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Technical Standards and Safety Act, 2000

S.O. 2000, c. 16

No Amendments.

(NOTE: By Order in Council approved March 5, 2001, the powers and duties of the Minister were transferred to the Minister of Consumer and Business Services.)

Purpose, Application, Definitions

Purpose

1. The purpose of this Act is to enhance public safety in Ontario by providing for the efficient and flexible administration of technical standards with respect to the matters referred to in section 2. 2000, c. 16, s. 1.

Application

2. This Act applies with respect to amusement devices, boilers and pressure vessels, elevating devices, hydrocarbon fuels, operating engineers and upholstered or stuffed articles, as referred to in the regulations. 2000, c. 16, s. 2.

Definitions

3. In this Act,

"authorization" means any form of authorization under this Act and includes,

- (a) with respect to a person, a certificate, identification, licence or registration, and
- (b) with respect to a thing, an approval, certificate, licence, permit or registration; ("autorisation")

"designated administrative authority" means a not-for-profit corporation without share capital,

- (a) incorporated under the laws of Ontario or Canada that operates in Ontario but that does not form part of the Government of Ontario, any other government or an agency of a government, and
- (b) designated by the Lieutenant Governor in Council under subsection 3 (2) of the *Safety and Consumer Statutes Administration Act, 1996*; ("organisme d'application désigné")

"director" means a person appointed as a director under this Act or a predecessor Act; ("directeur")

"dwelling" means any premises or any part of a premises occupied exclusively as living accommodation; ("logement")

"inspector" means a person appointed as an inspector under this Act or a predecessor Act; ("inspecteur")

"Minister" means the Minister responsible for the administration of this Act; ("ministre")

"person" means an individual, an association, a partnership or a corporation; ("personne")

"predecessor Act" means any of the following:

1. *Amusement Devices Act.*
2. *Boilers and Pressure Vessels Act.*
3. *Elevating Devices Act.*
4. *Energy Act.*
5. *Gasoline Handling Act.*
6. *Operating Engineers Act.*
7. *Upholstered and Stuffed Articles Act*; ("loi précédente")

"prescribed" means prescribed by the regulations; ("prescrit")

"regulations" means the regulations made under this Act; ("règlements")

"seal" means to mark, tag, seal or label, and its noun has a corresponding meaning. ("apposer les scellés") 2000, c. 16, s. 3.

Directors and Inspectors

Appointments of directors and inspectors

4. (1) A designated administrative authority may appoint directors and inspectors for the purposes of this Act, the regulations or a Minister's order. 2000, c. 16, s. 4 (1).

Same

(2) The Minister may appoint directors and inspectors in the absence of a designated administrative authority. 2000, c. 16, s. 4 (2).

Restrictions

(3) An appointment is subject to the restrictions, limitations and conditions set out in it. 2000, c. 16, s. 4 (3).

Powers of directors, general

[5.](#) (1) A director has general supervisory and administrative responsibility in respect of all or any part of this Act, the regulations or a Minister's order with respect to which he or she is appointed. 2000, c. 16, s. 5 (1).

Powers regarding inspectors

[\(2\)](#) Unless otherwise stated in his or her appointment, a director,

- (a) may supervise and direct inspectors and other persons responsible for administering or enforcing this Act, the regulations or a Minister's order; and
- (b) is an inspector and may exercise any of the powers and perform any of the duties of an inspector. 2000, c. 16, s. 5 (2).

Delegation

[\(3\)](#) A director may delegate in writing any of his or her powers or duties to any person subject to the restrictions, limitations and conditions set out in the delegation. 2000, c. 16, s. 5 (3).

Document of appointment

[\(4\)](#) A document establishing their appointment shall be issued to directors and inspectors, who shall produce it on request. 2000, c. 16, s. 5 (4).

Authorizations

Requirement for authorization

[6.](#) (1) Except as provided in the regulations or a Minister's order, a person is required to obtain an authorization in accordance with this Act, the regulations or a Minister's order before carrying out the activities referred to in the regulations or a Minister's order as requiring an authorization or before operating or otherwise dealing with any thing referred to in the regulations or a Minister's order as requiring an authorization. 2000, c. 16, s. 6 (1).

Authorizations for persons

[\(2\)](#) An applicant who applies to a director for an authorization to carry out an activity referred to in the regulations or a Minister's order is entitled to the authorization if all the requirements for it are met. 2000, c. 16, s. 6 (2).

Refusal re applicant

[\(3\)](#) The director may refuse to grant an authorization to an applicant who does not meet the requirements for it. 2000, c. 16, s. 6 (3).

Authorizations for things

[\(4\)](#) An applicant who applies to a director for an authorization required for a thing is entitled to the authorization if all the requirements for it are met. 2000, c. 16, s. 6 (4).

Refusal re thing

[\(5\)](#) The director may refuse to grant an authorization for a thing if the applicant or thing does not meet the requirements for it. 2000, c. 16, s. 6 (5).

Conditions

[\(6\)](#) An authorization is subject to such restrictions, limitations and conditions as are prescribed and to the restrictions, limitations and conditions, if any, imposed on it by a director. 2000, c. 16, s. 6 (6).

Refusals, suspensions, etc.

