

Waste Management Act, 1992

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PART I INTERIM WASTE AUTHORITY LTD.

Definition

1. In this Part and Part II,

“Corporation” means the Interim Waste Authority Ltd. in English and Office provisoire de sélection de lieux d'élimination des déchets Ltée in French, a corporation incorporated under the Business Corporations Act. 1992, c. 1, s. 1.

Crown agency

2. The Corporation is continued under the Business Corporations Act and is a Crown agency within the meaning of the Crown Agency Act. 1992, c. 1, s. 2.

Expropriation

3. (1) For the purpose of establishing, operating, managing, altering or improving landfill waste disposal sites referred to in subsection 13 (1), the Corporation may expropriate land in the City of Toronto, The Regional Municipality of Durham, The Regional Municipality of Peel and The Regional Municipality of York. 1992, c. 1, s. 3 (1); 1997, c. 26, Sched.

Approving authority

(2) Subject to the Consolidated Hearings Act, the Minister designated by the Lieutenant Governor in Council to be responsible for the administration of this Part is the approving authority under section 5 of the Expropriations Act, 1992, c. 1, s. 3 (2).

Condition

(3) The Minister shall not give approval under the Expropriations Act for a proposed expropriation of land by the Corporation until a certificate of approval or a provisional certificate of approval allowing the use of the land for a landfill waste disposal site has been issued under Part V of the Environmental Protection Act, 1992, c. 1, s. 3 (3).

Special case

(4) If the Corporation is expropriating a limited interest in land for the purpose of carrying out an inspection, subsection (3) does not apply to that expropriation. 1992, c. 1, s. 3 (4).

Taking more land than required

(5) Where, in the exercise of its powers of expropriating land, it appears to the Corporation that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the Corporation may expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required. 1992, c. 1, s. 3 (5).

Closing of roads

4. (1) For the purposes set out in subsection 3 (1), the Ontario Municipal Board may, upon application, close any road. 1992, c. 1, s. 4 (1).

Application

(2) The Ontario Municipal Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards of municipalities, as the Ontario Municipal Board determines, and may further direct that particulars of objections to the closing shall be filed with it within such time as it directs. 1992, c. 1, s. 4 (2).

Powers of O.M.B.

(3) Upon the hearing of the application, the Ontario Municipal Board may make an order closing the road upon such terms and conditions as it considers proper. 1992, c. 1, s. 4 (3).

Effect of physical closing

(4) Any road closed under this section in accordance with an order of the Ontario Municipal Board by the placing or erecting of a fence, barricade or other work shall be deemed to have been, by that action, legally closed. 1992, c. 1, s. 4 (4).

Definition of "road"

(5) In this section,

“road” means a road within the meaning of the Public Transportation and Highway Improvement Act and includes an unopened road allowance. 1992, c. 1, s. 4 (5).

Hardship

5. Despite subsection 5 (1) of the Environmental Assessment Act, the Corporation may acquire land from a person who, as a result of the Corporation not having received approval under that Act for a proposed undertaking,

(a) has been refused a building permit; or

(b) is unable to sell the land at fair market value and needs to sell it quickly for health or financial reasons or to settle an estate. 1992, c. 1, s. 5.

Non-application

6. Subsection 9(2) of the Ministry of Government Services Act does not apply to any land acquired for the purposes of the Corporation. 1992, c. 1, s. 6.

Inspectors

7. (1) The Corporation may designate one or more persons as inspectors for the purposes of this Part and Part II. 1992, c. 1, s. 7 (1).

Identification

(2) The Corporation shall issue a certificate of designation to every inspector. 1992, c. 1, s. 7 (2).

Training

(3) The Corporation shall ensure that each inspector is properly trained to perform his or her duties and, if the inspector is not an employee of the Corporation, is supervised by an employee of the Corporation. 1992, c. 1, s. 7 (3).

Power of entry

8. (1) For the purpose of obtaining information that an inspector considers necessary to meet the requirements of or obtain an approval under an Act relating to the planning, establishment, operation, management, alteration or improvement of a landfill waste disposal site, an inspector may enter on and inspect any land. 1992, c. 1, s. 8 (1).

