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Public Authorities Protection Act

R.S.O. 1990, Chapter P.38

**Consolidation Period:** From May 1, 2007 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2006, c. 21, Sched. C, s. 132](http://www.ontario.ca/laws/statute/S06021" \l "schedcs132).

Legislative History: [2002, c. 24, Sched. B, s. 25](http://www.ontario.ca/laws/statute/S02024" \l "schedbs25); [2006, c. 19, Sched. B, s. 17](http://www.ontario.ca/laws/statute/S06019" \l "schedbs17s1); [2006, c. 21, Sched. B, s. 20](http://www.ontario.ca/laws/statute/S06021" \l "schedbs20); [2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1); [2006, c. 21, Sched. C, s. 132](http://www.ontario.ca/laws/statute/S06021" \l "schedcs132).

Where acting under order of the court

**1** Where a justice of the peace refuses to do any act relating to the duties of his or her office, the person requiring the act to be done may, upon affidavit stating the facts and upon six days notice to him or her and also to the party to be affected by the act, apply to a judge of the Superior Court of Justice for an order directing the act to be done. R.S.O. 1990, c. P.38, s. 1; 2006, c. 19, Sched. C, s. 1 (1).

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

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Non-liability of informant where offence not properly described

**2** An action shall not be brought against a person who has in good faith laid an information before a justice of the peace or by reason of the information not containing a proper description of the offence or being otherwise defective. R.S.O. 1990, c. P.38, s. 2.

Conditions on quashing convictions

**3** (1)  Where an order is made quashing a conviction, the court may provide that no action shall be brought against the informant or any officer acting thereunder or under any warrant issued to enforce the conviction or order. R.S.O. 1990, c. P.38, s. 3 (1).

Order may be made conditional

(2)  Such an order may be made conditional upon payment of the costs of the motion to quash or upon such other condition as may be considered proper. R.S.O. 1990, c. P.38, s. 3 (2).

When action may be stayed upon motion

**4** If an action is brought where by this Act it is enacted that no action shall be brought, it may be stayed on motion. R.S.O. 1990, c. P.38, s. 4.

Damages nominal in certain cases

**5** Where the plaintiff is entitled to recover, and he or she proves the levying or payment of any penalty or sum of money under any conviction or order as part of the damages he or she seeks to recover or if he or she proves that he or she was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, he or she is not entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of 3 cents as damages for the imprisonment, or any costs of suit, if it is proved that he or she was actually guilty of the offence of which he or she was convicted, or that he or she was liable by law to pay the sum he or she was so ordered to pay, and, with respect to the imprisonment, that he or she has undergone no greater punishment than that assigned by law for the offence of which he or she was so convicted, or for non-payment of the sum he or she was so ordered to pay. R.S.O. 1990, c. P.38, s. 5.

Actions against constable, small claims court bailiff or other officer

**6** (1)  No action shall be brought against a constable, a police officer, small claims court bailiff or other officer, or against any person acting by his or her order and in his or her aid, for anything done in obedience to a warrant issued by a justice of the peace or clerk of a small claims court until demand has been made or left at his or her usual place of work by the person intending to bring such action or by a person authorized under the Law Society Act to represent him or her in writing, signed by the person demanding the same, for the perusal and copy of the warrant and the same has been refused and neglected for six days after such demand. R.S.O. 1990, c. P.38, s. 6 (1); 2006, c. 19, Sched. B, s. 17 (1); 2006, c. 21, Sched. C, s. 132.

Transition

(1.1)  Subsection (1), as it read on the day before the coming into force of section 17 of Schedule B to the Good Government Act, 2006, continues to apply with respect to actions commenced within seven days after that coming into force. 2006, c. 19, Sched. B, s. 17 (2).

Dismissal of action

(2)  In the case of a warrant issued by a justice, if, after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against such constable, police officer, bailiff or officer, or such person so acting, for any cause, on the production and proof of the warrant at the trial of the action, judgment shall be given for the defendant despite any defect of jurisdiction in the justice. 2006, c. 21, Sched. B, s. 20.

Same

(3)  In the case of a warrant issued by a clerk, if, after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against such constable, police officer, bailiff or officer, or such person so acting, for any cause without making the clerk who issued the warrant a defendant, on the production and proof of the warrant at the trial of the action, judgment shall be given for the defendant despite any defect of jurisdiction in the clerk. 2006, c. 21, Sched. B, s. 20.

Action brought jointly against clerk and constable or bailiff

(4)  In the case of a warrant issued by a clerk, if the action is brought jointly against such clerk and such constable, police officer, bailiff or other officer or person so acting, on proof of such warrant, judgment shall be given for the constable, police officer, bailiff or other officer and for the person so acting despite the defect in jurisdiction. 2006, c. 21, Sched. B, s. 20.

Costs

(5)  In the case of a warrant issued by a clerk, if the judgment is given against the clerk, the plaintiff, in addition to any costs awarded to him or her, is entitled to recover such costs as he or she is liable to pay to the defendant for whom judgment is given. 2006, c. 21, Sched. B, s. 20.

Transition

(6)  Subsections (2), (3) and (4), as they read on the day before the coming into force of section 20 of Schedule B to the Access to Justice Act, 2006, continue to apply with respect to actions commenced on or before that day. 2006, c. 21, Sched. B, s. 20.

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

[2006, c. 19, Sched. B, s. 17 (1, 2)](http://www.ontario.ca/laws/statute/S06019" \l "schedbs17s1) - 22/06/2006; [2006, c. 21, Sched. B, s. 20](http://www.ontario.ca/laws/statute/S06021" \l "schedbs20) - 19/10/2006; [2006, c. 21, Sched. C, s. 132](http://www.ontario.ca/laws/statute/S06021" \l "schedcs132) - 01/05/2007

**7** Repealed: 2002, c. 24, Sched. B, s. 25.

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

[2002, c. 24, Sched. B, s. 25](http://www.ontario.ca/laws/statute/S02024" \l "schedbs25) - 01/01/2004

Persons obeying mandamus protected

**8** No action or other proceeding shall be commenced or prosecuted against any person for or by reason of anything done in obedience to a mandamus or mandatory order. R.S.O. 1990, c. P.38, s. 8.

Protection of those acting under *ultra vires* statutes

**9** No action shall be brought against a judge, justice of the peace or officer for anything done by him or her under the supposed authority of a statute of Ontario or of Canada that was beyond the legislative jurisdiction of the Legislature or of the Parliament of Canada, as the case may be, if the action would not lie against him or her had the statute been within the legislative jurisdiction of the Legislature or Parliament that assumed to enact it. R.S.O. 1990, c. P.38, s. 9.

Security for costs

**10** Where an action is brought against a justice of the peace or against any person for any act done in pursuance or execution or intended execution of any public duty, statutory or otherwise, or authority, or in respect of any alleged neglect or default in the execution of any such statute, duty or authority, the defendant may, at any time after the service of the writ, make a motion for security for costs if it is shown that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favour of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous. R.S.O. 1990, c. P.38, s. 10.

Application of Act

**11** This Act does not apply to a municipal corporation. R.S.O. 1990, c. P.38, s. 11.

Application of Act to sheriffs and their officers

**12** A sheriff or a sheriff’s officer acting under a writ of execution or other process shall be deemed to be a person acting in the discharge of a public duty or authority within the meaning of this Act. R.S.O. 1990, c. P.38, s. 12.

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