[Français](http://www.ontario.ca/fr/lois/loi/21s08)

Securities Commission Act, 2021

[S.o.](https://www.ontario.ca/laws/statute/s21008" \l "BK11) 2021, chapter 8  
Schedule 9

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Interpretation

Definitions

**1** In this Act,

“Commission” means the Ontario Securities Commission continued under this Act; (“Commission”)

“Minister” means the Minister of Finance or such other member of the Executive Council to whom the administration of this Act may be assigned; (“ministre”)

“Tribunal” means the Capital Markets Tribunal established under section 25. (“Tribunal”)

Ontario Securities Commission

Continuation of Ontario Securities Commission

**2** The Ontario Securities Commission is continued as a corporation without share capital under the name Ontario Securities Commission in English and Commission des valeurs mobilières de l’Ontario in French.

Crown agent

**3** The Commission is an agent of the Crown in right of Ontario.

Objects

**4** The Commission’s objects are,

(a) to administer and enforce the Securities Act;

(b) to administer and enforce the Commodity Futures Act; and

(c) to carry out the powers, duties and functions given to the Commission under this or any other Act.

Powers and duties

**5** (1)  The Commission has the capacity, rights, powers and privileges of a natural person for carrying out its objects, subject to the limits under this Act and section 11.0.1 of the Ministry of Infrastructure Act, 2011. 2021, c. 8, Sched. 9, s. 5 (1); 2023, c. 5, Sched. 2, s. 11.

Same

(2)  The Commission shall,

(a) exercise the powers conferred on and perform the duties given to it; and

(b) administer and enforce this Act and every other Act that confers powers on or gives duties to it. 2021, c. 8, Sched. 9, s. 5 (2).

Decisions of one or more director

(3)  The Commission may in writing authorize one or more of its directors to exercise any of the Commission’s powers or perform any of its duties under the Securities Act, the Commodity Futures Act or any other Act, and a decision of the director or directors acting under the authorization has the same force and effect as if the decision were made by the Commission. 2021, c. 8, Sched. 9, s. 5 (3).

Delegation of duties under corporations legislation

(4)  The Commission may delegate any of its powers or duties under the Business Corporations Act or the Corporations Act to the Chief Executive Officer of the Commission or to another Director within the meaning of the Securities Act. 2021, c. 40, Sched. 19, s. 1.

Revocation of delegation

(5)  The Commission may revoke, in whole or in part, a delegation made under subsection (4). 2021, c. 40, Sched. 19, s. 1.

Terms and conditions

(6)  A delegation under subsection (4) is subject to any terms or conditions set out in the delegation. 2021, c. 40, Sched. 19, s. 1.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 1](http://www.ontario.ca/laws/statute/S21040" \l "sched19s1) - 29/04/2022

[2023, c. 5, Sched. 2, s. 11](http://www.ontario.ca/laws/statute/S23005" \l "sched2s11) - 01/04/2024

Employees

**6** (1)  The Commission may employ such persons as it considers necessary to enable it to exercise its powers and perform its duties.

Agreement for services

(2)  The Commission and a ministry of the Crown may enter into agreements for the provision by employees of the Crown of any service required by the Commission to exercise its powers and perform its duties. The Commission shall pay the agreed amount for services provided to it.

Application of certain Acts

**7** (1)  Sections 132 and 136 of the Business Corporations Act apply to the Commission, with necessary modifications, as if the Minister were its sole shareholder. 2021, c. 8, Sched. 9, s. 7 (1).

Non-application of certain Acts

(2)  The Not-for-Profit Corporations Act, 2010 and the Corporations Information Act do not apply to the Commission. 2021, c. 8, Sched. 9, s. 7 (2); 2021, c. 8, Sched. 9, s. 37.

**Section Amendments with date in force (d/m/y)**

[2021, c. 8, Sched. 9, s. 37](http://www.ontario.ca/laws/statute/S21008" \l "sched9s37) - 29/04/2022

Board of Directors, Chief Executive Officer

Board of directors

**8** (1)  The Commission’s board of directors shall be composed of,

(a) at least three and not more than 11 individuals appointed by the Lieutenant Governor in Council on the recommendation of the Minister; and

(b) the Chief Executive Officer of the Commission, if the Commission’s by-laws so provide. 2021, c. 40, Sched. 19, s. 2.

Same, Chief Executive Officer membership

(1.1)  The Chief Executive Officer’s participation on the board is subject to any limitations or restrictions set out in the by-laws. 2021, c. 40, Sched. 19, s. 2.