Limitation

(2) Subsection (1) does not allow an inspector to enter any building. 1992, c. 1, s. 8 (2).

Inspections

(3) In carrying out an inspection, an inspector may,

(a) be accompanied by any person to assist in carrying out the inspection;

(b) conduct surveys, examinations, investigations and tests of the land, including the excavation of test pits, and for those purposes, place equipment on the land for such period as the inspector considers necessary;

- (c) take and remove samples or extracts;
- (d) make inquiries of any person; and
- (e) record or copy information by any method. 1992, c. 1, s. 8 (3).

Identification

(4) An inspector who is carrying out an inspection shall produce his or her certificate of designation upon request. 1992, c. 1, s. 8 (4).

Restoration

(5) After an inspection is completed, the Corporation shall, in so far as is practicable, restore the land to the condition it was in before the inspection. 1992, c. 1, s. 8 (5).

Compensation

(6) The Corporation shall provide compensation for any damages caused by the inspection. 1992, c. 1, s. 8 (6).

Inspection without warrant

9. (1) The following apply to an inspection carried out without a warrant:

1. At least seven days before entering to carry out an inspection, the Corporation shall, by personal service or by prepaid mail, serve a written notice of the inspection upon the owners and occupants of the land as shown by the records of the land registry office and by the last returned assessment roll of the municipality in which the land is located.

2. The notice shall specify the date upon which the inspector intends to enter on the land to commence the inspection.

3. If the inspector intends to enter on the land more than once during a period of time, the notice shall specify that period.

4. If the inspector intends to leave equipment on the land for a period of time, the notice shall set out a description of the equipment and the period of time during which the inspector intends to leave it on the land.

5. A notice served under this section by prepaid mail shall be deemed to have been received on the fifth day after the date of mailing of the notice.

6. An inspector shall not use force against any individual in carrying out the inspection.

7. An inspector shall only enter on land to carry out an inspection between the hours of 6 a.m. and 9 p.m. unless, after or concurrent with serving the notice under paragraph 1, the Corporation has given at least twenty-four hours written notice of the intent to inspect the land at other hours to the occupants by personal service, prepaid mail or by posting the notice on the land in a conspicuous place. 1992, c. 1, s. 9 (1).

Waiver of requirements

(2) The owners and occupants may waive any requirements relating to the notice described in paragraph 1 of subsection (1). 1992, c. 1, s. 9 (2).

Idem

(3) The occupants may waive any requirements relating to entries described in paragraph 7 of subsection (1). 1992, c. 1, s. 9 (3).

Inspection warrant

Definition

10. (0.1) In this section,

“representative” means, in respect of a proceeding under this section, a person authorized under the Law Society Act to represent an owner or occupant in that proceeding. 2006, c. 21, Sched. C, s. 137 (1).

Inspection warrant

(1) The Corporation may apply to a judge or a justice of the peace for a warrant authorizing an inspector to inspect land. 1992, c. 1, s. 10 (1).

Notice of application for warrant

(2) The Corporation shall give the owners and occupiers of the land seven days written notice of,

(a) the time when and the place where the application for the issuance or extension of a warrant is to be considered;

(b) the purpose of the application and the effect of the application being granted;

(c) the length of time the Corporation is asking for a warrant to be issued or extended;

(d) the right of an owner or occupant or an owner’s or occupant’s representative to appear and make representations; and

(e) the fact that if the owner, occupant or owner’s or occupant’s representative fails to appear, the judge or justice of the peace may issue or extend the warrant in their absence. 1992, c. 1, s. 10 (2); 2006, c. 21, Sched. C, s. 137 (2, 3).

Right to be heard

(3) A person who is served with a notice under subsection (2) or that person’s representative has the right to appear and make representations when the application is being considered. 1992, c. 1, s. 10 (3); 2006, c. 21, Sched. C, s. 137 (4).

Issue of warrant

(4) The judge or justice of the peace shall issue a warrant authorizing an inspector to inspect land if the judge or justice of the peace is satisfied by evidence under oath that,

(a) inspection of the land is reasonably necessary for the purposes set out in subsection 8 (1);

(b) a notice has been served upon the owners and occupants of the land in accordance with paragraphs 1, 2, 3, 4 and 5 of subsection 9 (1); and

(c) the inspector has been prevented or is likely to be prevented from entering on the land or exercising any of his or her other powers or the entrance to the land is locked or the land is otherwise inaccessible. 1992, c. 1, s. 10 (4).