[\(7\)](#) A director may refuse to grant, suspend, revoke or refuse to renew an authorization where he or she has reason to believe that the applicant or authorization holder,

- (a) will not carry out the activities permitted by the authorization in accordance with law;
- (b) will not carry out the activities permitted by the authorization safely;
- (c) lacks the basic resources necessary for carrying out the activities permitted by the authorization;
- (d) lacks honesty and integrity;
- (c) is not competent or lacks reasonable skill;
- (d) has failed to comply with the Act, the regulations, a Minister's order, the order of a director or an inspector, or a restriction, limitation or condition of an authorization;
- (e) obtained the authorization through misrepresentation or fraud;
- (f) permitted an unauthorized person to carry out the activities permitted under the authorization. 2000, c. 16, s. 6 (7).

Notice of proposal

[7.](#) (1) Subject to subsection (2), if a director proposes to refuse to grant an authorization, or to suspend, revoke or refuse to renew an authorization, the director shall serve notice of the

proposal to that effect, together with written reasons, on the applicant or authorization holder. 2000, c. 16, s. 7 (1).

Exceptions

(2) A notice of proposal is not required,

- (a) in the case of a provisional suspension of an authorization or a refusal to renew an authorization under section 9;
- (b) in the case of a suspension for a failure to pay under section 13. 2000, c. 16, s. 7 (2).

Service of notice

(3) The director may serve the notice of proposal personally or by registered mail addressed to the applicant or authorization holder at the last address known to the director, by fax or by any other form of electronic transmission if there is a record that the notice has been sent. 2000, c. 16, s. 7 (3).

Deemed service, registered mail

(4) If registered mail is used, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the director that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 2000, c. 16, s. 7 (4).

Deemed service, electronic transmission

(5) If a fax or other form of electronic transmission is used, the notice shall be deemed to have been served on the day after the fax or other transmission was sent unless the person on whom notice is being served establishes to the director that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 2000, c. 16, s. 7 (5).

Right to hearing

8. (1) A notice of proposal shall inform the applicant or authorization holder of the right to a hearing before the director if the applicant or holder applies for the hearing within 15 days after being served with the notice. 2000, c. 16, s. 8 (1).

Where no hearing requested

(2) If the applicant or authorization holder does not apply for a hearing, the director may carry out the proposal stated in the notice. 2000, c. 16, s. 8 (2).

Where hearing requested

[\(3\)](#) If the applicant or authorization holder applies for a hearing, the director shall set a time for and hold the hearing after issuing a notice of hearing to the applicant or authorization holder. 2000, c. 16, s. 8 (3).

Extension of time for hearing

[\(4\)](#) The director to whom application for a hearing is made may extend the time for making the application either before or after the 15-day period if he or she is satisfied that,

(a) there are reasonable grounds for applying for the extension; and

(b) there are apparent grounds for granting to the applicant or authorization holder the relief sought at the hearing. 2000, c. 16, s. 8 (4).

Directions

[\(5\)](#) In granting an extension, the director may give any directions he or she considers appropriate. 2000, c. 16, s. 8 (5).

Findings of fact

[\(6\)](#) On a hearing, the findings of fact made by a director shall be based exclusively on evidence admissible or matters that may be noticed under sections 15, 15.1, 15.2 and 16 of the *Statutory Powers Procedure Act*. 2000, c. 16, s. 8 (6).

Decision

[\(7\)](#) After a hearing, the director may refuse to grant the authorization or revoke, suspend or refuse to renew the authorization if the authorization holder is in contravention of this Act, the regulations, a Minister's order or a restriction, limitation or condition in the authorization. 2000, c. 16, s. 8 (7).

Delayed effect

[\(8\)](#) A revocation, suspension or refusal to renew under subsection (7) does not take effect until the later of the final disposition of an appeal under section 11 and the expiration of the 30-day period for filing an appeal, unless there is or may be, in the director's opinion, a threat to public safety or to the safety of any person. 2000, c. 16, s. 8 (8).

Provisional suspension or refusal to renew where safety involved

[9.](#) (1) A director may, by notice to an authorization holder and without a hearing, provisionally suspend or refuse to renew an authorization where the carrying on of the operations under the authorization is, in the director's opinion, an immediate threat to public safety or the safety of any person. 2000, c. 16, s. 9 (1).

Notice

[\(2\)](#) The notice under subsection (1) shall state the director's reasons for the decision to provisionally suspend or refuse to renew the authorization and inform the authorization holder of the right to a hearing before the director if the holder applies for the hearing within 15 days after being served with the notice. 2000, c. 16, s. 9 (2).

Application of provisions

[\(3\)](#) Subsections 7 (3), (4) and (5) apply with respect to a notice under this section and subsections 8 (3) to (6) apply for the purposes of a hearing under this section. 2000, c. 16, s. 9 (3).

Opportunity to achieve compliance

[10.](#) (1) Notice of a hearing shall afford to the applicant or authorization holder a reasonable opportunity to show or to achieve compliance with all lawful requirements for the granting, retention or renewal of the authorization before the hearing. 2000, c. 16, s. 10 (1).

Examination of documentary evidence

[\(2\)](#) An applicant or authorization holder shall be given an opportunity to examine before a hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing 2000, c. 16, s. 10 (2).

Recording of evidence

[\(3\)](#) The oral evidence taken before the director at a hearing shall be recorded at the request of the applicant, the authorization holder or the director. 2000, c. 16, s. 10 (3).

Cost of recording of evidence

[\(4\)](#) The recording shall be at the cost of the person making the request and, where copies of the transcript are requested, they shall be provided at the cost of the person making the request. 2000, c. 16, s. 10 (4).

Appeals

[11.](#) (1) An applicant or authorization holder may appeal to the Divisional Court if, after a hearing, the director,

- (a) refuses to grant or to renew an authorization;
- (b) grants or renews an authorization subject to conditions or restrictions; or
- (c) revokes or suspends an authorization. 2000, c. 16, s. 11 (1).

