

## Healing Arts Radiation Protection Act

R.S.O. 1990, CHAPTER H.2

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Skip Table of Contents

### CONTENTS

<a href="#">1.</a>	Interpretation
<a href="#">2.</a>	Administration of Act
<a href="#">3.</a>	Approval of installation
<a href="#">4.</a>	Registration
<a href="#">5.</a>	Use of X-ray machine
<a href="#">6.</a>	Instructions required
<a href="#">7.</a>	Causing or permitting use of X-ray machine
<a href="#">8.</a>	X-ray machine standards
<a href="#">9.</a>	Radiation protection officer
<a href="#">10.</a>	Proposal to refuse to issue or to revoke an approval
<a href="#">11.</a>	Hearing
<a href="#">12.</a>	Appeal to court
<a href="#">13.</a>	Order by Director or inspector
<a href="#">14.</a>	Emergency order
<a href="#">19.</a>	Director of X-ray Safety
<a href="#">20.</a>	Inspectors
<a href="#">21.</a>	Information confidential
<a href="#">22.</a>	Regulations
<a href="#">22.1</a>	Fees
<a href="#">23.</a>	C.A.T. scanners
<a href="#">24.</a>	Offence
<a href="#">25.</a>	Proceeding to prohibit continuation or repetition of contravention
<a href="#">26.</a>	Protection from personal liability
<a href="#">27.</a>	Service

#### Interpretation

1. (1) In this Act,

“Appeal Board” means the Health Services Appeal and Review Board under the *Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998*; (“Commission d’appel”)

“Director” means the Director of X-ray Safety appointed under section 19; (“directeur”)

“inspector” means an inspector appointed under section 20; (“inspecteur”)

“Minister” means the Minister of Health and Long-Term Care; (“ministre”)

“owner”, when used with reference to an X-ray machine, means the owner or other person who has the management and control of the X-ray machine; (“propriétaire”)

“regulations” means the regulations made under this Act; (“règlements”)

“X-ray equipment” includes X-ray imaging systems, processing equipment and equipment directly related to the production of images for diagnosis or directly related to irradiation with X-rays for therapy; (“matériel de rayons X”)

“X-ray machine” means an electrically powered device the purpose and function of which is the production of X-rays for the irradiation of a human being for a therapeutic or diagnostic purpose; (“appareil à rayons X”)

“X-rays” means artificially produced electromagnetic radiation with peak energy greater than five kilovolts. (“rayons X”) R.S.O. 1990, c. H.2, s. 1 (1); 1998, c. 18, Sched. G, s. 51 (1); 2006, c. 19, Sched. L, s. 11 (2); 2009, c. 33, Sched. 18, s. 17 (2); 2011, c. 9, Sched. 19, s. 1.

#### **Shielding**

(2) In this Act, a reference to the installation of an X-ray machine includes a reference to the shielding of the area in which the X-ray machine is installed. R.S.O. 1990, c. H.2, s. 1 (2).

#### **Administration of Act**

2. The Minister is responsible for the administration of this Act. R.S.O. 1990, c. H.2, s. 2.

#### **Approval of installation**

3. (1) No person shall install an X-ray machine unless the Director has issued written approval for the installation. R.S.O. 1990, c. H.2, s. 3 (1).

#### **Issuance of approval**

(2) Subject to subsection (3), any person who applies in accordance with this Act and the regulations for written approval for the installation of an X-ray machine and,

- (a) submits to the Director the plans, specifications and information prescribed by the regulations;
- (b) who meets the requirements of this Act and the regulations; and
- (c) pays the fee for the approval established by the Minister,

is entitled to be issued the written approval. R.S.O. 1990, c. H.2, s. 3 (2); 1997, c. 15, s. 4 (1).

#### **Criteria**

(3) The Director may refuse to approve a proposed installation of an X-ray machine where,

- (a) the proposed installation will not comply with this Act or the regulations;
- (b) the application therefor is incomplete;
- (c) the plans, specifications and information required by this Act and the regulations in respect of the installation of the X-ray machine have not been submitted to the Director or are incomplete; or
- (d) any fees due are unpaid. R.S.O. 1990, c. H.2, s. 3 (3).

#### **Installation**

(4) Where the Director has issued written approval for the installation of an X-ray machine, no person shall install the X-ray machine other than in accordance with the plans, specifications and information on the basis of which the Director issued the written approval. R.S.O. 1990, c. H.2, s. 3 (4).

#### **Revocation of approval**

(5) Subject to section 10, the Director may revoke an approval where it was issued on mistaken or false information. R.S.O. 1990, c. H.2, s. 3 (5).

#### **Approval of change**

(6) Where the Director has given written approval for the installation of an X-ray machine and the X-ray machine has been installed in accordance with the plans, specifications and other information on the basis of which the Director issued the approval, no person shall change the installation without the written approval of the Director for the change. R.S.O. 1990, c. H.2, s. 3 (6).

#### **Application of subs. (1-5)**

(7) Subsections (1) to (5) apply with necessary modifications in respect of a change in an installation of an X-ray machine and, for the purpose, changing an installation of an X-ray machine shall be deemed to be installing an X-ray machine. R.S.O. 1990, c. H.2, s. 3 (7).

#### **Registration**

4. (1) The owner of an X-ray machine shall not operate the X-ray machine or cause or permit the X-ray machine to be operated for the irradiation of a human being unless the X-ray machine, the location of the X-ray machine and the name and business address of the owner of the X-ray machine are registered with the Director. R.S.O. 1990, c. H.2, s. 4 (1).

#### Application

(2) Upon the application of the owner of an X-ray machine and upon payment of the fee established by the Minister, the Director shall register the X-ray machine, its location and the name and business address of the owner thereof. R.S.O. 1990, c. H.2, s. 4 (2); 1997, c. 15, s. 4 (2).