Execution

(5) A warrant shall specify the hours and days during which it may be executed and name a date on which it expires and may specify a period of time during which equipment may be left on the land. 1992, c. 1, s. 10 (5).

Inspection with warrant

11. The following apply to an inspection carried out with a warrant:

1. The warrant shall be executed between the hours of 6 a.m. and 9 p.m. unless it provides otherwise.
2. The inspector may use such force as is reasonably necessary to execute the warrant and call on police officers to assist in the execution of the warrant. 1992, c. 1, s. 11.

Obstruction

12. (1) No person shall obstruct an inspector who is carrying out an inspection under this Part. 1992, c. 1, s. 12 (1).

Exception

(2) Where an inspector is carrying out an inspection under this Part without a warrant, a refusal by the owner or occupant of land to allow the inspector to enter or remain on the land is not obstruction within the meaning of subsection (1). 1992, c. 1, s. 12 (2).

Idem

(3) A refusal to answer the inquiries of an inspector carrying out an inspection under this Part is not obstruction within the meaning of subsection (1). 1992, c. 1, s. 12 (3).

Offence

(4) Any person who contravenes subsection (1) is guilty of an offence. 1992, c. 1, s. 12 (4).

PART II WASTE DISPOSAL SITES

Application

13. (1) This Part applies to the following undertakings of the Corporation and the environmental assessments submitted under the Environmental Assessment Act in respect of them:

1. One landfill waste disposal site to be located in The Regional Municipality of Peel having as its primary function the disposal of waste generated in the regional municipality over a period of at least twenty years.
2. One landfill waste disposal site to be located in The Regional Municipality of Durham having as its primary function the disposal of waste generated in the regional municipality over a period of at least twenty years.

3. One landfill waste disposal site to be located in The Regional Municipality of York or the City of Toronto, or partially in both, having as its primary function the disposal of waste generated in the regional municipality and the city over a period of a least twenty years. 1992, c. 1, s. 13 (1); 1997, c. 26, Sched.

Pre-Act work

(2) This Act applies in respect of a site or environmental assessment referred to in subsection (1) even if work relating to the site or environmental assessment was done before the coming into force of this Act. 1992, c. 1, s. 13 (2).

Interpretation

(3) In this Part, a reference to a “primary service area” when used with respect to a landfill waste disposal site means the regional municipality or the regional municipality and city referred to in relation to that site under subsection (1). 1992, c. 1, s. 13 (3); 1997, c. 26, Sched.

Waste diversion estimate

14. (1) For each waste disposal site referred to in section 13, the Minister of the Environment shall provide the Corporation with a written estimate as to,

(a) the amount of waste that would otherwise be expected to be generated in the primary service area during a twenty-year period that will not be generated because of waste reduction efforts; and

(b) the amount of waste that will be generated in the primary service area during a twenty-year period that will not need to be disposed of in the site because of the reuse or recycling of materials that are or could become waste. 1992, c. 1, s. 14 (1).

Use of estimate

(2) In determining the required capacity of a landfill waste disposal site, the Corporation shall use the estimates provided by the Minister under subsection (1). 1992, c. 1, s. 14 (2).

Environmental assessment

15. (1) An environmental assessment for a landfill waste disposal site referred to in section 13 is not required to contain,

(a) any description of, or statement of the rationale for, any alternative to the landfill waste disposal site other than,

(i) reduction in the amount of waste generated in the primary service area,

(ii) reuse or recycling of materials that are or could become waste, and

(iii) use of other single landfill waste disposal sites in the primary service area; or

(b) any description or evaluation of any matter relating to any alternative to the landfill waste disposal site other than,

(i) reduction in the amount of waste generated in the primary service area,

(ii) reuse or recycling of materials that are or could become waste, and

(iii) use of other single landfill waste disposal sites in the primary service area. 1992, c. 1, s. 15 (1).