Quorum

(2)  A majority of the directors constitutes a quorum of the board of directors. However, the by-laws may provide for a higher threshold for quorum. 2021, c. 8, Sched. 9, s. 8 (2).

Chair

(3)  The Lieutenant Governor in Council shall, on the recommendation of the Minister, designate a director as chair. 2021, c. 8, Sched. 9, s. 8 (3).

Acting chair

(4)  If the chair resigns or is absent or incapacitated, the board may designate another director to act as chair during the vacancy. 2021, c. 8, Sched. 9, s. 8 (4).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 2](http://www.ontario.ca/laws/statute/S21040" \l "sched19s2) - 29/04/2022

Duties

**9** The board of directors shall manage or supervise the management of the Commission’s affairs, other than matters relating to the Tribunal’s adjudicative functions.

By-laws

**10** (1)  Subject to the approval of the Minister, the board of directors may propose by-laws governing the management of the Commission’s affairs.

Copy to Minister

(2)  The board shall submit a copy of each proposed by-law to the Minister.

Minister’s review

(3)  Within 60 days after the proposed by-law is submitted, the Minister shall approve it, reject it or return it to the Commission for further consideration.

Effect of approval

(4)  A proposed by-law that is approved by the Minister becomes effective on the day of the approval or on such later day as the by-law may specify.

Effect of rejection

(5)  A proposed by-law that is rejected by the Minister does not become effective.

Effect of return for further consideration

(6)  If the Minister returns a proposed by-law to the Commission for further consideration, the Commission may resubmit it to the Minister.

Expiry of review period

(7)  If within the 60-day period the Minister does not approve the proposed by-law, reject it or return it for further consideration, it becomes effective on the 75th day after it is submitted to the Minister or on such later date as the by-law may specify.

Financial by-laws

(8)  The following apply with respect to a by-law relating to borrowing or investing:

1. Subsections (3) to (7) do not apply.

2. The by-law does not take effect unless it is approved by the Minister and, if the Minister is not the Minister of Finance, the Minister of Finance.

3. The by-law becomes effective on the day it is approved under paragraph 2 or on such later date as the by-law may specify.

Publication

(9)  The Commission shall publish each by-law on its website as soon as possible after it is approved or, in the case of a by-law that becomes effective under subsection (7), as soon as possible after the date on which it becomes effective.

Legislation Act, 2006

(10)  Part III (Regulations) of the Legislation Act, 2006 does not apply to the Commission’s by-laws.

Chief Executive Officer

**11** (1)  The board of directors shall appoint a Chief Executive Officer of the Commission.

Management and administration

(2)  The Chief Executive Officer shall be responsible for the management and administration of the Commission, other than matters relating to the Tribunal’s adjudicative functions.

Remuneration, expenses

(3)  The board shall set the Chief Executive Officer’s remuneration and expenses.

Chief Executive Officer — powers, etc., under other Acts

**12** The Chief Executive Officer has the powers, duties and functions given to the Chief Executive Officer of the Commission under the Securities Act, the Commodity Futures Act and any other Act.

Chief Executive Officer appointment during first two years

**13** (1)  Despite subsection 11 (1), the Lieutenant Governor in Council shall, on the recommendation of the Minister, appoint a Chief Executive Officer who shall exercise the powers, perform the duties and carry out the functions set out in subsection 11 (2) and section 12 during the first two years after this subsection comes into force.

Remuneration, expenses

(2)  The Commission shall pay the Chief Executive Officer appointed under this section the remuneration and expenses fixed by the Lieutenant Governor in Council.

Term

(3)  The term of the Chief Executive Officer appointed under this section ends on the second anniversary of the day subsection (1) comes into force.

Eligibility for appointment by board

(4)  The person appointed under this section is eligible to be appointed as Chief Executive Officer by the board under section 11.

Directors and officers — good faith, etc.

**14** Every director and officer of the Commission shall, in exercising their powers and performing their duties,

(a) act honestly and in good faith in the best interests of the Commission in carrying out its objects; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Public Service Pension Plan not to apply

**15** The Public Service Pension Plan established under the Public Service Pension Act does not apply to the Commission’s directors, employees or adjudicators or to the Chief Executive Officer, except as authorized by order of the Lieutenant Governor in Council.

