FIRE PROTECTION AND PREVENTION ACT, 1997

S.O. 1997, CHAPTER 4

This document includes the following amendments:

1997, c. 21, Sched. A, s. 3;
1998, c. 15, Sched. E, s. 12;
2001, c. 25, s. 475;
2002, c. 17, Sched. F, Table;
2002, c. 18, Sched. N, ss. 1-14;
2004, c. 8, s. 46;
2005, c. 33, ss. 8-10;
2006, c. 19, Sched. M, s. 2;
2006, c. 32, Sched. C, s. 20;
2006, c. 33, Sched. Z.3, s. 12;
2006, c. 35, Sched. C, s. 44;
2009, c. 33, Sched. 6, s. 59.

This document is prepared for convenience only. For accurate reference and current information on amendments to the Fire Protection and Prevention Act, 1997, refer to the Government of Ontario’s e-Laws web site at www.e-laws.gov.on.ca.
This publication contains the following revisions:

Rev.1  This notation in the page footer identifies changes current to September 2010. Changes to the corresponding text are identified with a vertical bar in the left margin.
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(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.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed and the following substituted:

Application of Public Inquiries Act, 2009

(3) Section 33 of the Public Inquiries Act, 2009 applies to any inquiry or investigation by the Fire Marshal under this Act. 2009, c. 33, Sched. 6, s. 59.

See: 2009, c. 33, Sched. 6, ss. 59, 92.

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 directives 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. 1997, c. 4, s. 11 (1); 2002, c. 18, Sched. N, s. 2 (1).

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. 1997, c. 4, s. 11 (2).
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. 1997, c. 4, s. 11 (3).

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 Workplace Safety and Insurance Act, 1997 as if the person were not an assistant to the Fire Marshal. 1997, c. 4, s. 11 (4); 2002, c. 18, Sched. N, s. 2 (2).

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.
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 Part XI of the *Municipal Act, 2001* or Part XIV of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 20 (6).

**Collection of costs**

39. (1) The Fire Marshal, an assistant to the Fire Marshal or a fire chief may give written notice to the Minister of Finance of the amount of any of the following expenses incurred by the Province of Ontario that relate to things done in connection with the land and premises in territory without municipal organization, requesting the collection of the amount under the *Provincial Land Tax Act, 2006*:

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.

**Same**

(2) When the Minister of Finance receives notice of an amount under subsection (1), the amount may be collected under the *Provincial Land Tax Act, 2006* as if the amount was a tax imposed under that Act. 2006, c. 33, Sched. Z.3, s. 12 (2).

(3) Repealed: 2006, c. 33, Sched. Z.3, s. 12 (2).

**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.
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 Superior Court of Justice. 1997, c. 4, s. 55 (1); 2002, c. 18, Sched. N, s. 14.

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. 1997, c. 4, s. 55 (2).

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 (3).

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. 1997, c. 4, s. 58 (1).

Appointment of members

(2) The Lieutenant Governor in Council shall appoint the members to the Commission, and may designate one of the members as chair and one or more of the members as vice-chair. 2006, c. 35, Sched. C, s. 44 (1).

Ineligibility

(2.1) A person is not eligible to be a member of the Commission if the person is,

(a) a deputy minister of a ministry;
(b) a public servant employed under Part III of the Public Service of Ontario Act, 2006; or
(c) an employee of a municipality. 2006, c. 35, Sched. C, s. 44 (1).

Remuneration

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. 1997, c. 4, s. 58 (3).

Quorum

(4) Three members of the Commission constitute a quorum. 1997, c. 4, s. 58 (4).
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. 1997, c. 4, s. 67 (1).

Not an employee of the Crown

(2) A person who is employed or whose services are contracted under subsection (1) is not and shall not be deemed to be an employee of the Crown. 2006, c. 35, Sched. C, s. 44 (2).
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 Accounting Act, 2004 to audit the accounts and transactions of the Council for each fiscal year. 1997, c. 4, s. 70; 2004, c. 8, s. 46.

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.