[Français](http://www.ontario.ca/fr/lois/loi/90e26)

Expropriations Act

R.S.O. 1990, Chapter E.26

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Interpretation

Definitions

**1** (1)  In this Act,

“approving authority” means the approving authority as determined under section 5; (“autorité d’approbation”)

“expropriate” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers; (“exproprier”)

“expropriating authority” means the Crown or any person empowered by statute to expropriate land; (“autorité expropriante”)

“injurious affection” means,

(a) where a statutory authority acquires part of the land of an owner,

(i) the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and

(ii) such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,

(b) where the statutory authority does not acquire part of the land of an owner,

(i) such reduction in the market value of the land of the owner, and

(ii) such personal and business damages,

resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,

and for the purposes of this clause, part of the lands of an owner shall be deemed to have been acquired where the owner from whom lands are acquired retains lands contiguous to those acquired or retains lands of which the use is enhanced by unified ownership with those acquired; (“effet préjudiciable”)

“judge”, except where otherwise described, means a judge of the Superior Court of Justice; (“juge”)

“land” includes any estate, term, easement, right or interest in, to, over or affecting land; (“bien-fonds”)

“owner” includes a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a guardian of property, and a guardian, executor, administrator or trustee in whom land is vested; (“propriétaire”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“purchase-money mortgage” means a mortgage given by a purchaser of land to the vendor of the land or the vendor’s nominee as security for the payment of all or part of the consideration for the sale; (“hypothèque garantissant le prix d’achat”)

“registered owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper land registry or sheriff’s office, and includes a person shown as a tenant of land on the last revised assessment roll; (“propriétaire enregistré”)

“security holder” means a person who has an interest in land as security for the payment of money; (“titulaire de la sûreté”, “titulaire d’une sûreté”)

“statutory authority” means the Crown or any person empowered by statute to expropriate land or cause injurious affection; (“autorité légalement compétente”)

“tenant” means a lessee or occupant occupying premises under any tenancy whether written, oral or implied. (“locataire”)

“Tribunal” means the Ontario Land Tribunal. (“Tribunal”) R.S.O. 1990, c. E.26, s. 1 (1); 1992, c. 32, s. 11; 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. A, s. 9 (1); 2017, c. 23, Sched. 5, s. 28; 2021, c. 4, Sched. 6, s. 48 (1).

Service

(2)  Any document required by this Act to be served may be served personally or by registered mail addressed to the person to be served at the person’s last known address, or if that person or person’s address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service shall be deemed to be made,

(a) in the case of service by registered mail, on the second day after the day of mailing; and

(b) in the case of service by publication, on the date of the third publication. R.S.O. 1990, c. E.26, s. 1 (2).

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

1992, c. 32, s. 11 - 3/04/1995

[2002, c. 17, Sched. F, Table](http://www.ontario.ca/laws/statute/S02017" \l "schedfs2) - 01/01/2003; [2002, c. 18, Sched. A, s. 9 (1)](http://www.ontario.ca/laws/statute/S02018" \l "schedas9s1) - 26/11/2002

[2017, c. 23, Sched. 5, s. 28 (1, 2)](http://www.ontario.ca/laws/statute/S17023" \l "sched5s28s1) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (1)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s1) - 01/06/2021

Application of Act

**2** (1)  Despite any general or special Act, where land is expropriated or injurious affection is caused by a statutory authority, this Act applies. R.S.O. 1990, c. E.26, s. 2 (1).

References in other Acts

(2) The provisions of any general or special Act providing procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection that refer to another Act shall be deemed to refer to this Act and not to the other Act. 2002, c. 17, Sched. F, Table.

Application to drainage works

(3)  This Act does not apply to the use of or injury to land authorized under the *Drainage Act* for the purposes of a drainage works constructed under that Act or to any proceedings in connection therewith. R.S.O. 1990, c. E.26, s. 2 (3).

Conflict

(4)  Where there is conflict between a provision of this Act and a provision of any other general or special Act, the provision of this Act prevails. R.S.O. 1990, c. E.26, s. 2 (4).

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

[2002, c. 17, Sched. F, Table](http://www.ontario.ca/laws/statute/S02017" \l "schedfs2) - 01/01/2003

Crown bound by Act

**3** This Act binds the Crown. R.S.O. 1990, c. E.26, s. 3.

Approval of intention to expropriate

**4** (1)  An expropriating authority shall not expropriate land without the approval of the approving authority. R.S.O. 1990, c. E.26, s. 4 (1).

Gas storage areas excepted

(2)  Subsection (1) does not apply to an authorization of the Ontario Energy Board under the *Ontario Energy Board Act, 1998* in respect of storage of gas in a gas storage area or to an expropriation authorized under section 99 of that Act. R.S.O. 1990, c. E.26, s. 4 (2); 1998, c. 15, Sched. E, s. 11 (1).

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

1998, c. 15, Sched. E, s. 11 (1) - 7/11/1998

Approving authority

**5** (1)  Subject to subsections (4), (5) and (6), the approving authority in respect of an expropriation shall be the Minister responsible for the administration of the Act in which the power to expropriate is granted, except that,

(a) where a municipality or a local board thereof, other than an elected school board, expropriates lands for municipal purposes, the approving authority shall be the council of the municipality; and

(b) where an elected school board expropriates lands, the approving authority shall be the school board. R.S.O. 1990, c. E.26, s. 5 (1).

(2)  Repealed: 1997, c. 31, s. 150.

Idem, private Acts

(3)  Where the power to expropriate is granted in a private Act, the approving authority shall be,

(a) in the case of universities or other educational institutions, the Minister of Colleges and Universities;

(b) in the case of hospitals or other medical or health institutions, the Minister of Health and Long-Term Care; and

(c) in the case of all other corporations, the Attorney General. R.S.O. 1990, c. E.26, s. 5 (3); 2006, c. 19, Sched. B, s. 8.