Financial Matters

Fiscal year

**16** The Commission’s fiscal year begins on April 1 in each year and ends on March 31 in the next year.

Funding of Tribunal

**17** (1)  The Chief Adjudicator shall prepare and submit to the Commission’s board of directors a proposed budget in each fiscal year containing the estimated amounts required to fund the proper operation of the Tribunal for the next fiscal year.

Commission to allocate funding

(2)  The Commission shall allocate sufficient funding for the proper operation of the Tribunal in each fiscal year.

Fees

**18** The Commission may collect and enforce the payment of such fees as may be authorized under the Securities Act or the Commodity Futures Act.

Authority re income

**19** (1)  Despite the Financial Administration Act, the fees payable to the Commission under the Securities Act or the Commodity Futures Act, the revenue from the exercise of a power or the performance of a duty or function given to the Commission under those Acts, and the investments held by the Commission do not form part of the Consolidated Revenue Fund and, subject to this section, shall be applied to carrying out the powers, duties and functions given to the Commission under this or any other Act. 2021, c. 8, Sched. 9, s. 19 (1).

Exceptions

(2)  The Commission shall pay into the Consolidated Revenue Fund money received by the Commission pursuant to an order under paragraph 9 or 10 of subsection 127 (1) of the Securities Act or paragraph 9 or 10 of subsection 60 (1) of the Commodity Futures Act or as a payment to settle enforcement proceedings commenced by the Commission, other than,

(a) money to reimburse the Commission for costs incurred to enforce an order of the Tribunal or for costs to be incurred for that purpose;

(b) money that the Commission allocates,

(i) to or for the benefit of third parties,

(ii) for use, by the Commission or third parties, for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, or

(iii) for any other purpose specified in the regulations;

(c) previously designated money that the Commission allocates for a purpose described in clause (a) or (b); or

(d) previously designated money that the Commission allocates for any additional purpose specified in the regulations. 2021, c. 40, Sched. 19, s. 3.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 19 (2) of the Act is repealed and the following substituted: (See: 2023, c. 21, Sched. 11, s. 1)

Exceptions

(2)  The Commission shall pay into the Consolidated Revenue Fund money received by the Commission pursuant to an order under paragraph 9 of subsection 127 (1) of the Securities Act or paragraph 9 of subsection 60 (1) of the Commodity Futures Act, money received as payment to settle enforcement proceedings commenced by the Commission, and money described in subsections 128.1 (14) and (15) of the Securities Act or subsections 60.2.1 (14) and (15) of the Commodity Futures Act, other than,

(a) money to reimburse the Commission for costs incurred to enforce an order of the Tribunal or for costs to be incurred for that purpose;

(b) money that the Commission allocates,

(i) to or for the benefit of third parties,

(ii) for use, by the Commission or third parties, for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets,

(iii) for use to pay administrative costs in relation to the distribution of disgorged amounts in accordance with subsection 128.1 (9) or (12) of the Securities Act or subsection 60.2.1 (9) or (12) of the Commodity Futures Act, or

(iv) for any other purpose specified in the regulations;

(c) previously designated money that the Commission allocates for a purpose described in clause (a) or (b); or

(d) previously designated money that the Commission allocates for any additional purpose specified in the regulations. 2023, c. 21, Sched. 11, s. 1.

Interpretation, previously designated money

(2.1)  In subsection (2),

“previously designated money” means money that,

(a) has been received by the Commission according to the terms of an order or as a payment to settle enforcement proceedings commenced by the Commission, and

(b) was designated under clause 3.4 (2) (b) of the Securities Act, as that clause read immediately before its repeal. 2021, c. 40, Sched. 19, s. 3.

Allocation, subs. (2) (b)

(2.2)  The Commission shall allocate money mentioned in clause (2) (b) at least once each fiscal year or more frequently if required by the by-laws. 2021, c. 40, Sched. 19, s. 3.

Same

(3)  The Minister may establish guidelines respecting the allocation of money received by the Commission pursuant to an order described in subsection (2) or as a payment to settle enforcement proceedings commenced by the Commission. 2021, c. 8, Sched. 9, s. 19 (3).

Non-application of Fines and Forfeitures Act, designation under subs. (2) (b)

(4)  Subsection 2 (2) of the Fines and Forfeitures Act does not apply to a fine recovered for a contravention of Ontario securities law or Ontario commodity futures law that is designated in accordance with clause (2) (b). 2021, c. 8, Sched. 9, s. 19 (4).