How to appeal

[\(2\)](#) An appeal shall be made by filing a notice of appeal with the court within 30 days after receiving notice of the director's decision. 2000, c. 16, s. 11 (2).

Decision

[\(3\)](#) In deciding an appeal, the court may order the director to take such action as the court considers proper. 2000, c. 16, s. 11 (3).

Director is party

[\(4\)](#) The director is a party to every appeal under this section. 2000, c. 16, s. 11 (4).

Immediate threat to safety

[\(5\)](#) The bringing of an appeal under this section does not suspend or otherwise affect the decision appealed from where that decision was based on the director's opinion that there was an immediate threat to public safety or the safety of any person. 2000, c. 16, s. 11 (5).

Appeal from decision of director

[12.](#) (1) Any person who deems himself or herself aggrieved by a decision of a director under this Act, the regulations or a Minister's order may, within 10 days after the decision comes to the person's attention, appeal to the Divisional Court by notice in writing sent by registered mail to the director and the court. 2000, c. 16, s. 12 (1).

Powers of court on appeal

[\(2\)](#) Where a person has appealed under subsection (1), the court shall appoint a time for a hearing and shall hear the appeal and may affirm, rescind or vary the decision of the director and may direct the director to take any action that he or she is authorized to take under this Act, the regulations or a Minister's order as the court considers proper, and for such purpose the court may substitute its opinion for that of the director. 2000, c. 16, s. 12 (2).

Application of subss. 8 (4) and (5)

[\(3\)](#) Subsections 8 (4) and (5) apply with necessary modifications to an appeal under this section. 2000, c. 16, s. 12 (3).

Parties

[\(4\)](#) The director, the appellant and such other persons as the court may specify are parties to an appeal under this section 2000, c. 16, s. 12 (4).

Decision final

[\(5\)](#) A decision of the court under this section is final. 2000, c. 16, s. 12 (5).

Suspension of authorization for default in payment

[13.](#) (1) If an authorization holder is in default of the payment of a fee, an administrative penalty, a cost or other charge owing to the designated administrative authority, of a fine imposed on conviction for an offence under this Act or an order made under clause 69 (2) (a) or (b) of the *Provincial Offences Act*, a director may,

(a) suspend the holder's authorization; or

(b) refuse to grant an authorization to the holder or to renew the holder's authorization. 2000, c. 16, s. 13 (1).

Reinstatement of suspended authorization

[\(2\)](#) If an authorization is suspended under clause (1) (a), the authorization holder is entitled to have the authorization reinstated on providing proof to the director that the authorization holder is no longer in default. 2000, c. 16, s. 13 (2).

Granting of authorization or renewal

[\(3\)](#) If an application for an authorization or for the renewal of an authorization is refused under clause (1) (b), the applicant is entitled to the authorization on providing proof to the Director that the applicant is no longer in default. 2000, c. 16, s. 13 (3).

Notice

[\(4\)](#) A director is not required to give notice or to hold a hearing before acting under subsection (1). 2000, c. 16, s. 13 (4).

Safety and Compliance Orders

Safety orders

[14.](#) (1) A director may give a safety order to any person or class of persons with respect to any matter governed by this Act that pertains to safety. 2000, c. 16, s. 14 (1).

Same

[\(2\)](#) The safety order may require that any thing or part of a thing, or class of things, be dealt with as set out in the order, including,

(a) being shut down;

(b) being used only in accordance with the order; and

(c) not being used. 2000, c. 16, s. 14 (2).

Form of order

[\(3\)](#) The safety order may be given orally or in writing, and be made without prior notice or the holding of a hearing. 2000, c. 16, s. 14 (3).

Timeliness of written order

[\(4\)](#) A safety order that is given orally shall be provided in writing as soon as practicable in the circumstances and in no case later than seven days after the oral order is given. 2000, c. 16, s. 14 (4).

Immediate effect

[\(5\)](#) The safety order is effective immediately but may be suspended pending a hearing under subsection (6) with the consent of the director who made it. 2000, c. 16, s. 14 (5).

Hearing

[\(6\)](#) On the request of the person affected by the safety order, the director shall hold a hearing on the matter. 2000, c. 16, s. 14 (6).

Suspension for failure to comply with safety order

[15.](#) (1) The director may, without prior notice or the holding of a hearing, suspend any authorization granted to a person who fails to comply with a safety order. 2000, c. 16, s. 15 (1).

Reinstatement

[\(2\)](#) If an authorization is suspended under subsection (1), a new application must be made for the authorization. 2000, c. 16, s. 15 (2).

Conditions for reinstatement

[\(3\)](#) A suspended authorization shall not be reinstated unless the applicant provides proof of having complied with all outstanding safety orders affecting the applicant, in addition to satisfying all other requirements for the reinstatement of the authorization. 2000, c. 16, s. 15 (3).

Compliance order

16. (1) If it appears to a director that a person is not complying with any provision of this Act, the regulations or a Minister's order, the director may apply to a judge of the Superior Court of Ontario for an order directing compliance. 2000, c. 16, s. 16 (1).

Same

(2) The judge may make any order he or she considers just. 2000, c. 16, s. 16 (2).

Clarification

(3) The director may make an application under subsection (1) even if a penalty or some other sanction has been applied against the person in respect of the failure to comply and regardless of any other rights the person may have. 2000, c. 16, s. 16 (3).

Appeal

(4) An appeal lies to the Divisional Court from an order made under subsection (2). 2000, c. 16, s. 16 (4).

