



Français

## Waste Diversion Transition Act, 2016

### ONTARIO REGULATION 390/16

#### USED TIRES

**Consolidation Period:** From October 19, 2021 to the e-Laws currency date.

Last amendment: 214/17.

Legislative History: [ + ]

*This is the English version of a bilingual regulation.*

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#### GENERAL

##### Interpretation

1. In this Regulation,

“approval day” means the day on which the Authority approves the wind up plan for the waste diversion program for used tires under subsection 14 (15) of the Act; (“jour de l’approbation”)

“OTS Tire Classification” means the document entitled “OTS Tire Classification” dated April 2013 and published on Ontario Tire Stewardship’s website; (“classement officiel des pneus”)

“steward” means a person designated as a steward in respect of used tires under a rule continued under clause 9 (2) (b) of the Act or made under clause 33 (1) (a) of the Act or under a regulation made under subsection 73 (3) of the Act; (“responsable de la gérance”)

“tire class” means a class of tire set out in the OTS Tire Classification; (“catégorie de pneu”)

“used tires” means waste that consists of any of the following materials, or any combination of them:

- (a) tires that have not been refurbished for road use,
- (b) tires that, for any reason, are not suitable for their intended purpose, or
- (c) part of a tire described in clause (a) or (b). ("pneus usagés") O. Reg. 390/16, s. 1; O. Reg. 214/17, s. 1.

**Designation**

2. Used tires are prescribed as a designated waste for the purposes of the Act.

**CORPORATE MATTERS****Board**

3. (1) The board of directors of Ontario Tire Stewardship shall be composed of nine members appointed as follows:

- 1. Three members appointed by the Tire and Rubber Association of Canada.
- 2. Two members appointed by the Retail Council of Canada.
- 3. Two members appointed by the Ontario Tire Dealers Association.
- 4. One member appointed by the Canadian Vehicle Manufacturers' Association.
- 5. One member appointed by the Global Automakers of Canada.

(2) A member of the board appointed under subsection (1) shall hold office for a term of one year beginning on the date the appointment is made.

(3) Members of the board are eligible for reappointment, subject to section 4.

(4) A maximum of two members of the board of directors may be persons who are not Canadian citizens or permanent residents within the meaning of the *Immigration and Refugee Protection Act* (Canada) and who are not ordinarily resident in Canada.

(5) If a vacancy on the board that exists on the day this section comes into force is not filled within 30 days after this section comes into force, the chair of Ontario Tire Stewardship may, after providing 30 days notice to the relevant appointing corporation, appoint an individual to fill the vacancy until the earlier of,

- (a) the day a member is appointed by the relevant appointing corporation; and
- (b) the day that is one year after the date the chair makes the appointment.

(6) Subsection (5) applies in respect of any vacancy on the board that exists on the day this section comes into force regardless of how the vacancy was created, including any vacancy on the board that may be filled by a relevant appointing corporation mentioned in subsection (1) or that could have been filled by such a corporation under Ontario Regulation 84/03 (Used Tires) made under the *Waste Diversion Act, 2002* or the predecessor of such a corporation.

(7) The chair's power to appoint an individual under subsection (5) does not include the power to make reappointments or to make further appointments in the case of further vacancies on the board.

(8), (9) REVOKED: O. Reg. 214/17, s. 2.

(10) Ontario Tire Stewardship shall maintain on its website a list of members of its board along with an indication of who appointed each member and when each member's term expires.

**Qualifications**

4. (1) An individual may be appointed as a member of the board of directors only if the individual,

- (a) is a director, officer or employee of a corporation that supplies new tires in Ontario or of a corporation referred to in section 3; and
- (b) is at least 18 years of age.

(2) Despite subsection (1), an individual shall not be appointed as a member of the board if the individual,

- (a) has the status of bankrupt; or
- (b) has been found, under the *Substitute Decisions Act, 1992* or the *Mental Health Act*, to be incapable of managing property.

**Application of *Not-for-Profit Corporations Act, 2010***

**5.** Sections 46 and 85 of the *Not-for-Profit Corporations Act, 2010* apply, with necessary modifications, to Ontario Tire Stewardship. O. Reg. 390/16, s. 10.

## FEES TO BE PAID BY STEWARDS

**Fees**

**6.** (1) In this section,

“base fee period” means the period that begins on May 1, 2017 and ends on the day specified as the base fee period end day in a rule made on or after approval day by Ontario Tire Stewardship under subsection 33 (1) of the Act. O. Reg. 390/16, s. 6 (1); O. Reg. 214/17, s. 3 (1-3).

(2) REVOKED: O. Reg. 214/17, s. 3 (4).

(3) The amount of a fee that must be paid in respect of each month during the base fee period by a steward shall be determined by applying the method set out in this section. O. Reg. 390/16, s. 6 (3); O. Reg. 214/17, s. 3 (5).

(4)-(6) REVOKED: O. Reg. 214/17, s. 3 (6).