Idem

(2) The environmental assessment is not required to contain any description of or statement of the rationale for, or any description or evaluation of any matter relating to,

(a) an alternative of waste reduction or reuse or recycling if that alternative would involve incineration of waste or the transportation of waste from the primary service area to any other area for disposal; or

(b) an alternative of some other single landfill waste disposal site if the capacity of the other site would appear to be inadequate in view of the estimate provided under section 14. 1992, c. 1, s. 15 (2).

Deemed compliance

(3) An environmental assessment which complies with this section shall be deemed to comply with subsection 5 (3) of the Environmental Assessment Act in respect of the matters referred to in this section. 1992, c. 1, s. 15 (3).

Policies

16. (1) The Minister of the Environment may establish policies for the purposes of this Part. 1992, c. 1, s. 16 (1).

Environmental assessment

(2) In preparing an environmental assessment for a landfill waste disposal site, the Corporation shall have regard to any policies established under subsection (1). 1992, c. 1, s. 16 (2).

Approval

(3) The person or body determining whether or not to approve an undertaking under the Environmental Assessment Act in respect of a landfill waste disposal site under this Part shall,

(a) have regard to the estimates provided under section 14;

(b) make its decision consistent with section 15; and

(c) take into consideration any policies established under subsection (1). 1992, c. 1, s. 16 (3).

Participant funding

17. (1) In this section,

“participant funding” means funding to assist persons in participating in any part of the environmental assessment process to which the Intervenor Funding Project Act does not apply. 1992, c. 1, s. 17 (1).

Intervenor funding

(2) In determining whether to award intervenor funding to a person or group of persons who received participant funding, an intervenor funding panel may consider the amount of participant funding received and the use that the person or group made of that funding. 1992, c. 1, s. 17 (2).

Apparent bias

(3) If a policy established under subsection 16 (1) so declares, no decision of an intervenor funding panel appointed with respect to an environmental assessment shall be set aside solely on the grounds that the person named to the panel made or participated in a participant funding decision relating to the same assessment. 1992, c. 1, s. 17 (3).

PART III IMPLEMENTATION OF MINISTER'S REPORT

Waste management systems–Durham

18. (1) The Regional Municipality of Durham shall establish, maintain and operate a waste management system consisting of one or more transfer stations to ensure that it has the capacity to transport waste to waste disposal sites in accordance with the report made under section 29 of the Environmental Protection Act by the Minister of the Environment to the clerk of the regional municipality. 1992, c. 1, s. 18 (1).

Peel

(2) The Regional Municipality of Peel shall maintain, operate, improve, extend, enlarge and alter the waste management system consisting of the Britannia Road waste disposal site in accordance with the report made under section 29 of the Environmental Protection Act by the Minister of the Environment to the clerk of the regional municipality. 1992, c. 1, s. 18 (2).

Toronto

(3) The City of Toronto shall maintain, operate, improve, extend, enlarge and alter the waste management system consisting of the Keele Valley waste disposal site in accordance with the report made under section 29 of the Environmental Protection Act by the Minister of the Environment to the clerk of the city. 1992, c. 1, s. 18 (3); 1997, c. 26, Sched.

Compliance

(4) A regional municipality or city shall comply with this section even if to do so would require that the municipality,

(a) use, maintain, operate, establish, alter, improve, enlarge or extend a waste management system or waste disposal site located in another municipality; or

(b) dispose of waste generated in another municipality in a waste management system or waste disposal site that it owns, operates or controls. 1992, c. 1, s. 18 (4); 1997, c. 26, Sched.

Deemed consent

(5) If, in order to comply with this section, a regional municipality or the City of Toronto is required to do anything for which a consent or other approval under the Municipal Act, 2001 or the City of Toronto Act, 2006 is necessary, that consent or approval shall be deemed to have been given. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 69 (1).

Idem

(6) If, in order to comply with this section, a regional municipality or city intends to use land owned by another regional or other municipality, and a certificate of approval or provisional certificate of approval for such use has been given under Part V of the Environmental Protection Act, the regional or other municipality shall be deemed to have consented to that use. 1992, c. 1, s. 18 (6); 1997, c. 26, Sched.

