to be used in connection with the preparation of any report or plan required under this Act. 2002, c. 29, s. 24 (1).

#### Scope of regulations

(2) A regulation may be general or particular in its application. 2002, c. 29, s. 24 (2).

#### Classes

(3) A regulation may create different classes and may impose different requirements, conditions or restrictions on or relating to each class. 2002, c. 29, s. 24 (3).

#### Same

(4) A class may be defined with respect to any attribute, quality or characteristic or any combination of them, and may be defined to consist of or to include or exclude any specified member, whether or not with the same attributes, qualities or characteristics. 2002, c. 29, s. 24 (4).

### Adoption of codes in regulations

(5) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any document, including a code, formula, standard, protocol or procedure, and may require compliance with any document so adopted. 2002, c. 29, s. 24 (5).

### Amendments to codes

(6) The power to adopt by reference and require compliance with a document in subsection (5) includes the power to adopt such a document as it may be amended from time to time. 2002, c. 29, s. 24 (6).

### When effective

(7) The adoption of an amendment to a document that has been adopted by reference comes into effect upon the ministry of the Minister publishing notice of the amendment in The Ontario Gazette or in the Registry established under the Environmental Bill of Rights, 1993. 2002, c. 29, s. 24 (7).

### Retroactivity

(8) A regulation is, if it so provides, effective with reference to a period before it is filed. 2002, c. 29, s. 24 (8).

25. Omitted (provides for coming into force of provisions of this Act). 2002, c. 29, s. 25.

26. Omitted (enacts short title of this Act). 2002, c. 29, s. 26.