Idem, public works

(4)  Where an expropriation is made under the Ministry of Infrastructure Act, 2011 for the benefit of a ministry or agency of the Ontario Government, the approving authority shall be the Minister for the ministry or responsible for the agency for the benefit of which the land is expropriated. R.S.O. 1990, c. E.26, s. 5 (4); 2011, c. 9, Sched. 27, s. 25.

Same, OEB

(5)  Where an expropriation is made under the Ontario Energy Board Act, 1998, the approving authority is the Ontario Energy Board. 1998, c. 15, Sched. E, s. 11 (2).

Idem, other cases

(6)  The approving authority in any case not provided for in this section shall be the Attorney General. R.S.O. 1990, c. E.26, s. 5 (6).

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

1997, c. 31, s. 150 - 01/01/1998; 1998, c. 15, Sched. E, s. 11 (2) - 01/04/1999

[2006, c. 19, Sched. B, s. 8](http://www.ontario.ca/laws/statute/S06019" \l "schedbs8) - 22/06/2006

[2011, c. 9, Sched. 27, s. 25](http://www.ontario.ca/laws/statute/S11009" \l "sched27s25) - 06/06/2011

Steps before inquiry

Notice of intention to expropriate

**6** (1)  Upon applying for an approval under section 4, an expropriating authority shall serve a notice of its application for approval to expropriate upon each registered owner of the lands to be expropriated and shall publish the notice once a week for three consecutive weeks in a newspaper having general circulation in the locality in which the lands are situate. R.S.O. 1990, c. E.26, s. 6 (1).

Notification for hearing

(2)  Any owner of lands in respect of which notice is given under subsection (1) who desires a hearing shall so notify the approving authority in writing,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 6 (2) of the Act is amended by striking out “Any owner” at the beginning and substituting “Subject to section 8.1, any owner”. (See: 2021, c. 4, Sched. 5, s. 1)

(a) in the case of a registered owner, served personally or by registered mail, within thirty days after the registered owner is served with the notice, or, where the registered owner is being served with the notice by publication, within thirty days after the first publication of the notice;

(b) in the case of an owner who is not a registered owner, within thirty days after the first publication of the notice. R.S.O. 1990, c. E.26, s. 6 (2).

Order dispensing with hearing

(3)  The Lieutenant Governor in Council may, in special circumstances where the Lieutenant Governor in Council considers it necessary or expedient in the public interest to do so, direct that an intended expropriation shall proceed without a hearing and thereupon subsections (1) and (2) of this section, section 7 and subsections 8 (1) and (2) do not apply thereto. R.S.O. 1990, c. E.26, s. 6 (3); 2021, c. 4, Sched. 6, s. 48 (2).

Service of order

(4)  Where an order is made under subsection (3), the expropriating authority shall forthwith serve a copy of the order on each registered owner affected by the intended expropriation. R.S.O. 1990, c. E.26, s. 6 (4).

Report to Assembly

(5)  The Attorney General shall, within thirty days after the commencement of each session of the Legislative Assembly, lay before the Assembly a copy of each order made theretofore under subsection (3) and not previously laid before the Assembly. R.S.O. 1990, c. E.26, s. 6 (5).

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

[2021, c. 4, Sched. 5, s. 1](http://www.ontario.ca/laws/statute/S21004" \l "sched5s1) - not in force; [2021, c. 4, Sched. 6, s. 48 (2)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s2) - 01/06/2021

Hearings following notice under s. 6 (2)

**7** (1)  An approving authority that receives notice under subsection 6 (2) shall refer the matter to the Tribunal for a hearing by a single member of the Tribunal. 2021, c. 4, Sched. 6, s. 48 (3).

Parties

(2)  The parties to a hearing under this section are,

(a) the expropriating authority;

(b) each owner who notifies the approving authority under subsection 6 (2) that the owner desires a hearing in respect of the lands intended to be expropriated; and

(c) any owner added as a party by the Tribunal whose land the Tribunal determines would be affected by the expropriation or any modification of the expropriation. 2021, c. 4, Sched. 6, s. 48 (3).

Time, place and notice of hearing

(3)  The Tribunal shall fix a time and place for the hearing, and cause notice of the hearing to be served on each party. 2021, c. 4, Sched. 6, s. 48 (3).

Notice of grounds

(4)  At least five days before the date fixed for the hearing, or by such earlier time as may be specified by the Tribunal, the expropriating authority shall,

(a) serve on each of the other parties a notice indicating the grounds on which it intends to rely at the hearing; and

(b) make available for inspection by the other parties any documents, including maps and plans, that the expropriating authority intends to use at the hearing. 2021, c. 4, Sched. 6, s. 48 (3).

Hearing by means of inquiry

(5)  At the hearing, the Tribunal shall inquire into whether the taking of the lands or any part of the lands of an owner or of more than one owner of the same lands is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority. 2021, c. 4, Sched. 6, s. 48 (3).

Report

(6)  Following the hearing, the Tribunal shall issue a report respecting the hearing that contains the following information, and shall immediately provide a copy of the report to the approving authority and the parties:

1. A summary of the evidence and arguments advanced by the parties.

2. The Tribunal’s findings of fact.

3. The Tribunal’s opinion on the merits of the application for approval, and the reasons for the opinion. 2021, c. 4, Sched. 6, s. 48 (3).

Costs

(7)  Subject to the regulations, the Tribunal may recommend to the approving authority that a party to the hearing be paid a fixed amount for the party’s costs of the hearing, and the approving authority may in its discretion order the expropriating authority to pay the recommended costs. 2021, c. 4, Sched. 6, s. 48 (3).

Same

(8)  Costs recommended under subsection (7) shall not exceed $200, or such higher amount as may be prescribed. 2021, c. 4, Sched. 6, s. 48 (3).