Surplus

(5)  When ordered to do so by the Minister, the Commission shall pay into the Consolidated Revenue Fund such of its surplus funds as are determined by the Minister. 2021, c. 8, Sched. 9, s. 19 (5).

Same

(6)  In determining the amount of a payment to be made under subsection (5), the Minister shall allow such reserves for the future needs of the Commission as the Minister considers appropriate, and shall ensure that the payment will not impair the Commission’s ability to pay its liabilities, to meet its obligations as they become due or to fulfil its contractual commitments. 2021, c. 8, Sched. 9, s. 19 (6).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 3](http://www.ontario.ca/laws/statute/S21040" \l "sched19s3) - 29/04/2022

[2023, c. 21, Sched. 11, s. 1](http://www.ontario.ca/laws/statute/S23021" \l "sched11s1) - not in force

Restriction on borrowing

**20** The Commission shall not borrow or invest money unless the borrowing or investing is authorized by by-law.

Financial statements

**21** (1)  The Commission shall prepare annual financial statements in accordance with generally accepted accounting principles. The financial statements must present the financial position, financial performance and changes in the financial position of the Commission for its most recent fiscal year and must include any other prescribed information. 2021, c. 8, Sched. 9, s. 21 (1); 2021, c. 40, Sched. 19, s. 4.

Auditors

(2)  The Commission shall appoint one or more auditors licensed under the Public Accounting Act, 2004 to audit the Commission’s financial statements for each fiscal year. 2021, c. 8, Sched. 9, s. 21 (2).

Auditor General

(3)  The Auditor General may also audit the Commission’s financial statements. 2021, c. 8, Sched. 9, s. 21 (3).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 4](http://www.ontario.ca/laws/statute/S21040" \l "sched19s4) - 29/04/2022

Information and Reporting

Annual business plan

**22** (1)  The Commission shall prepare an annual business plan, provide it to the Minister and make it available to the public.

Same

(2)  The Commission shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

(a) the form and content of the business plan;

(b) when to provide it to the Minister; and

(c) when and how to make it available to the public.

Same

(3)  The Commission shall include such additional content in the business plan as the Minister may require.

Minister’s request for information

**23** (1)  The Commission shall promptly give the Minister such information about its activities, operations and financial affairs as the Minister may request.

Examination

(2)  The Minister may designate a person to examine any financial or accounting procedures, activities or practices of the Commission. The person designated shall do so and report the results of the examination to the Minister.

Duty to assist, etc.

(3)  The directors, adjudicators and employees of the Commission shall give the person designated by the Minister all the assistance and co-operation necessary to enable the person to complete the examination.

Annual report

**24** (1)  The Commission shall prepare an annual report, provide it to the Minister and make it available to the public.

Same

(2)  The Commission shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

(a) the form and content of the annual report;

(b) when to provide it to the Minister; and

(c) when and how to make it available to the public.

Same

(3)  The Commission shall include such additional content in the annual report as the Minister may require.

Capital Markets Tribunal

Establishment

**25** The Capital Markets Tribunal is established as a division of the Commission.

Jurisdiction

**26** The Tribunal has exclusive jurisdiction to exercise the powers conferred on it under the Securities Act and the Commodity Futures Act and to determine all questions of fact or law in any proceeding before it under those Acts.

Composition

**27** (1)  The Tribunal shall be composed of at least nine adjudicators appointed by the Lieutenant Governor in Council.

Deficiency in number

(2)  If there are fewer than nine adjudicators, the Tribunal is deemed to be properly composed for a period not exceeding 90 days after the day the deficiency in numbers first occurs.

Adjudicator appointments

**28** (1)  The appointment of an adjudicator shall be for a fixed term specified by the Lieutenant Governor in Council.

Initial term, up to five years

(2)  The initial term of an adjudicator’s appointment shall not exceed five years.

Remuneration, expenses

**29** The Commission shall pay the adjudicators the remuneration and expenses fixed by the Lieutenant Governor in Council.

Chief Adjudicator

**30** (1)  The Lieutenant Governor in Council shall, on the recommendation of the Minister, designate a Chief Adjudicator from among the appointed adjudicators.

Duties

(2)  The Chief Adjudicator shall supervise and direct the operations of the Tribunal.

Administrative directions

(3)  The Chief Adjudicator shall comply with the board’s administrative directions except with respect to matters related to the Tribunal’s adjudicative functions.