Inspections

Inspection without warrant

17. (1) An inspector may at any reasonable time, without a warrant, enter any lands or premises where the inspector has reason to believe, in good faith, any of the things, parts of things or classes of things to which this Act, the regulations or a Minister's order apply are used, operated, installed, made, manufactured, repaired, renovated or offered for sale and carry out an inspection for the purpose of determining in the public interest whether,

(a) this Act, the regulations or a Minister's order are being complied with; or

(b) a hazardous condition exists. 2000, c. 16, s. 17 (1).

Entry to dwellings

(2) Despite subsection (1), an inspector shall not enter a place or part of a place that is used as a dwelling without the occupier's consent. 2000, c. 16, s. 17 (2).

Consent, duty to inform

(3) An inspector who wishes to enter a place or part of a place that is used as a dwelling shall inform the occupier that he or she may refuse consent. 2000, c. 16, s. 17 (3).

Warrant required

[\(4\)](#) If the occupier refuses consent, the inspector shall not enter the dwelling unless he or she first obtains a warrant under section 158 of the *Provincial Offences Act*. 2000, c. 16, s. 17 (4).

Reasonable force

[\(5\)](#) The inspector may use such force as is reasonably necessary to execute the warrant and call on police officers to assist in its execution. 2000, c. 16, s. 17 (5).

Powers of inspector

[18.](#) (1) In carrying out an inspection, an inspector may,

- (a) exercise such powers and act in such manner as is set out in this Act and the regulations;
and
- (b) on notice to the appropriate person, remove any thing for the purpose of making any examination, test or inquiry as may be necessary to determine whether this Act, the regulations or a Minister's order are being complied with. 2000, c. 16, s. 18 (1).

Receipt

[\(2\)](#) An inspector who removes a thing under clause (1) (b) shall provide a receipt to the appropriate person. 2000, c. 16, s. 18 (2).

Assistance

[\(3\)](#) An inspector may be accompanied by any person or persons who may be of assistance to him or her in carrying out the inspection. 2000, c. 16, s. 18 (3).

Seal

[\(4\)](#) An inspector conducting an inspection may seal any thing where the thing may be sealed under section 29. 2000, c. 16, s. 18 (4).

Use of force

[\(5\)](#) An inspector may only use force to enter and inspect a place where there is an immediate threat to public safety and only such force as is reasonably necessary in the circumstances. 2000, c. 16, s. 18 (5).

Entry, inspection, etc.

[19.](#) (1) Every person shall,

- (a) furnish all necessary means in his or her power to facilitate any entry, inspection, examination, test or inquiry by an inspector in the exercise of his or her powers and the carrying out of his or her duties; and
- (b) pay the fees required by the designated administrative authority for an inspection, examination, test or inquiry under clause (a). 2000, c. 16, s. 19 (1).

Written request

(2) An inspector who requires that a record or other thing be produced for inspection must do so in writing and state the nature of the record or thing required. 2000, c. 16, s. 19 (2).

Obligation to produce and assist

(3) If an inspector requires that a record or other thing be produced for inspection, the person who has custody of it shall produce it and, in the case of a record, provide any assistance that is reasonably necessary to interpret it or to produce it in readable form. 2000, c. 16, s. 19 (3).

Liability

(4) No action or other proceeding for damages shall be instituted against the designated administrative authority, an inspector or a director for any costs or loss incurred by the person that arise out of or in conjunction with an inspection, examination, test or inquiry carried out under this section or the production of a record or thing under subsection (3) unless the costs or loss arise out of the negligence or a wrongful act or omission of the authority, the inspector or the director. 2000, c. 16, s. 19 (4).

Records and things

(5) A record or other thing that has been removed for review and copying shall,

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

(b) be returned to the person within a reasonable time. 2000, c. 16, s. 19 (5).

Copy admissible in evidence

(6) A copy of a record that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2000, c. 16, s. 19 (6).

Obstruction

20. (1) No person shall hinder, obstruct or interfere with an inspector conducting an inspection, refuse to answer questions on matters relevant to the inspection or provide the inspector with

information on matters relevant to the inspection that the person knows to be false or misleading. 2000, c. 16, s. 20 (1).

Operation of thing

(2) No person shall operate, use or cause or permit the operation or use of a thing in contravention of an order issued under section 21 or where the thing has been sealed. 2000, c. 16, s. 20 (2).

Removal of seal

(3) No person shall remove a seal affixed by an inspector,

(a) without the inspector's consent;

(b) except as provided in the regulations or a Minister's order. 2000, c. 16, s. 20 (3).

When order revoked

(4) Subsection (3) does not apply upon the revocation of the order that was made when the seal was affixed. 2000, c. 16, s. 20 (4).

Inspection order

21. (1) If an inspector finds that any provision of this Act, the regulations or a Minister's order is being contravened, or that a thing under this Act is unsafe or is not being operated or used in accordance with the authorization relating to it, the inspector may,

(a) serve the person he or she believes to be the contravener or that person's supervisor or employer, or both, with an order in writing directing compliance with the provision or authorization and may require that the terms of the order be carried out forthwith or within such other time specified in the order; or

(b) seal any thing to which this Act or the regulations apply where there is or may be a demonstrable threat to public safety, whether or not the thing is subject to an authorization. 2000, c. 16, s. 21 (1).

Same

(2) An inspector who has reason to believe that there is a contravention of this Act, the regulations or a Minister's order that does not present an immediate hazard may serve the contravener or a person who has authority to correct the contravention with a written order directing that the correction be carried out within the time specified in the order. 2000, c. 16, s. 21 (2).