Same

(9)  Subsections (7) and (8) apply instead of section 20 of the Ontario Land Tribunal Act, 2021. 2021, c. 4, Sched. 6, s. 48 (3).

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

[2002, c. 18, Sched. A, s. 9 (2)](http://www.ontario.ca/laws/statute/S02018" \l "schedas9s1) - 26/11/2002

[2006, c. 21, Sched. C, s. 109](http://www.ontario.ca/laws/statute/S06021" \l "schedcs109) - 01/05/2007

[2021, c. 4, Sched. 6, s. 48 (3)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s3) - 01/06/2021

Decision of approving authority

**8** (1)  The approving authority shall consider every report it receives under subsection 7 (6) respecting a hearing, and shall,

(a) approve the proposed expropriation;

(b) not approve the proposed expropriation; or

(c) approve the proposed expropriation with such modifications as the approving authority considers proper, as long as the modifications do not affect the lands of a registered owner who was not a party to the hearing. 2021, c. 4, Sched. 6, s. 48 (3).

Reasons, service of decision

(2)  The approving authority shall give written reasons for its decision, and shall cause the decision and reasons to be served on all the parties and on the Tribunal within 90 days after the date on which the approving authority received the report. 2021, c. 4, Sched. 6, s. 48 (3).

Certificate

(3)  The approving authority shall certify its approval in the prescribed form. 2021, c. 4, Sched. 6, s. 48 (3).

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

[2002, c. 18, Sched. A, s. 9 (3)](http://www.ontario.ca/laws/statute/S02018" \l "schedas9s3) - 26/11/2002

[2021, c. 4, Sched. 6, s. 48 (3)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s3) - 01/06/2021

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2021, c. 4, Sched. 5, s. 2)

Alternative process re proposed expropriations

**8.1**(1)  The Lieutenant Governor in Council may make regulations,

(a) establishing and governing a process for owners to provide comments respecting a proposed expropriation to the approving authority, and for the approving authority to consider those comments and make a determination respecting the proposed expropriation; and

(b) providing that the process applies with respect to any or all expropriations to which this Act applies. 2021, c. 4, Sched. 5, s. 2.

No hearing under s. 7

(2)  If a regulation made under this section applies to a proposed expropriation, subsections 6 (2) to (5), section 7 and subsections 8 (1) and (2) do not apply to the proposed expropriation. 2021, c. 4, Sched. 5, s. 2.

Regulations

(3)  A regulation made under subsection (1) may,

(a) establish requirements that apply to a determination of an approving authority respecting a proposed expropriation, including requiring that,

(i) the approving authority give reasons for a determination,

(ii) the reasons be served, and governing the service, and

(iii) a determination be made, or reasons served, within a specified time;

(b) specify a date for the purposes of clause 10 (2) (a.1);

(c) provide for any transitional matters that the Lieutenant Governor in Council considers necessary or advisable in relation to the application of a regulation made under subsection (1);

(d) provide for any matter which, in the opinion of the Lieutenant Governor in Council, is necessary or advisable for the purposes of this section. 2021, c. 4, Sched. 5, s. 2.

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

[2021, c. 4, Sched. 5, s. 2](http://www.ontario.ca/laws/statute/S21004" \l "sched5s2) - not in force

Registration of plan

**9** (1)  Where a proposed expropriation has been approved under this Act or under the *Ontario Energy Board Act, 1998*, the expropriating authority shall register, within three months after the granting of the approval, in the proper land registry office a plan of the land signed by the expropriating authority and by an Ontario land surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority. R.S.O. 1990, c. E.26, s. 9 (1); 1998, c. 15, Sched. E, s. 11 (3).

Where land required temporarily, etc.

(2)  Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority. R.S.O. 1990, c. E.26, s. 9 (2).

Correction of errors

(3)  In the case of an omission, misstatement or erroneous description in a plan registered under this section, the expropriating authority may register in the proper land registry office a plan replacing or amending the original plan and signed by the expropriating authority and by an Ontario land surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan to the extent that such plan is replaced or amended thereby. R.S.O. 1990, c. E.26, s. 9 (3).

Presumption as to signing

(4)  Where a plan purports to have been signed by an expropriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Tribunal. R.S.O. 1990, c. E.26, s. 9 (4); 2017, c. 23, Sched. 5, s. 29.

Electrical transmission or distribution lines

(5)  Where a limited estate, right or interest in land is being taken under the *Ontario Energy Board Act, 1998* for an electrical transmission or distribution line carried on single poles, a transmitter or distributor within the meaning of Part V of that Act may, before registering a plan under subsection (1), register in the proper land registry office a preliminary plan, to be known as and marked “Preliminary Plan/Plan préliminaire” and being a plan with or without local description, signed by the secretary of the Corporation and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a plan registered under subsection (1), but a plan in accordance with subsection (1) shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan. R.S.O. 1990, c. E.26, s. 9 (5); 1998, c. 15, Sched. E, s. 11 (4).

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

1998, c. 15, Sched. E, s. 11 (3) - 07/11/1998; 1998, c. 15, Sched. E, s. 11 (4) - 01/04/1999

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

Notice of expropriation

**10** (1)  Where a plan has been registered under section 9 and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within thirty days after the date of registration of the plan, with a notice of expropriation of the owner’s land, in the prescribed form, but failure to serve the notice does not invalidate the expropriation. R.S.O. 1990, c. E.26, s. 10 (1).

