[Français](http://www.ontario.ca/fr/lois/loi/90p49)

Public Service Works on Highways Act

R.S.O. 1990, Chapter P.49

**Consolidation Period:** From June 1, 2021 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2021, c. 4, Sched. 6, s. 82](http://www.ontario.ca/laws/statute/S21004" \l "sched6s82s1).

Legislative History: 1998, c. 15, Sched. E, s. 30; [2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1); [2020, c. 12, s. 86](http://www.ontario.ca/laws/statute/S20012" \l "s86s1); [2020, c. 35, Sched. 2](http://www.ontario.ca/laws/statute/S20035" \l "sched2s1); [2021, c. 4, Sched. 6, s. 82](http://www.ontario.ca/laws/statute/S21004" \l "sched6s82s1).

Definitions

**1** In this Act,

“cost of labour” means,

(a) the actual wages paid to all workers up to and including the supervisors for their time actually spent on the work and in travelling to and from the work, and the cost of food, lodging and transportation for such workers where necessary for the proper carrying out of the work,

(b) the cost to the utility company of contributions related to such wages in respect of workplace safety and insurance premiums, vacation pay, employment insurance, pension or insurance benefits and other similar benefits,

(c) the cost of using mechanical labour-saving equipment in the work,

(d) necessary transportation charges for equipment used in the work, and

(e) the cost of explosives; (“coût de la main-d’oeuvre”)

“road authority” means the Ministry of Transportation, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor. (“office de la voirie”)

“utility company” means a municipal corporation or commission or a company or individual operating or using communications services or transmitting, distributing or supplying electricity or artificial or natural gas or oil for light, heat or power; (“entreprise de services publics”)

“utility infrastructure” means poles, wires, cables including fibre-optic cables, conduits, towers, transformers, pipes, pipe lines or any other works, structures or appliances placed over, on or under a highway by utility company. (“infrastructure de services publics”) R.S.O. 1990, c. P.49, s. 1; 1998, c. 15, Sched. E, s. 30; 2020, c. 12, s. 86 (1-5).

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

1998, c. 15, Sched. E, s. 30 - 01/04/1999

[2020, c. 12, s. 86 (1-5)](http://www.ontario.ca/laws/statute/S20012" \l "s86s1) - 08/07/2020

Notice to operating corporation to take up works

**2** (1)  Where in the course of constructing, reconstructing, changing, altering or improving a highway it becomes necessary to take up, remove or change the location of utility infrastructure placed over, on or under the highway by the utility company, the road authority may by notice in writing served personally or by registered mail require the utility company, without prejudice to their respective rights under section 3, so to do on or before the date specified in the notice. R.S.O. 1990, c. P.49, s. 2 (1); 2020, c. 12, s. 86 (6).

Apportionment of costs of taking up

(2)  The road authority and the utility company may agree upon the apportionment of the cost of labour employed in such taking up, removal or change, but, subject to section 3, in default of agreement such cost shall be apportioned equally between the road authority and the utility company, and all other costs of the work shall be borne by the utility company. R.S.O. 1990, c. P.49, s. 2 (2); 2020, c. 12, s. 86 (7).

Minimum time interval

(3)  The date specified in a notice under subsection (1) shall be as agreed upon by the road authority and the utility company, but in default of agreement shall be not less than sixty days after the date of the personal service or mailing of the notice. R.S.O. 1990, c. P.49, s. 2 (3); 2020, c. 12, s. 86 (8).

Additional time

(4)  A utility company may, upon such notice as a judge of the Superior Court of Justice directs, apply to the judge for an order altering to a later date the date specified in the notice given under subsection (1), and, if the judge finds that the physical or technical difficulties in complying with the notice require additional time, the judge may make such order as he or she considers appropriate. R.S.O. 1990, c. P.49, s. 2 (4); 2006, c. 19, Sched. C, s. 1 (1); 2020, c. 12, s. 86 (9).

Compensation

(5)  Where a road authority incurs a loss or expense by reason of a utility company neglecting to take up, remove or change the location of utility infrastructure by the date specified in a notice given under subsection (1) or such date as altered by a judge under subsection (4), the utility company shall make due compensation to the road authority for such loss or expense, and a claim for compensation, if not agreed upon by the utility company and the road authority, shall be determined by the Ontario Land Tribunal. R.S.O. 1990, c. P.49, s. 2 (5); 2020, c. 12, s. 86 (10); 2021, c. 4, Sched. 6, s. 82 (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

[2020, c. 12, s. 86 (6-10)](http://www.ontario.ca/laws/statute/S20012" \l "s86s6) - 08/07/2020

[2021, c. 4, Sched. 6, s. 82 (1)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s82s1) - 01/06/2021

Apportionment of cost by Ontario Municipal Board

**3** Where it is made to appear to the Ontario Land Tribunal, upon application made to it, that the circumstances and conditions under which the utility infrastructure mentioned in section 2 has been placed on or under a highway, or that other special conditions render it unfair or unjust that the cost of taking up, removing or changing the location of the utility infrastructure should be apportioned and paid as provided in section 2, the Tribunal, upon the application of the road authority or utility company, may apportion the cost of the taking up, removing or changing the utility infrastructure in such manner as appears to it to be equitable, and the decision of the Tribunal is final and is not subject to appeal. R.S.O. 1990, c. P.49, s. 3; 2020, c. 12, s. 86 (11); 2021, c. 4, Sched. 6, s. 82 (2).

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

[2020, c. 12, s. 86 (11)](http://www.ontario.ca/laws/statute/S20012" \l "s86s11) - 08/07/2020

[2021, c. 4, Sched. 6, s. 82 (2)](http://www.ontario.ca/laws/statute/S21004" \l "sched6s82s2) - 01/06/2021

Court order

**4** If a utility company fails to comply with a notice under subsection 2 (1) or an order under subsection 2 (4), a judge of the Superior Court of Justice may, on an application made by the road authority,

(a) order the utility company to comply; or

(b) authorize the road authority to carry out the work described in the notice. 2020, c. 35, Sched. 2, s. 1.

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

[2020, c. 35, Sched. 2, s. 1](http://www.ontario.ca/laws/statute/S20035" \l "sched2s1) - 08/12/2020

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