Revocation of order

[\(3\)](#) An inspector may revoke an order, or consent to the removal of a seal, if he or she is satisfied that a potential danger does not exist, that all provisions of this Act, the regulations or a Minister's order are being complied with or that a thing is being operated in accordance with the authorization relating to it, as the case may be. 2000, c. 16, s. 21 (3).

Content of order

[\(4\)](#) An inspector's order under this section shall contain sufficient information to specify the nature of any contravention. 2000, c. 16, s. 21 (4).

Not guilty of offence

[\(5\)](#) Any person who receives an order under subsection (2) and complies with it or who has made all reasonable efforts to comply with it is not guilty of an offence in respect of the contravention or other matter that formed the basis of the order. 2000, c. 16, s. 21 (5).

Report

[\(6\)](#) Following an inspection, the inspector shall make a report to a director on the inspection in such manner and with respect to such things as may be determined by the director. 2000, c. 16, s. 21 (6).

Appeal

[22.](#) (1) Any person affected by an order under clause 21 (1) (a) , the affixing of a seal under subsection 18 (4) or clause 21 (1) (b) or a requirement to pay fees under clause 19 (1) (b) may appeal at any time to a director. 2000, c. 16, s. 22 (1).

When required to be in writing

[\(2\)](#) The appeal is not required to be in writing but if a director so requires, the grounds for the appeal shall be specified in writing before the appeal is heard. 2000, c. 16, s. 22 (2).

Hearing

[\(3\)](#) On receiving an appeal, the director shall hold a hearing as soon as is reasonably possible, but such an appeal does not affect the operation of the order appealed from pending disposition of the appeal. 2000, c. 16, s. 22 (3).

Decision

[\(4\)](#) After a hearing, the director may,

- (a) substitute his or her findings for that of the inspector;

- (b) revoke the order if the director is satisfied,
 - (i) that a demonstrable threat to public safety does not or may not exist, or
 - (ii) that all provisions of this Act, the regulations or a Minister's order are being complied with or that the thing is being operated in accordance with the authorization relating to it; or
- (c) affirm the order if the director is not satisfied under clause (b). 2000, c. 16, s. 22 (4).

Appeal

(5) Where the director affirms an inspector's order under clause (4) (c), the affected person may appeal to the Divisional Court under section 11. 2000, c. 16, s. 22 (5).

Affixing of seals, etc.

(6) After a hearing, the director may by order confirm the affixing of seals or direct the inspector to remove them. 2000, c. 16, s. 22 (6).

No disposal of article

(7) If the appeal relates to the destruction of an article, the appellant shall not dispose of the article pending the appeal. 2000, c. 16, s. 22 (7).

Personal liability

(8) No action or other proceeding for damages shall be instituted against an inspector or a director for any act done in good faith in the execution or intended execution of any power or duty under this Act, the regulations or a Minister's order or for any alleged neglect or default in the execution in good faith of that power or duty. 2000, c. 16, s. 22 (8).

Right to examine person under oath

(9) For the purpose of an inspection or an investigation under this Act, a director may, by notice in writing, require the attendance of any person at the time and place named in the notice and may examine such person under oath regarding any matter pertaining to the inspection or investigation. 2000, c. 16, s. 22 (9).

Additional Powers and Duties of Directors

Director's confirmation

23. (1) A director may issue a written confirmation with respect to,

- (a) any authorization or non-authorization;

- (b) the revocation or suspension of an authorization;
- (c) the restrictions or conditions to which an authorization is subject;
- (d) the filing or non-filing of any document or material required or permitted to be filed with the director; or
- (e) any other matter that may be prescribed or set out in a Minister's order. 2000, c. 16, s. 23 (1).

Effect of confirmation

(2) A confirmation is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature. 2000, c. 16, s. 23 (2).

Information confidential

24. (1) An inspector shall not disclose to any person any information, record, report or statement obtained under the powers conferred under this Act and the regulations except for the purposes of carrying out his or her duties under this Act and the regulations. 2000, c. 16, s. 24 (1).

Compellability in civil proceeding

(2) An inspector is a compellable witness in a civil proceeding respecting any information, record, report or statement obtained under the powers conferred under this Act or the regulations. 2000, c. 16, s. 24 (2).

Refusal or conditional permission

(3) Despite subsection (2) but subject to subsection (4), a director may,

- (a) on reasonable grounds, refuse to permit an inspector to attend as a witness; or
- (b) require that an inspector's attendance as a witness be subject to such conditions as are reasonable and necessary for the proper administration of this Act and the regulations, including requiring the payment of a fee for the inspector's attendance as set out in the schedule of fees published by the designated administrative authority. 2000, c. 16, s. 24 (3).

Limitation

(4) Subsection (3) does not apply if,

- (a) the court orders that the inspector attend as a witness;

(b) the proceeding is a proceeding under the *Provincial Offences Act*; or

(c) the designated administrative authority is a party to the proceeding. 2000, c. 16, s. 24 (4).

Written decision

(5) A director shall provide in writing a decision to refuse to permit an inspector to attend as a witness or to permit an inspector to attend as a witness subject to conditions. 2000, c. 16, s. 24 (5).

Exception

(6) The director may disclose or publish information, records, reports or statements obtained under the powers conferred under this Act and the regulations unless he or she obtained them while acting as an inspector. 2000, c. 16, s. 24 (6).

Investigation of accident

25. A director shall order such investigation as he or she considers necessary on being notified of an accident or incident. 2000, c. 16, s. 25.

Requirement to provide information

26. If a director receives a complaint alleging non-compliance with an authorization, the authorization holder shall, on request, provide the director with such information respecting the matter complained of as the director requires. 2000, c. 16, s. 26.