Election of date for compensation

(2)  Where a plan has been registered under section 9, the registered owner may elect, by notice in writing served upon the expropriating authority, within thirty days after the owner was served with the notice under subsection (1), to have the compensation to which the owner is entitled assessed,

(a) if there was a hearing under section 7, as of the date the notice of hearing was served on the owner;

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 10 (2) of the Act is amended by adding the following clause: (See: 2021, c. 4, Sched. 5, s. 3)

(a.1) if a process prescribed by a regulation made under section 8.1 applied to the expropriation, as of the date specified by the regulation for the purposes of this clause;

(b) as of the date of the registration of the plan; or

(c) as of the date on which the owner was served with the notice of expropriation,

and, where the election is not made within the prescribed time, the owner shall be deemed to have elected to have the compensation assessed as of the date of the registration of the plan. R.S.O. 1990, c. E.26, s. 10 (2); 2002, c. 18, Sched. A, s. 9 (4); 2021, c. 4, Sched. 6, s. 48 (4).

(2.1)  Repealed: 2021, c. 4, Sched. 6, s. 48 (5).

Entry on land for appraisal

(3)  An expropriating authority may, after it has served notice of expropriation on the owner in possession of the lands expropriated, and with the consent of the said owner, enter on the expropriated lands for the purposes of viewing for appraisal, but, where the consent of the owner is not given, the expropriating authority may apply to the Tribunal which may, by order, authorize the entry upon such terms and conditions as may be specified in the order. 2017, c. 23, Sched. 5, s. 30.

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

[2002, c. 18, Sched. A, s. 9 (4, 5](http://www.ontario.ca/laws/statute/S02018" \l "schedas9s4)) - 26/11/2002

[2017, c. 23, Sched. 5, s. 30](http://www.ontario.ca/laws/statute/S17023" \l "sched5s30) - 03/04/2018

[2021, c. 4, Sched. 5, s. 3](http://www.ontario.ca/laws/statute/S21004" \l "sched5s3) - not in force; [2021, c. 4, Sched. 6, s. 48 (4, 5)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s4) - 01/06/2021

Reparation

**11** Where land is expropriated or is injuriously affected by a statutory authority, the statutory authority may, before the compensation is agreed upon or determined, undertake to make alterations or additions or to construct additional work or to grant other lands, in which case, the compensation shall be determined having regard to such undertaking, and, if the undertaking has not already been carried out, the Tribunal may declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such grant made to the owner. R.S.O. 1990, c. E.26, s. 11; 2017, c. 23, Sched. 5, s. 29.

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

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

Gas storage areas

**12** Section 38 of the *Ontario Energy Board Act, 1998* applies in respect of the use of designated gas storage areas. R.S.O. 1990, c. E.26, s. 12; 1998, c. 15, Sched. E, s. 11 (5).

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

1998, c. 15, Sched. E, s. 11 (5) - 7/11/1998

Compensation

**13** (1)  Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act. R.S.O. 1990, c. E.26, s. 13 (1).

Idem

(2)  Where the land of an owner is expropriated, the compensation payable to the owner shall be based upon,

(a) the market value of the land;

(b) the damages attributable to disturbance;

(c) damages for injurious affection; and

(d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause (b) for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use. R.S.O. 1990, c. E.26, s. 13 (2).

Market value

**14** (1)  The market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer. R.S.O. 1990, c. E.26, s. 14 (1).

Idem

(2)  Where the land expropriated is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, and the owner genuinely intends to relocate in similar premises, the market value shall be deemed to be the reasonable cost of equivalent reinstatement. R.S.O. 1990, c. E.26, s. 14 (2).

Idem

(3)  Where only part of the land of an owner is taken and such part is of a size, shape or nature for which there is no general demand or market, the market value and the injurious affection caused by the taking may be determined by determining the market value of the whole of the owner’s land and deducting therefrom the market value of the owner’s land after the taking. R.S.O. 1990, c. E.26, s. 14 (3).

Idem

(4)  In determining the market value of land, no account shall be taken of,

(a) the special use to which the expropriating authority will put the land;

(b) any increase or decrease in the value of the land resulting from the development or the imminence of the development in respect of which the expropriation is made or from any expropriation or imminent prospect of expropriation; or

(c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health. R.S.O. 1990, c. E.26, s. 14 (4).

Co-operative developments

(5)  Where two or more expropriating authorities, including Her Majesty the Queen in right of Canada, participate in a development or a number of related developments, the Lieutenant Governor in Council may, by regulation, designate such development or developments as a co-operative development and subsection (4) shall apply to the determination of the market value of any land expropriated by any of the participating provincial expropriating authorities for any aspect or part of the co-operative development as if the entire co-operative development was a single development being carried out by that expropriating authority. R.S.O. 1990, c. E.26, s. 14 (5).

Increase by Tribunal

**15** Upon application therefor, the Tribunal shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 14 (1), award such additional amount of compensation as, in the opinion of the Tribunal, is necessary to enable the owner to relocate his or her residence in accommodation that is at least equivalent to the accommodation expropriated. 2017, c. 23, Sched. 5, s. 31.

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

[2017, c. 23, Sched. 5, s. 31](http://www.ontario.ca/laws/statute/S17023" \l "sched5s31) - 03/04/2018

Separate interests

**16** Where there are more separate interests than one in land, other than the interest of a security holder or a vendor under an agreement for sale, the market value of each such separate interest shall be valued separately. R.S.O. 1990, c. E.26, s. 16.

Interests of security holders

Definition

**17** (1)  In this section,

“bonus” means the amount by which the amount secured under a mortgage exceeds the amount actually advanced. R.S.O. 1990, c. E.26, s. 17 (1).

Determining value

(2)  Where land is subject to a security interest,

(a) the value of the interest of the security holder shall be determined in accordance with this section and section 20 and not otherwise; and

(b) the market value of the land shall be determined without regard to the interest of the security holder and the amount of such market value plus any damages for injurious affection shall stand in place of the land for the purposes of the security. R.S.O. 1990, c. E.26, s. 17 (2).