Non-application

(7) The Environmental Assessment Act does not apply to any undertaking established or carried on in order to comply with this section. 1992, c. 1, s. 18 (7).

Conflicts

(8) A regional municipality or city shall comply with this section even if to do so would require the contravention of,

(a) an agreement that is binding on the municipality;

(b) an Act referred to in subsection (5) or a regulation or by-law made under it;

(c) the Planning Act or a regulation or by-law made under it; or

(d) an Act, regulation or provision of an Act or regulation designated in the regulations made under this Act or a by-law made under a designated Act. 1992, c. 1, s. 18 (8); 1997, c. 26, Sched.

Saving

(9) Anything done or omitted to be done by a regional municipality or city in order to comply with this section that would otherwise be a contravention of anything referred to in subsection (8) shall be deemed not to be a contravention. 1992, c. 1, s. 18 (9); 1997, c. 26, Sched.

Approval not required

(10) Section 65 of the Ontario Municipal Board Act does not apply in respect of any waste management system or waste disposal site used, maintained, operated, established, altered, improved, enlarged or extended by a municipality in order to comply with this section. 1992, c. 1, s. 18 (10).

Non-application

(11) Subsection 29 (5) of the Environmental Protection Act does not apply to a report referred to in subsection (1), (2) or (3) or to any amendments to those reports. 1992, c. 1, s. 18 (11).

Inspectors

(12) A municipality referred to in subsection (1), (2) or (3) may designate inspectors for purposes of this Part, and sections 7 to 12 of this Act apply, with necessary modifications. 1992, c. 1, s. 18 (12).

Application

(13) This section applies only to reports made in 1991. 1992, c. 1, s. 18 (13).

Amended report

(14) If the Minister amends a report, this section applies with necessary modifications in relation to the amended report. 1992, c. 1, s. 18 (14).

Certificates of approval

19. (1) Despite section 30 of the Environmental Protection Act, the Director appointed for purposes of that section may issue or amend a certificate of approval or provisional certificate of approval for a

waste management system or waste disposal site without requiring the Environmental Assessment Board to hold a hearing if the certificate is being issued or amended to enable a municipality to comply with section 18. 1992, c. 1, s. 19 (1).

Override

(2) A certificate of approval or provisional certificate of approval for a waste management system or waste disposal site issued or amended to enable a municipality to comply with section 18 may contain terms,

(a) overriding any provision applicable to the system or site that is contained in an agreement made under,

(i) the Municipal Act, the Regional Municipality of Durham Act, the Regional Municipality of Peel Act, the Regional Municipality of York Act or the Regional Municipalities Act, as those Acts read immediately before their repeal under the Municipal Act, 2001,

(ii) the City of Toronto Act, 1997 (No. 1) or the City of Toronto Act, 1997 (No. 2), as those Acts read immediately before their repeal under the Stronger City of Toronto for a Stronger Ontario Act, 2006, or

(iii) the Planning Act, the Municipal Act, 2001, the City of Toronto Act, 2006 or any Act designated under clause 18 (8) (d);

(b) overriding any condition applicable to the system or site that is imposed by a regional or area municipality or city under an Act referred to in clause (a); and

(c) imposing any condition that a regional or area municipality or city might have imposed under an Act referred to in clause (a). 1992, c. 1, s. 19 (2); 1997, c. 26, Sched.; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 69 (2).

Notice

(3) Before issuing or amending a certificate of approval or provisional certificate of approval to enable a municipality to comply with section 18, the Director shall give notice to the regional municipalities of Peel, Durham and York, any area municipality in which the system or site is located, the City of Toronto and the public. 1992, c. 1, s. 19 (3); 1997, c. 26, Sched.

Idem

(4) Notice to the public shall be given by advertising at least once in a newspaper of general circulation in the area encompassed by the regional municipalities and city. 1992, c. 1, s. 19 (4); 1997, c. 26, Sched.

Content

(5) The notice shall state the location of the system or site or proposed system or site and shall advise that an application for a certificate of approval has been made in respect of the system or site, that every person has a right to make submissions in relation to the system or site and that to exercise that right a person must make the submission in the manner and within the time set out in subsection (6). 1992, c. 1, s. 19 (5).