Delegation

(4)  The Chief Adjudicator may, in writing, delegate a power conferred on or a duty given to the Chief Adjudicator under this Act or under the Securities Act or the Commodity Futures Act to an employee of the Commission assigned to assist the Tribunal in the performance of its functions.

Hearings

**31** (1)  The Tribunal may hold hearings in or outside of Ontario.

Joint hearings

(2)  The Tribunal may hold hearings in conjunction with other bodies empowered by statute to administer or regulate trading in securities, derivatives or commodities, and may consult with those bodies during the course of, or in connection with, the hearing.

Miscellaneous

Collection of personal information

**32** The Commission may collect personal information within the meaning of section 38 of the Freedom of Information and Protection of Privacy Act for the purpose of carrying out its duties and exercising its powers under this or any other Act.

Immunity of Commission, employees and others

**33** (1)  No proceeding, including a court, administrative or arbitral proceeding, shall be commenced against the Commission, any current or former director or employee of the Commission or any current or former Chief Executive Officer or adjudicator for any act done in good faith in the exercise or performance, or intended exercise or performance, of the person’s powers, duties or functions under this Act, the Securities Act, the Commodity Futures Act or any other Act or for any alleged neglect or default in the exercise or performance of those powers, duties or functions. 2021, c. 8, Sched. 9, s. 33 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 33 (1) of the Act is amended by striking out “or employee” and substituting “employee or agent”. (See: 2023, c. 21, Sched. 11, s. 2)

(2)  Repealed: 2021, c. 40, Sched. 19, s. 5.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 5](http://www.ontario.ca/laws/statute/S21040" \l "sched19s5) - 29/04/2022

[2023, c. 21, Sched. 11, s. 2](http://www.ontario.ca/laws/statute/S23021" \l "sched11s2) - not in force

Non-compellability

**34** A current or former director or employee of the Commission, or a current or former Chief Executive Officer or adjudicator, shall not be required in any civil proceeding, except a proceeding under the Securities Act or the Commodity Futures Act or a judicial review relating to a proceeding under either of those Acts, to give testimony or to produce any book, record, document or thing respecting information obtained in the discharge of their duties under those Acts or under this Act.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 34 of the Act is amended by striking out “or employee” and substituting “employee or agent”. (See: 2023, c. 21, Sched. 11, s. 3)

**Section Amendments with date in force (d/m/y)**

[2023, c. 21, Sched. 11, s. 3](http://www.ontario.ca/laws/statute/S23021" \l "sched11s3) - not in force

Confidential information

**35** The Minister is entitled to keep confidential any information or documents received from the Commission that the Commission was entitled to keep confidential.

Periodic review of Act, etc.

Initial review

**35.1** (1)  Within five years after the day section 6 of Schedule 19 to the Build Ontario Act (Budget Measures), 2021 comes into force, the Minister shall direct a public servant employed under Part III of the Public Service of Ontario Act, 2006 or another person to,

(a) review the matters the Minister specifies with respect to this Act, the Securities Act or the Commodity Futures Act or any other aspect of the regulation of the capital markets; and

(b) make recommendations to the Minister in respect of those matters. 2021, c. 40, Sched. 19, s. 6.

Subsequent reviews

(2)  No later than five years after receiving the final recommendations of a person who has been directed to conduct a review, the Minister shall direct a public servant employed under Part III of the Public Service of Ontario Act, 2006 or another person to conduct a subsequent review. 2021, c. 40, Sched. 19, s. 6.

Available to public

(3)  The Minister shall make the reviewer’s final recommendations available to the public. 2021, c. 40, Sched. 19, s. 6.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 6](http://www.ontario.ca/laws/statute/S21040" \l "sched19s6) - 29/04/2022

Regulations

Regulations

**36** (0.1)  The Lieutenant Governor in Council may make regulations respecting anything that may or must be prescribed or done by regulation under this Act. 2021, c. 40, Sched. 19, s. 7.

Regulations

(1)  The Lieutenant Governor in Council may make regulations governing transitional matters arising from the enactment of this Act, including transitional matters relating to hearings in proceedings that were commenced under the Securities Act or the Commodity Futures Act before the day this Act came into force. 2021, c. 8, Sched. 9, s. 36.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 19, s. 7](http://www.ontario.ca/laws/statute/S21040" \l "sched19s7) - 29/04/2022

**37** Omitted (provides for amendments to this Act).

**38-40** Omitted (amends, repeals or revokes other legislation).

**41** Omitted (provides for coming into force of provisions of this Act).

**42** Omitted (enacts short title of this Act).

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