Payment out of market value

(3)  Security holders shall be paid the amount of principal and interest outstanding against the security out of the market value of the land and any damages for injurious affection payable in respect of the land subject to the security, in accordance with their priorities, whether or not such principal and interest is due, and subject to subsections (4) and (5). R.S.O. 1990, c. E.26, s. 17 (3).

Bonus

(4)  Where the land is subject to a mortgage and the amount payable to the mortgagee under subsection (3) is insufficient to satisfy the mortgage in full,

(a) where the mortgage is a purchase-money mortgage, the mortgage shall be deemed to be fully paid, satisfied and discharged for all purposes; and

(b) where the mortgage is not a purchase-money mortgage and includes a bonus,

(i) the amount by which the amount payable to the mortgagee under subsection (3) is insufficient to pay the amount remaining unpaid under the mortgage, or

(ii) the amount of the bonus,

whichever is the lesser, shall be deemed to be fully paid and satisfied for all purposes. R.S.O. 1990, c. E.26, s. 17 (4).

Idem

(5)  No amount shall be paid in respect of a bonus until all security holders have been paid all amounts payable other than any bonus. R.S.O. 1990, c. E.26, s. 17 (5).

Payment out of market value

(6)  Where land held as security is expropriated in part or is injuriously affected, a security holder is entitled to be paid to the extent possible in accordance with the security holder’s priority, out of the market value portion of the compensation and any damages for injurious affection therefor, as the case may be, a sum that is in the same ratio to such portion of the compensation and damages as the balance outstanding on the security at the date of the expropriation or injurious affection is to the market value of the entire land, provided however that the sum so determined shall be reduced by the amount of any payments made to the security holder by the owner after the date of expropriation or injurious affection. R.S.O. 1990, c. E.26, s. 17 (6).

Allowance for disturbance

Owner other than tenant

**18** (1)  The expropriating authority shall pay to an owner other than a tenant, in respect of disturbance, such reasonable costs as are the natural and reasonable consequences of the expropriation, including,

(a) where the premises taken include the owner’s residence,

(i) an allowance to compensate for inconvenience and the cost of finding another residence of 5 per cent of the compensation payable in respect of the market value of that part of the land expropriated that is used by the owner for residential purposes, provided that such part was not being offered for sale on the date of the expropriation, and

(ii) an allowance for improvements the value of which is not reflected in the market value of the land;

(b) where the premises taken do not include the owner’s residence, the owner’s costs of finding premises to replace those expropriated, provided that the lands were not being offered for sale on the date of expropriation; and

(c) relocation costs, including,

(i) the moving costs, and

(ii) the legal and survey costs and other non-recoverable expenditures incurred in acquiring other premises. R.S.O. 1990, c. E.26, s. 18 (1).

Tenant

(2)  The expropriating authority shall pay to a tenant occupying expropriated land in respect of disturbance so much of the cost referred to in subsection (1) as is appropriate having regard to,

(a) the length of the term;

(b) the portion of the term remaining;

(c) any rights to renew the tenancy or the reasonable prospects of renewal;

(d) in the case of a business, the nature of the business; and

(e) the extent of the tenant’s investment in the land. R.S.O. 1990, c. E.26, s. 18 (2).

Business on expropriated land

Business loss

**19** (1)  Where a business is located on the land expropriated, the expropriating authority shall pay compensation for business loss resulting from the relocation of the business made necessary by the expropriation and, unless the owner and the expropriating authority otherwise agree, the business losses shall not be determined until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever occurs first. R.S.O. 1990, c. E.26, s. 19 (1).

Good will

(2)  The Tribunal may, in determining compensation on the application of the expropriating authority or an owner, include an amount not exceeding the value of the good will of a business where the land is valued on the basis of its existing use and, in the opinion of the Tribunal, it is not feasible for the owner to relocate. 2017, c. 23, Sched. 5, s. 32.

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

[2017, c. 23, Sched. 5, s. 32](http://www.ontario.ca/laws/statute/S17023" \l "sched5s32) - 03/04/2018

Prepayment of mortgage

**20** Where a statutory authority prepays a mortgage in whole or in part, the statutory authority,

(a) shall pay to the mortgagee a bonus in respect of the prepayment amounting to,

(i) three months interest on the amount of principal prepaid at the rate of 6 per cent a year or at such other rate as is prescribed by the Lieutenant Governor in Council by regulation, or

(ii) the value of any notice or bonus for prepayment provided for in the mortgage,

whichever is the lesser;

(b) shall pay to the mortgagee where,

(i) the prevailing interest rate for an equivalent investment is lower than the rate under the mortgage, and

(ii) there is no provision in the mortgage permitting prepayment at the date of the expropriation,

an amount to compensate for the difference in the interest rates for the period for which the amount of principal prepaid has been advanced, not to exceed five years; and

(c) shall pay to the mortgagor whose interest is expropriated an amount to compensate for any loss incurred by reason of a difference in the interest rates during the period for which the payment of principal provided for in the mortgage has been advanced, but such difference shall not be calculated on a new interest rate any greater than the prevailing interest rate for an equivalent mortgage. R.S.O. 1990, c. E.26, s. 20.

Compensation for injurious affection

**21** A statutory authority shall compensate the owner of land for loss or damage caused by injurious affection. R.S.O. 1990, c. E.26, s. 21.

Claim for compensation for injurious affection

**22** (1)  Subject to subsection (2), a claim for compensation for injurious affection shall be made by the person suffering the damage or loss in writing with particulars of the claim within one year after the damage was sustained or after it became known to the person, and, if not so made, the right to compensation is forever barred. R.S.O. 1990, c. E.26, s. 22 (1).

Same, minor or incapable person

(2)  Where the person who is injuriously affected is a minor or a person who is incapable as defined in the Substitute Decisions Act, 1992, whether or not the person has a guardian, the claim for compensation shall be made within one year after he or she ceased to be a minor or incapable or, in the case of death while a minor or incapable, within one year after his or her death, and, if not so made, the right to compensation is forever barred. R.S.O. 1990, c. E.26, s. 22 (2); 2009, c. 33, Sched. 2, s. 33 (1).