Submissions

(6) A submission to the Director must be in writing and must be delivered to him or her not later than twenty-one days after notice is given under subsection (3) or such later date as the Director specifies. 1992, c. 1, s. 19 (6).

Director

(7) The Director shall consider any submissions made under subsection (6) but is not required to hold a hearing or to give any further notice in respect of any decision he or she makes. 1992, c. 1, s. 19 (7).

Reasons

(8) The Director shall, after considering the submissions, ensure that written reasons for any decision he or she makes are made available to members of the public at no cost. 1992, c. 1, s. 19 (8).

Idem

(9) The written reasons must contain a summary of the submissions. 1992, c. 1, s. 19 (9).

Hearing for Keele Valley

20. (1) Despite subsection 19 (1), the Director appointed for the purposes of section 30 of the Environmental Protection Act shall require a hearing under that section by the Environmental Assessment Board with respect to the Keele Valley waste disposal site if the condition in subsection (2) is satisfied. 1992, c. 1, s. 20 (1).

Condition for hearing

(2) A hearing may be required only if, in the opinion of the Director, a decision can be made early enough to ensure that any construction or other work needed to increase the capacity of the Keele Valley waste disposal site will be completed before that site is filled to its approved capacity. 1992, c. 1, s. 20 (2).

Time limit

(3) In requiring a hearing, the Director may require that the Board make its decision before a time specified by the Director. 1992, c. 1, s. 20 (3).

Action before hearing complete

(4) Even though the Director has required a hearing, the Director may, if in his or her opinion it is necessary, issue or amend a certificate of approval or provisional certificate of approval at any time before the Board makes its decision. 1992, c. 1, s. 20 (4).

Idem

(5) If the Director exercises the power set out in subsection (4), the Director may require the Board to discontinue the hearing. 1992, c. 1, s. 20 (5).

Rules for hearing

(6) For the purposes of the hearing, the Board may make rules governing its procedure to ensure that the Board is able to comply with a requirement under subsection (3) that the Board make its decision before a specified time. 1992, c. 1, s. 20 (6).

Idem

(7) Without limiting the generality of subsection (6), the Board may make rules,

(a) limiting oral submissions;

(b) requiring submissions to be in writing; or

(c) prohibiting or limiting the cross-examination of any person or class of person appearing before the Board. 1992, c. 1, s. 20 (7).

Application of rules

(8) Rules made by the Board may be limited in their application to specific issues or parties or classes of them. 1992, c. 1, s. 20 (8).

Conflicts with other provisions

(9) Rules made by the Board apply despite any conflict with the Statutory Powers Procedure Act or any other Act or with any regulation and section 28 of the Statutory Powers Procedure Act does not apply to such rules. 1992, c. 1, s. 20 (9).

Rationale, etc., not to be considered

(10) The Board shall not consider, in the hearing or its decision, the rationale for, or any alternative to, anything contained in the report made under section 29 of the Environmental Protection Act by the Minister of the Environment to the clerk of the City of Toronto or, before January 1, 1998, to the clerk of The Municipality of Metropolitan Toronto. 1992, c. 1, s. 20 (10); 1997, c. 26, Sched.

Decision of Board

(11) In its decision the Board may, on any or all issues before it, leave the decision of those issues to the Director and the Board may, with respect to those issues, make recommendations to the Director. 1992, c. 1, s. 20 (11).

Application of subss. 19 (3) to (9)

(12) If, following a decision by the Board, a certificate of approval or provisional certificate of approval is issued or amended by the Director to enable a municipality to comply with section 18, subsections 19 (3) to (9) do not apply except as the Board may specify in its decision. 1992, c. 1, s. 20 (12).

Regulations

21. The Lieutenant Governor in Council may make regulations designating Acts, regulations and provisions of Acts and regulations, other than section 27 of the Environmental Protection Act, for the purposes of clause 18 (8) (d). 1992, c. 1, s. 21.

22.-35. Omitted (amends or repeals other Acts). 1992, c. 1, ss. 22-35.

36. Omitted (provides for coming into force of provisions of this Act). 1992, c. 1, s. 36.

37. Omitted (enacts short title of this Act). 1992, c. 1, s. 37.