Limited use

27. A director may,

- (a) establish the limits of operation and use of things that are found to be defective or do not conform with its authorization after fabrication or installation;
- (b) permit the operation and use of such thing within such limits as are prescribed, or if there are no such limits, as the director considers safe. 2000, c. 16, s. 27.

Proof of inspection

28. A director may issue a proof of inspection with respect to things that have been inspected and found capable of being used or operated safely and may cancel such a proof. 2000, c. 16, s. 28.

Use of sealed things

29. (1) A director shall determine the operation and use of things that have been sealed by an inspector. 2000, c. 16, s. 29 (1).

Same

(2) A director shall determine the use and removal of seals. 2000, c. 16, s. 29 (2).

Retention of information

30. (1) A director may establish the information, records, documents, plans, log books, drawings, instructions, specifications or any other thing to be kept or provided with respect to any matter. 2000, c. 16, s. 30 (1).

Reports

(2) A director may provide for reports, including what information is to be reported, by whom and to whom, and the time, manner and frequency of reporting. 2000, c. 16, s. 30 (2).

Director's order, public safety

31. In cases where there is or may be a demonstrable threat to public safety, a director may make an order with respect to the following matters if they have not otherwise been provided for in this Act, the regulations or a Minister's order:

1. Requiring and establishing the form and location of notices, markings or other forms of identification to be used in conjunction with equipment or other things that are prescribed.
2. Regulating, governing and providing for the authorization of the design, fabrication, processing, handling, installation, operation, access, use, repair, maintenance, inspection, location, construction, removing, alteration, service, testing, filling, replacement, blocking, dismantling, destruction, removal from service and transportation of any thing, whether new or used, or a part of a thing and any equipment or attachment used in connection with it. 2000, c. 16, s. 31.

Qualifications and training

32. (1) If the regulations do not provide for these matters, a director may establish the qualifications, training and experience that are required for persons to whom this Act, the regulations or a Minister's order apply, and establish their duties and responsibilities. 2000, c. 16, s. 32 (1).

Equivalency

(2) A director may recognize training and experience of an applicant for an authorization if the director is of the opinion that such training or experience is equivalent to the requirements of this Act or the regulations. 2000, c. 16, s. 32 (2).

Re-examination

(3) A director may establish conditions for the re-examination of applicants who have taken examinations that may be prescribed. 2000, c. 16, s. 32 (3).

Appeal

(4) A person required by the Director to be re-examined under this section may appeal to the Divisional Court under section 11. 2000, c. 16, s. 32 (4).

Orders and Regulations

Minister's orders

33. (1) The Minister may make orders,

- (a) requiring the use of notices, markings and other forms of identification in conjunction with equipment or other things that are prescribed;
- (b) respecting and governing the granting, term, renewal, posting, transfer and reinstatement of authorizations;
- (c) governing actions that may be taken or not taken in connection with an accident in order to preserve evidence;
- (d) governing service of any notice or order required to be given or served under this Act or the regulations;
- (e) establishing the qualifications for inspectors upon consideration of any advice that may be obtained from directors;
- (f) providing for the assigning of identifying symbols to welding operators and requiring and providing for the imprinting of the symbol by the welding operator on welds made by him or her;
- (g) establishing the circumstances under which an inspection may be carried out by an insurer who meets the prescribed requirements;
- (h) establishing and governing reports to be made by insurers;
- (i) requiring distributors to file proposed safety procedures, directors to establish safety procedures and distributors to comply with those procedures;

- (j) establishing grades of gasoline and associated products, and providing for their identification;
- (k) establishing methods of determining the capacity, content and rating of equipment and other things;
- (l) establishing the form of labels required or authorized to be affixed to upholstered or stuffed articles, or any class of them, adopting labels affixed under the laws of any other designated jurisdiction and designating jurisdictions for that purpose. 2000, c. 16, s. 33 (1).

Same

[\(2\)](#) A Minister's order under subsection (1) may be general or particular in its application. 2000, c. 16, s. 33 (2).

Concurrent authority

[\(3\)](#) The Lieutenant Governor in Council may make a regulation in respect of any matter in respect of which the Minister has authority to make an order under this section and may amend or revoke any order made by the Minister under this section or any regulation made by the Minister under section 36. 2000, c. 16, s. 33 (3).

Same

[\(4\)](#) Where the Minister has authority to make an order under section 33 or a regulation under section 36, he or she may amend or revoke a provision of a regulation if the provision was made or amended by the Lieutenant Governor in Council under subsection (3). 2000, c. 16, s. 33 (4).

Lieutenant Governor in Council regulations

[34.](#) (1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter or thing required or permitted to be prescribed under this Act or otherwise referred to as being prescribed under this Act;
- (b) regulating, governing and providing for the authorization of the design, fabrication, processing, handling, installation, operation, access, use, repair, maintenance, inspection, location, construction, removing, alteration, service, testing, filling, replacement, blocking, dismantling, destruction, removal from service and transportation of any thing, whether new or used, or a part of a thing, and any equipment or attachment used in connection with it;