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

[2009, c. 33, Sched. 2, s. 33 (1)](http://www.ontario.ca/laws/statute/S09033" \l "sched2s33s1) - 15/12/2009

Set-off against damages

**23** The value of any advantage to the land or remaining land of an owner derived from any work for which land was expropriated or by which land was injuriously affected shall be set off only against the amount of the damages for injurious affection to the owner’s land or remaining lands. R.S.O. 1990, c. E.26, s. 23.

Agreements

**24** A statutory authority has the authority to make and perform an agreement with an owner in respect of any claim of the owner under this Act, including any costs of the owner despite the fact that this Act requires the claim to be determined by the Tribunal. R.S.O. 1990, c. E.26, s. 24; 2017, c. 23, Sched. 5, s. 29.

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

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

Offer

**25** (1)  Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within three months after the registration of a plan under section 9 and before taking possession of the land,

(a) serve upon the registered owner,

(i) an offer of an amount in full compensation for the registered owner’s interest, and

(ii) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

excepting compensation for business loss for which the determination is postponed under subsection 19 (1); and

(b) offer the registered owner immediate payment of 100 per cent of the amount of the market value of the owner’s land as estimated by the expropriating authority, and the payment and receipt of that sum is without prejudice to the rights conferred by this Act in respect of the determination of compensation and is subject to adjustment in accordance with any compensation that may subsequently be determined in accordance with this Act or agreed upon. R.S.O. 1990, c. E.26, s. 25 (1); 1993, c. 27, Sched.

Furnishing appraisal report

(2)  The expropriating authority shall base its offer of compensation made under subsection (1) upon a report appraising the market value of the lands being taken and damages for injurious affection, and shall serve a copy of the appraisal report upon the owner at the time the offer is made. R.S.O. 1990, c. E.26, s. 25 (2).

Extension of time

(3)  The expropriating authority may, within the period mentioned in subsection (1) and before taking possession of the land, upon giving at least two days notice to the registered owner, apply to the judge for an order extending the time referred to in subsection (1), and the judge may in his or her order authorize the statutory authority to take possession of the land before the expiration of the extended time for serving the offer or statement under clause (1) (a) upon such conditions as may be specified in the order. R.S.O. 1990, c. E.26, s. 25 (3).

Failure to serve

(4)  If any registered owner is not served with the offer required to be served on the owner under subsection (1) within the time limited by subsection (1) or by an order of a judge under subsection (3) or by agreement, the failure does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to such registered owner shall be calculated from the date of registration of the plan. R.S.O. 1990, c. E.26, s. 25 (4).

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

1993, c. 27, Sched. - 31/12/1991

Application, if compensation not agreed to

**26** (1)  If the statutory authority and the owner do not agree on the compensation payable under this Act, the statutory authority or the owner may, subject to subsection (2), apply to the Tribunal for the determination of compensation by way of a hearing or as otherwise provided for under the Ontario Land Tribunal Act, 2021. 2021, c. 4, Sched. 6, s. 48 (6).

Same

(2)  Subsection (1) applies,

(a) in the case of injurious affection, if section 22 has been complied with; or

(b) in the case of expropriation, if section 25 has been complied with or the time for complying with it has expired. 2021, c. 4, Sched. 6, s. 48 (6).

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

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (6)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s6) - 01/06/2021

**27** Repealed: 2021, c. 4, Sched. 6, s. 48 (6).

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

[2009, c. 33, Sched. 2, s. 33 (2)](http://www.ontario.ca/laws/statute/S09033" \l "sched2s33s2) - 15/12/2009

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

[2019, c. 7, Sched. 17, s. 71](http://www.ontario.ca/laws/statute/S19007" \l "sched17s71) - 01/07/2019

[2021, c. 4, Sched. 6, s. 48 (6)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s6) - 01/06/2021

**28** Repealed: 2021, c. 4, Sched. 6, s. 48 (6).

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

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (6)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s6) - 01/06/2021

Duties of Tribunal on application

**29** The Tribunal shall determine any compensation in respect of which an application is made under section 26 and, in the absence of an agreement made under section 24, shall determine any other matter required by this or any other Act to be determined by the Tribunal. 2021, c. 4, Sched. 6, s. 48 (7).

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

[2017, c. 23, Sched. 5, s. 33](http://www.ontario.ca/laws/statute/S17023" \l "sched5s33) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (7)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s7) - 01/06/2021

Application, if no expropriation

**30** (1)  If the owner of land consents to the acquisition of the land by a statutory authority, the statutory authority or the owner, with the consent of the other, may apply to the Tribunal for the determination of the compensation to which the owner would be entitled by this Act if the land were expropriated, and the Tribunal may determine the compensation. 2021, c. 4, Sched. 6, s. 48 (7).

Same

(2)  For the purposes of subsection (1), the compensation shall be assessed as of the date on which the consent to the acquisition is given, subject to any agreement of the parties. 2021, c. 4, Sched. 6, s. 48 (7).

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

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (7)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s7) - 01/06/2021

Appeals

**31** (1)  A decision or order of the Tribunal under this Act may be appealed to the Divisional Court within six weeks from the day the decision or order was served on the parties, on a question of law or fact or both. 2021, c. 4, Sched. 6, s. 48 (7).

Extension of time for appeal

(2)  A judge of the Divisional Court may extend the time for appeal for such period as the judge considers proper. 2021, c. 4, Sched. 6, s. 48 (7).

Powers of Court

(3)  On an appeal under subsection (1), the Divisional Court may,

(a) refer any matter back to the Tribunal; or

(b) make any decision or order that the Tribunal has power to make. 2021, c. 4, Sched. 6, s. 48 (7).