(7) A steward shall determine the amount of the fee the steward is required to pay in respect of a month by,

- (a) assigning each tire supplied by the steward during the month to a tire class in respect of the base fee period if the tire meets the criteria of the tire class;
- (b) multiplying the number of tires assigned to each class under clause (a) by the cost attributable to a tire in that class, as determined by Ontario Tire Stewardship for the purposes of the base fee period and as set out in the letter dated March 1, 2017 and available on Ontario Tire Stewardship’s website under the link entitled “TSF Notification to Stewards - March 2017”; and
- (c) determining the sum of all amounts determined under clause (b). O. Reg. 390/16, s. 6 (7); O. Reg. 214/17, s. 3 (7).

(8) Unless a rule continued under clause 9 (2) (b) of the Act or made under clause 33 (1) (c) of the Act specifies the times when a fee determined under this section is payable, the fee shall be paid no later than 60 days following the end of the month in respect of which the fee must be paid.

**7.** REVOKED: O. Reg. 390/16, s. 11 (1).

**Reconciliation of fees for calendar year**

**8.** (1) In this section,

“tire class” means, in respect of a calendar year, a class of tire set out in the OTS Tire Classification in respect of that year.

(2) The amount of a fee that must be paid in respect of each calendar year before 2017 by a steward shall be determined by applying the method set out in this section. O. Reg. 390/16, s. 8 (2); O. Reg. 214/17, s. 4.

(3) Ontario Tire Stewardship shall,

- (a) determine the cost attributable to each tire class in respect of the calendar year by,
  - (i) determining the sum of the amounts described in paragraph 1 of subsection 33 (5) of the Act that were incurred in relation to used tires during the calendar year, and
  - (ii) attributing a portion of that sum to each tire class;
- (b) determine the cost attributable to a tire in each tire class in respect of the calendar year by,

- (i) assigning each tire supplied by stewards during the calendar year to a tire class if the tire meets the criteria of the tire class, and
  - (ii) dividing the cost attributable to a tire class, as determined under clause (a), by the number of tires assigned to that tire class under subclause (i); and
- (c) determine the amount of the fee required to be paid by a steward in respect of a calendar year by,
- (i) assigning each tire supplied by the steward during the calendar year to a tire class in respect of the calendar year if the tire meets the criteria of the tire class,
  - (ii) multiplying the cost attributable to a tire in each tire class, as determined under clause (b), by the number of tires assigned to the tire class under subclause (i),
  - (iii) determining the sum of all amounts determined under subclause (ii),
  - (iv) determining the amount of fees required to be paid under section 6 in respect of the calendar year and any other fees that were required to be paid by the steward under the Act in respect of used tires and in respect of the calendar year, and
  - (v) subtracting the amount determined under subclause (iv) from the sum determined under subclause (iii), in order to arrive at the amount of the fee required to be paid under this section by the steward in respect of the calendar year.
- (4) If the amount arrived at under subclause (3) (c) (v) is less than zero, that amount is owed to the steward by Ontario Tire Stewardship and no fee is required to be paid by the steward under this section.
- (5) Ontario Tire Stewardship shall, no later than May 1 in the year following the calendar year in respect of which the fee is required to be paid, provide written notice of the following to the steward:
1. The cost attributable to each tire class under clause (3) (a).
  2. The number of tires supplied by the steward that were assigned to each tire class under subclause (3) (c) (i).
  3. The amount required to be paid by the steward in respect of each tire class, as determined under subclause (3) (c) (ii).
  4. The sum determined under subclause (3) (c) (iii).
  5. The portion of the amount of fees determined under subclause (3) (c) (iv) that was required to be paid by the steward in respect of each tire class.
  6. The amount of the fee required to be paid under this section by the steward in respect of the calendar year, as arrived at under subclause (3) (c) (v).
  7. If the amount set out under paragraph 6 is greater than zero, the date on or before which that amount is required to be paid by the steward.
  8. If the amount set out under paragraph 6 is less than zero, the date on or before which that amount is required to be credited or paid to the steward and a statement that no fee is required to be paid by the steward under this section.
- (6) A fee required to be paid by a steward in respect of a calendar year, as determined under clause (3) (c), shall be paid no later than June 30 in the year following the calendar year in respect of which the fee is required to be paid.
- (7) If an amount is owed to a steward under subsection (4), Ontario Tire Stewardship shall,
- (a) subject to clause (b),
    - (i) apply the amount as a credit against fees payable by the steward under the Act in respect of used tires no later than June 15 in the year that is two years following the calendar year in respect of which the amount was determined, and
    - (ii) pay any amount not applied as a credit under subclause (i) to the steward no later than June 30 in the year that is two years following the calendar year in respect of which the amount was determined; and
  - (b) if the steward ceases to be designated as a steward at any time before June 30 in the year that is two years following the calendar year in respect of which the amount was determined, pay the amount to the former steward before the earlier of,
    - (i) the day that is 90 days after the day the steward ceased to be designated, and

- (ii) June 30 in the year that is two years following the calendar year in respect of which the amount was determined.