- (c) prohibiting any person from doing anything that is not in compliance with this Act, the regulations or a Minister's order;
- (d) establishing the powers, duties and responsibilities of persons with respect to whom this Act, the regulations or a Minister's order apply;
- (e) classifying,
 - (i) any thing or part of a thing referred to in this Act, the regulations or a Minister's order, and any equipment or attachment used in connection with it, and
 - (ii) persons and authorizations;
- (f) governing the non-application of this Act, the regulations, or any part of them, or of a Minister's order to any person or thing or to any class of them, including the conditions of such non-application;
- (g) requiring the payment of fees, administrative penalties and other amounts;
- (h) establishing qualifications, training and experience for persons with respect to whom this Act, the regulations or a Minister's order apply, requiring that they obtain such qualifications, training and experience and establishing their duties and responsibilities;
- (i) defining accident and classes of accidents and respecting and governing the reporting of accidents;
- (j) providing for the isolation of things by means of seals or otherwise;
- (k) prohibiting the sale, purchase, renting, installation and use of any thing to which this Act, the regulations or a Minister's order apply that does not bear the label of an organization designated by a director under clause 36 (3) (b);
- (l) establishing a system of authorization numbers to be used for the identification of things and requiring inspectors and insurers to use such numbers for stamping or otherwise permanently identifying every thing inspected by them that does not have such a number;
- (m) requiring welding operators to weld according to procedures established and approved by a director;
- (n) governing the conduct of persons in or about elevating devices and amusement devices;
- (o) requiring owners of pipelines to develop procedures for locating pipelines and providing for the establishment of such procedures by a director;

- (p) requiring every person who carries on the business of operating an amusement device, as defined in the regulations, to obtain and maintain liability insurance, in at least the prescribed amount and in accordance with the prescribed conditions for such business including deductibles;
- (q) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 2000, c. 16, s. 34 (1).

Same

[\(2\)](#) A regulation under subsection (1) may be general or particular in its application. 2000, c. 16, s. 34 (2).

Classes

[\(3\)](#) A regulation may establish different requirements for different classes of person, premises or activity. 2000, c. 16, s. 34 (3).

Definitions

[35.](#) Any word or expression used in this Act, the regulations or a Minister's order may be defined in the regulations or order for the purposes of the regulations or order. 2000, c. 16, s. 35.

Codes

[36.](#) (1) The Minister may make regulations,

- (a) adopting by reference, in whole or in part and with such changes as he or she considers necessary, any code, standard, guideline or procedure and require compliance with the thing as adopted;
- (b) amending or repealing codes and standards adopted by reference by a regulation of the Lieutenant Governor in Council before or after this section came into force. 2000, c. 16, s. 36 (1).

Rolling incorporation

[\(2\)](#) If a regulation under subsection (1) so provides, a code, standard, guideline or procedure adopted by reference shall be a reference to it, as amended from time to time, and whether the amendment was made before or after the regulation was adopted. 2000, c. 16, s. 36 (2).

Temporary codes, testing organizations, variations

[\(3\)](#) A director may, in writing,

- (a) authorize, subject to such conditions as may be specified and for a limited time, the use of codes, standards, guidelines or procedures or changes to codes, standards, guidelines and procedures necessary to accommodate new developments or technological advances and require compliance with them and permit, subject to such conditions as may be specified, variances from them;
- (b) designate organizations to test any thing for which standards or specifications are established under this Act and provide for and require the placing of the organization's label on the thing or any parts of the thing that conform to the standards and specifications;
- (c) subject to such conditions as he or she may specify, allow a variance from any regulation or Minister's order made under this Act if, in his or her opinion, the variance would not detrimentally affect the safe use of the thing to which the regulation or Minister's order applies or the health or safety of any person. 2000, c. 16, s. 36 (3).

Regulations Act

[\(4\)](#) The *Regulations Act* does not apply to subsection (3). 2000, c. 16, s. 36 (4).

Exemptions

[\(5\)](#) The Minister may, in writing and subject to such conditions as may be specified, exempt any thing or part of any thing or any class of thing or any class of person from any provision of this Act, the regulations or a Minister's order. 2000, c. 16, s. 36 (5).

Disclosure

[\(6\)](#) Permissions, authorizations, variances, exemptions, requirements, designations and matters provided for under subsection (3) are public information and shall be disclosed by a director to the public on request. 2000, c. 16, s. 36 (6).

Transitional

[\(7\)](#) Codes and standards adopted by reference under a predecessor Act to which this section applies are continued in force until repealed and may be amended or varied as provided in this section. 2000, c. 16, s. 36 (7).

Miscellaneous

Offences

[37.](#) (1) Every person who,

- (a) contravenes or fails to comply with any provision of this Act, the regulations or a Minister's order;
- (b) knowingly makes a false statement or furnishes false information under this Act, the regulations or a Minister's order;
- (c) contravenes or fails to comply with a term or condition of an authorization;
- (d) contravenes or fails to comply with an order or requirement of an inspector or obstructs an inspector,

is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, or, if the person is a body corporate, to a fine of not more than \$1,000,000. 2000, c. 16, s. 37 (1).

Duty of director or officer

(2) Every director or officer of a body corporate has a duty to take all reasonable care to prevent the body corporate from committing an offence under subsection (1). 2000, c. 16, s. 37 (2).

Offence

(3) Every director or officer of the body corporate who has a duty under subsection (2) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both. 2000, c. 16, s. 37 (3).

Separate offence

(4) Where a person contravenes any of the provisions of this Act, the regulations, a Minister's order or any notice or order made under them on more than one day, the continuance of the contravention on each day shall be deemed to constitute a separate offence. 2000, c. 16, s. 37 (4).

Administrative penalty

(5) A person against whom an administrative penalty has been levied by a designated administrative authority or, in the absence of such authority, by the Minister does not preclude a person from being charged with, and convicted of, an offence under this Act for the same matter. 2000, c. 16, s. 37 (5).