Non-application

(4)  For greater certainty, this section does not apply with respect to any determination of the Tribunal under section 7. 2021, c. 4, Sched. 6, s. 48 (7).

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

[2009, c. 33, Sched. 2, s. 33 (3)](http://www.ontario.ca/laws/statute/S09033" \l "sched2s33s3) - 15/12/2009

[2017, c. 23, Sched. 5, s. 29, 34](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (7)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s7) - 01/06/2021

Costs

**32** (1)  Where the amount to which an owner is entitled upon an expropriation or claim for injurious affection is determined by the Tribunal and the amount awarded by the Tribunal is 85 per cent, or more, of the amount offered by the statutory authority, the Tribunal shall make an order directing the statutory authority to pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable, and may fix the costs in a lump sum or may order that the determination of the amount of such costs be referred to an assessment officer who shall assess and allow the costs in accordance with this subsection and the tariffs and rules prescribed under clause 44 (d). 2017, c. 23, Sched. 5, s. 35.

Same

(2)  Where the amount to which an owner is entitled upon an expropriation or claim for injurious affection is determined by the Tribunal and the amount awarded by the Tribunal is less than 85 per cent of the amount offered by the statutory authority, the Tribunal may make such order, if any, for the payment of costs as it considers appropriate, and may fix the costs in a lump sum or may order that the determination of the amount of such costs be referred to an assessment officer who shall assess and allow the costs in accordance with the order and the tariffs and rules prescribed under clause 44 (d) in like manner to the assessment of costs awarded on a party and party basis. 2017, c. 23, Sched. 5, s. 35.

Same

(3)  If no tariffs or rules are prescribed under clause 44 (d), the assessment officer shall instead have reference to the rules made by the Tribunal for the purposes of section 20 of the Ontario Land Tribunal Act, 2021. 2021, c. 4, Sched. 6, s. 48 (8).

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

[2017, c. 23, Sched. 5, s. 35](http://www.ontario.ca/laws/statute/S17023" \l "sched5s35) - 03/04/2018

[2021, c. 4, Sched. 6, s. 48 (8)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s8) - 01/06/2021

Interest

**33** (1)  Subject to subsection 25 (4), the owner of lands expropriated is entitled to be paid interest on the portion of the market value of the owner’s interest in the land and on the portion of any allowance for injurious affection to which the owner is entitled, outstanding from time to time, at the rate of 6 per cent a year calculated from the date the owner ceases to reside on or make productive use of the lands. R.S.O. 1990, c. E.26, 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 “at the rate of 6 per cent a year” and substituting “at the prescribed annual rate”. (See: 2021, c. 4, Sched. 5, s. 4 (1))

Variation of interest

(2)  Subject to subsection (3), where the Tribunal is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow the owner interest for the whole or any part of the time for which the owner might otherwise be entitled to interest, or may allow interest at such rate less than 6 per cent a year as appears reasonable. 2017, c. 23, Sched. 5, s. 36.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 33 (2) of the Act is amended by striking out “less than 6 per cent a year” and substituting “less than the rate prescribed for the purposes of subsection (1)”. (See: 2021, c. 4, Sched. 5, s. 4 (2))

Same

(3)  The interest to which an owner is entitled under subsection (1) shall not be reduced for the reason only that the owner did not accept the offer made by the expropriating authority, although the compensation as finally determined is less than the offer. R.S.O. 1990, c. E.26, s. 33 (3).

Same

(4)  Where the Tribunal is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Tribunal may order the expropriating authority to pay to the owner interest under subsection (1) at a rate exceeding 6 per cent a year but not exceeding 12 per cent a year. 2017, c. 23, Sched. 5, s. 36.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 33 (4) of the Act is amended by striking out “a rate exceeding 6 per cent a year but not exceeding 12 per cent a year” at the end and substituting “a rate that exceeds the rate prescribed for the purposes of subsection (1) but not the rate prescribed for the purposes of this subsection”. (See: 2021, c. 4, Sched. 5, s. 4 (3))

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

[2017, c. 23, Sched. 5, s. 36](http://www.ontario.ca/laws/statute/S17023" \l "sched5s36) - 03/04/2018

[2021, c. 4, Sched. 5, s. 4 (1-3)](http://www.ontario.ca/laws/statute/S21004" \l "sched5s4s1) - not in force

Abatement of rent

**34** (1)  Subject to subsection (2), where only part of the interest of a lessee is expropriated, the lessee’s obligation to pay rent under the lease shall be abated proportionately, as determined by the Tribunal. R.S.O. 1990, c. E.26, s. 34 (1); 2017, c. 23, Sched. 5, s. 29.

Frustration of lease

(2)  Where all the interest of a lessee in land is expropriated or where part of the lessee’s interest is expropriated and the expropriation renders the remaining part of the lessee’s interest unfit for the purposes of the lease, as determined by the Tribunal, the lease shall be deemed to be frustrated from the date of the expropriation. R.S.O. 1990, c. E.26, s. 34 (2); 2017, c. 23, Sched. 5, s. 29.

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

[2017, c. 23, Sched. 5, s. 29](http://www.ontario.ca/laws/statute/S17023" \l "sched5s29) - 03/04/2018

Character of compensation

**35** Where land has been expropriated, the compensation stands in the stead of the land, and any claim to or encumbrance on the land is, as respects the expropriating authority, converted into a claim to or upon the compensation and no longer affects the land. R.S.O. 1990, c. E.26, s. 35.

Payment of compensation not exceeding $1,000

**36** Where the owner who is entitled to convey the land that has been expropriated or injuriously affected and the statutory authority agree as to the compensation or the compensation has been determined and in either case it does not exceed $1,000, the statutory authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the statutory authority from all liability in respect of the compensation. R.S.O. 1990, c. E.26, s. 36.