#### **Reconciliation of fees, first half of 2017**

#### **9. (1) In this section,**

“applicable period” means the period beginning on January 1, 2017 and ending on June 30, 2017. O. Reg. 214/17, s. 5.

(2) Despite section 8, this section applies with respect to the fees that were required to be paid in respect of each month during the applicable period. O. Reg. 214/17, s. 5.

(3) The amount of a fee that must be paid in respect of the applicable period by a steward shall be determined by applying the method set out in this section. O. Reg. 214/17, s. 5.

(4) Ontario Tire Stewardship shall, no later than May 1, 2018,

(a) determine the cost attributable to each tire class in respect of the applicable period by,

- (i) determining the sum of the amounts described in paragraph 1 of subsection 33 (5) of the Act that were incurred in relation to used tires during the applicable period, and
- (ii) attributing a portion of that sum to each tire class;

(b) determine the cost attributable to a tire in each tire class in respect of the applicable period by,

- (i) assigning each tire supplied by stewards during the applicable period to a tire class if the tire meets the criteria of the tire class, and
- (ii) dividing the cost attributable to a tire class, as determined under clause (a), by the number of tires assigned to that tire class under subclause (i); and

(c) determine the amount of the fee required to be paid by a steward in respect of the applicable period by,

- (i) assigning each tire supplied by the steward during the applicable period to a tire class if the tire meets the criteria of the tire class,
- (ii) multiplying the cost attributable to a tire in each tire class, as determined under clause (b), by the number of tires assigned to the tire class under subclause (i),
- (iii) determining the sum of all amounts determined under subclause (ii),
- (iv) determining the amount of fees required to be paid under section 6 in respect of the applicable period and any other fees that were required to be paid by the steward under the Act in respect of used tires and in respect of the applicable period, and
- (v) subtracting the amount determined under subclause (iv) from the sum determined under subclause (iii), in order to arrive at the amount of the fee required to be paid under this section by the steward in respect of the applicable period. O. Reg. 214/17, s. 5.

(5) If the amount arrived at under subclause (4) (c) (v) is less than zero, that amount is owed to the steward by Ontario Tire Stewardship and no fee is required to be paid by the steward under this section. O. Reg. 214/17, s. 5.

(6) Ontario Tire Stewardship shall provide written notice of the following to the steward:

1. The cost attributable to each tire class under clause (4) (a).
2. The number of tires supplied by the steward that were assigned to each tire class under subclause (4) (c) (i).
3. The amount required to be paid by the steward in respect of each tire class, as determined under subclause (4) (c) (ii).
4. The sum determined under subclause (4) (c) (iii).
5. The portion of the amount of fees determined under subclause (4) (c) (iv) that was required to be paid by the steward in respect of each tire class.
6. The amount of the fee required to be paid under this section by the steward in respect of the applicable period, as arrived at under subclause (4) (c) (v).

7. If the amount set out under paragraph 6 is greater than zero, the date on or before which that amount is required to be paid by the steward.
8. If the amount set out under paragraph 6 is less than zero, the date on or before which that amount is required to be credited or paid to the steward and a statement that no fee is required to be paid by the steward under this section. O. Reg. 214/17, s. 5.
- (7) The notice required under subsection (6) shall be provided no later than,
- (a) May 15, 2018; or
- (b) a later deadline that is set out in a rule made by Ontario Tire Stewardship under subsection 33 (1) of the Act with respect to the notice, but only if the rule is made on or after the approval day and before May 15, 2018. O. Reg. 214/17, s. 5.
- (8) A fee required to be paid by a steward in respect of the applicable period, as determined under clause (4) (c), shall be paid no later than,
- (a) December 31, 2018; or
- (b) a later deadline that is set out in a rule made by Ontario Tire Stewardship under subsection 33 (1) of the Act with respect to the payment of such a fee, but only if the rule is made on after the approval day and before December 31, 2018. O. Reg. 214/17, s. 5.
- (9) Subject to subsection (10), if an amount is owed to a steward under subsection (5), Ontario Tire Stewardship shall,
- (a) subject to clause (b), either,
- (i) apply the amount as a credit against fees payable by the steward under the Act in respect of used tires no later than December 31, 2018, or
- (ii) pay any amount not applied as a credit under subclause (i) to the steward no later than December 31, 2018; and
- (b) if the steward ceases to be designated as a steward at any time before December 31, 2018, pay the amount to the former steward before the earlier of,
- (i) the day that is 90 days after the day the steward ceased to be designated, and
- (ii) December 31, 2018. O. Reg. 214/17, s. 5.
- (10) If a rule made under clause 33 (1) (c) of the Act on or after the approval day specifies the times when an amount that is owed to a steward under subsection (5) must be paid, the times in the rule apply instead of the times set out in subsection (9). O. Reg. 214/17, s. 5.

**10., 11. OMITTED (PROVIDES FOR AMENDMENTS TO THIS REGULATION).**

**12. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).**

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