Time limit

(6) No proceeding in respect of an alleged offence under this Act may be commenced after two years following the date on which the facts that gave rise to the alleged offence were discovered. 2000, c. 16, s. 37 (6).

Crown bound

38. This Act binds the Crown. 2000, c. 16, s. 38.

Municipal by-laws

39. This Act, the regulations and a Minister's order prevail over any municipal by-law. 2000, c. 16, s. 39.

Priority of use, natural gas

40. (1) Despite anything in this or any other Act, or in any contract for the supply of natural gas made between a distributor and a consumer, the Minister may, if the supply of natural gas to the distributor is interrupted or curtailed, order the distributor to halt or reduce the supply of natural gas to a consumer or a class of consumers if he or she considers it advisable in the circumstances. 2000, c. 16, s. 40 (1).

Compliance

(2) Every person to whom an order referred to in this section is directed shall comply with it in accordance with its terms. 2000, c. 16, s. 40 (2).

Definitions

(3) In this section,

"distributor" means a person who supplies a hydrocarbon to an end user, and "distribute" and "distribution" have corresponding meanings; ("distributeur", "distribuer", "distribution")

"hydrocarbon" means a chemical compound of hydrogen and carbon used as a fuel, either liquid or gaseous. ("hydrocarbure") 2000, c. 16, s. 40 (3).

Duties of employers, contractors

41. Every contractor and employer shall take all reasonable precautions to ensure that they and their agents and employees comply with this Act, the regulations or a Minister's order. 2000, c. 16, s. 41.

Environmental Bill of Rights, 1993

42. The *Environmental Bill of Rights, 1993* applies to this Act with respect to matters to which the predecessor *Gasoline Handling Act* would have applied had it not been repealed by this Act. 2000, c. 16, s. 42.

Minister's confirmation

[43.](#) The Minister may confirm in writing the designation of an administrative authority as a designated administrative authority under the *Safety and Consumer Statutes Administration Act, 1996* and such written confirmation is proof, in the absence of evidence to the contrary, of the facts set out in it, without proof of signature. 2000, c. 16, s. 43.

Conflict

[44.](#) In the event of conflict between this Act and any provision of the *Safety and Consumer Statutes Administration Act, 1996*, that Act prevails. 2000, c. 16, s. 44.

REPEALS, TRANSITION AND AMENDMENTS

Repeals

[45.](#) (1) The following Acts are repealed:

1. Amusement Devices Act, as amended by the Statutes of Ontario, 1994, chapter 27, section 69 and 1996, chapter 19, section 16.
2. Boilers and Pressure Vessels Act, as amended by the Statutes of Ontario, 1994, chapter 27, section 70 and 1996, chapter 19, section 17.
3. Elevating Devices Act, as amended by the Statutes of Ontario, 1993, chapter 27, Schedule, 1994, chapter 27, section 80, 1996, chapter 19, section 19 and 1999, chapter 12, Schedule F, section 24.
4. Energy Act, as amended by the Statutes of Ontario, 1993, chapter 27, Schedule, 1994, chapter 27, section 81 and 1996, chapter 19, section 20.
5. Gasoline Handling Act, as amended by the Statutes of Ontario, 1993, chapter 27, Schedule, 1994, chapter 27, section 84 and 1996, chapter 19, section 21.
6. Operating Engineers Act, as amended by the Statutes of Ontario, 1993, chapter 27, Schedule 1994, chapter 27, section 95 and 1996, chapter 19, section 23.
7. Upholstered and Stuffed Articles Act, as amended by the Statutes of Ontario, 1994, chapter 27, section 101, 1996, chapter 19, section 26, 1999, chapter 12, Schedule F, section 42 and 1999, chapter 12, Schedule G, section 36.

(2) The following sections of the Ministry of Consumer and Commercial Relations Act are repealed:

1. Section 16, as enacted by the Statutes of Ontario, 1994, chapter 27, section 90 and amended by 1996, chapter 19, section 22.

2. Sections 17, 18 and 19, as enacted by the Statutes of Ontario, 1994, chapter 27, section 90.

Transition

- (3) Despite subsection (1),
 - (a) the regulations made under the Acts referred to in paragraphs 1 to 7 of subsection (1) continue in effect until they are revoked and replaced by regulations or Minister's orders made under this Act;
 - (b) a designation made under the Ministry of Consumer and Commercial Relations Act and a licence, certificate, approval, identification, registration or permit granted under the Acts referred to in paragraphs 1 to 7 of subsection (1) that are in effect on the day this Act comes into force continue to be in effect until they expire or are earlier revoked; and
 - (c) every director, inspector, chief officer or chief inspector appointed under the Acts referred to in paragraphs 1 to 7 of subsection (1) or section 16 of the Ministry of Consumer and Commercial Relations Act who are in office on the day this Act comes into force continue in office until the appointment expires or is earlier revoked.

Amendment to the Safety and Consumer Statutes Administration Act, 1996

[46.](#) (1) The Schedule to the Safety and Consumer Statutes Administration Act, 1996, as amended by the Statutes of Ontario, 1998, chapter 15, Schedule E, section 46, is further amended by striking out “Amusement Devices Act”, “Boilers and Pressure Vessels Act”, “Elevating Devices Act”, “Energy Act”, “Gasoline Handling Act”, “Operating Engineers Act” and “Upholstered and Stuffed Articles Act”.

Same

(2) The Schedule to the Act is amended by adding “Technical Standards and Safety Act, 2000”.

COMMENCEMENT AND SHORT TITLE

Commencement

[47.](#) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short Title

[48.](#) The short title of this Act is the Technical Standards and Safety Act, 2000.