Representative

**37** Where an owner of the land is unknown, is under a disability or for any other reason is not represented, a judge may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Act, and any action of a person so appointed is binding on the person whom the person appointed represents. R.S.O. 1990, c. E.26, s. 37.

Compensation paid into court

Payment into court

**38** (1)  In any case where the statutory authority considers it advisable, it may without an order, pay the compensation agreed upon or determined into the office of the Accountant of the Superior Court of Justice together with a sum equal to the interest thereon at the rate of 6 per cent a year for six months. R.S.O. 1990, c. E.26, s. 38 (1); 2002, c. 18, Sched. A, s. 9 (6).

Payment out of court

(2)  Upon an application for payment out of court of compensation paid into court, a judge may direct that such notice of the application be given by publication or otherwise as the judge considers proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation and as to costs as the judge considers reasonable. R.S.O. 1990, c. E.26, s. 38 (2).

Adjustment of interest

(3)  Where an order is obtained under subsection (2) in less than six months after the payment of the compensation into court, the judge making the order may direct that a proportionate part of the interest be returned to the statutory authority. R.S.O. 1990, c. E.26, s. 38 (3).

Where unborn issue interested

(4)  Where unborn issue or an unascertained person or class is interested in compensation paid into court, a judge may appoint such person as he or she considers proper to represent them, and any order made under this section is binding on them. R.S.O. 1990, c. E.26, s. 38 (4).

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

[2002, c. 18, Sched. A, s. 9 (6)](http://www.ontario.ca/laws/statute/S02018" \l "schedas9s6) - 26/11/2002

Possession of expropriated land

**39** (1)  Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection (3), shall take possession of the land on the date specified in the notice. R.S.O. 1990, c. E.26, s. 39 (1).

Date for possession

(2)  Subject to subsection (3), the date for possession shall be at least three months after the date of the serving of the notice of possession. R.S.O. 1990, c. E.26, s. 39 (2).

Application for adjustment of date of possession

(3)  A registered owner or an expropriating authority may, upon such notice as the judge may direct, apply to a judge for an adjustment of the date for possession specified in the notice of possession, and the judge, if he or she considers that under all the circumstances the application should be granted, may order that the date for possession shall be on such earlier or later date as the judge may specify in the order. R.S.O. 1990, c. E.26, s. 39 (3).

Warrant to put down resistance to entry, etc.

**40** (1)  Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled so to do, it may apply to a judge for a warrant directing the sheriff to put down the resistance or opposition. R.S.O. 1990, c. E.26, s. 40 (1).

Hearing

(2)  The judge shall, in writing, appoint a time and place for the hearing of the application and in the appointment may direct that it shall be served upon such person as the judge may prescribe. R.S.O. 1990, c. E.26, s. 40 (2).

Issue of warrant

(3)  On proof of the resistance or opposition, the judge may issue a warrant. R.S.O. 1990, c. E.26, s. 40 (3).

Return

(4)  The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. R.S.O. 1990, c. E.26, s. 40 (4).

Abandonment of expropriated land

**41** (1)  Where, at any time before the compensation upon an expropriation is paid in full, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority shall so notify each owner of the abandoned land, or estate or interest, who is served or entitled to be served with the notice of expropriation, who may, by election in writing,

(a) take the land, estate or interest back, in which case the owner has the right to compensation for consequential damages; or

(b) require the expropriating authority to retain the land, estate or interest, in which case the owner has the right to full compensation therefor. R.S.O. 1990, c. E.26, s. 41 (1).

Revesting

(2)  Where all the owners elect to take the land, estate or interest back under clause (1) (a), the expropriating authority may, by an instrument signed by it and registered in the proper land registry office and served on each owner, declare that the land or part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon,

(a) the land declared to be abandoned revests in the owner from whom it was expropriated and those entitled to claim under the owner; or

(b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so revests subject to such limited estate or interest. R.S.O. 1990, c. E.26, s. 41 (2).

Disposal of expropriated lands

**42** Where lands that have been expropriated and are in the possession of the expropriating authority are found by the expropriating authority to be no longer required for its purposes, the expropriating authority shall not, without the approval of the approving authority, dispose of the lands without giving the owners from whom the land was taken the first chance to repurchase the lands on the terms of the best offer received by the expropriating authority. R.S.O. 1990, c. E.26, s. 42.

Time for application

**43** Any application to set aside or quash any proceeding or step taken under this Act shall be made within thirty days after the proceeding or step in respect of which the application is made, but this section does not apply where the applicant was entitled to and not given notice of the proceeding or step or where the proceeding or step was a nullity. R.S.O. 1990, c. E.26, s. 43.

Regulations

**44** The Lieutenant Governor in Council may make regulations,

(0.a) providing for and governing circumstances in which costs shall not be recommended or ordered to be paid under subsection 7 (7);

(0.a.1) specifying a maximum costs amount for the purposes of subsection 7 (8), including providing for different maximum costs amounts in respect of different classes of hearings;

(a) prescribing rates of interest for the purposes of section 20;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 44 (a) of the Act is repealed and the following substituted: (See: 2021, c. 4, Sched. 5, s. 5)

(a) prescribing rates of interest for the purposes of sections 20 and 33, or methods for determining them;

(b) prescribing forms for the purposes of this Act and providing for their use;

(c) Repealed: 2021, c. 4, Sched. 6, s. 48 (10).

(d) prescribing tariffs of costs and rules to be applied by assessment officers for the purposes of section 32. R.S.O. 1990, c. E.26, s. 44; 2021, c. 4, Sched. 6, s. 48 (9, 10).

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

[2021, c. 4, Sched. 5, s. 5](http://www.ontario.ca/laws/statute/S21004" \l "sched5s5) - not in force; [2021, c. 4, Sched. 6, s. 48 (9, 10)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s48s9) - 01/06/2021

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