#### Notice of change

(3) An owner of an X-ray machine registered with the Director who changes his, her or its business address shall give written notice of the change to the Director within fifteen days of the occurrence of the change. R.S.O. 1990, c. H.2, s. 4 (3).

(4), (5) REPEALED: 2011, c. 1, Sched. 6, s. 2 (1).

#### Use of X-ray machine

5. (1) No person shall operate an X-ray machine for the irradiation of a human being unless the person meets the qualifications and requirements prescribed by the regulations. R.S.O. 1990, c. H.2, s. 5 (1).

#### Persons deemed to be qualified

(2) The following persons shall be deemed to meet the qualifications prescribed by the regulations:

1. A legally qualified medical practitioner.
2. A member of the Royal College of Dental Surgeons of Ontario.
3. A member of the College of Chiropodists of Ontario who has been continuously registered as a chiropodist under the *Chiropody Act* and the *Chiropody Act, 1991* since before November 1, 1980 or who is a graduate of a four-year course of instruction in chiropody.
4. A member of the College of Chiropractors of Ontario.
5. REPEALED: 1998, c. 18, Sched. G, s. 51 (2).
6. REPEALED: 2011, c. 1, Sched. 6, s. 2 (1).
7. A member of the College of Medical Radiation Technologists of Ontario.
8. A member of the College of Dental Hygienists of Ontario. R.S.O. 1990, c. H.2, s. 5 (2); 1998, c. 18, Sched. G, s. 51 (2, 3); 2011, c. 1, Sched. 6, s. 2 (1).

#### Instructions required

6. (1) No person shall operate an X-ray machine for the irradiation of a human being unless the irradiation has been prescribed by,

- (a) a legally qualified medical practitioner;
- (b) a member of the Royal College of Dental Surgeons of Ontario;
- (c) a member of the College of Chiropodists of Ontario who has been continuously registered as a chiropodist under the *Chiropody Act* and the *Chiropody Act, 1991* since before November 1, 1980 or who is a graduate of a four-year course of instruction in chiropody; or

**Note: On the day subsection 9 (1) of the *Regulated Health Professions Statute Law Amendment Act, 2009* comes into force, clause (c) is amended by striking out “or” at the end. See: 2011, c. 1, Sched. 6, ss. 2 (3), 10 (2).**

- (d) a member of the College of Chiropractors of Ontario.

**Note: On the day subsection 9 (1) of the *Regulated Health Professions Statute Law Amendment Act, 2009* comes into force, clause (d) is amended by adding “or” at the end. See: 2011, c. 1, Sched. 6, ss. 2 (3), 10 (2).**

(e) REPEALED: 1998, c. 18, Sched. G, s. 51 (4).

(f) REPEALED: 2011, c. 1, Sched. 6, s. 2 (2).

R.S.O. 1990, c. H.2, s. 6; 1998, c. 18, Sched. G, s. 51 (4); 2011, c. 1, Sched. 6, s. 2 (2).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by adding the following clause:**

(g) a member of the College of Nurses of Ontario who holds an extended certificate of registration under the *Nursing Act, 1991*.

See: 2009, c. 26, ss. 9 (1), 27 (2).

Same

(2) Despite subsection (1), a person may operate an X-ray machine for the irradiation of the chest, the ribs, the arm, the wrist, the hand, the leg, the ankle or the foot of a human being if the irradiation is prescribed by a member of the College of Nurses of Ontario who holds an extended certificate of registration under the *Nursing Act, 1991*. 1997, c. 9, s. 4.

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is repealed and the following substituted:**

Same

(2) Despite subsection (1), a person may operate an X-ray machine for the irradiation of a human being if the irradiation is prescribed in a manner permitted by the regulations by a member of the College of Physiotherapists of Ontario. 2009, c. 26, s. 9 (2).

See: 2009, c. 26, ss. 9 (2), 27 (2).

Same

(3) Despite subsection (1), a person may operate an X-ray machine for the purpose of performing a mammographic examination that has been prescribed by a member of the College of Nurses of Ontario who holds an extended certificate of registration under the *Nursing Act, 1991*. 1997, c. 9, s. 4; 2011, c. 1, Sched. 6, s. 2 (4).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed. See: 2009, c. 26, ss. 9 (2), 27 (2).**

**Causing or permitting use of X-ray machine**

7. No person shall cause or permit any other person to operate an X-ray machine for the irradiation of a human being unless the other person meets the qualifications and requirements prescribed by the regulations. R.S.O. 1990, c. H.2, s. 7.

**X-ray machine standards**

8. No person shall operate an X-ray machine for the irradiation of a human being, unless the X-ray machine meets the standards prescribed by the regulations. R.S.O. 1990, c. H.2, s. 8.

**Radiation protection officer**

9. (1) The owner of a portable X-ray machine or an installed X-ray machine shall designate a person as the radiation protection officer for the portable X-ray machine or the facility in which the X-ray machine is installed if he or she meets the qualifications prescribed by the regulations and is,

- (a) a legally qualified medical practitioner;
  - (b) a member of the Royal College of Dental Surgeons of Ontario;
  - (c) a member of the College of Chiropractors of Ontario who has been continuously registered as a chiropractor under the *Chiropractic Act* and the *Chiropractic Act, 1991* since before November 1, 1980 or who is a graduate of a four-year course of instruction in chiropractic; or
  - (d) a member of the College of Chiropractors of Ontario. 2011, c. 1, Sched. 6, s. 2 (5).
- (2), (3) REPEALED: 2011, c. 1, Sched. 6, s. 2 (5).

**Responsibilities**

- (4) A radiation protection officer for a facility is responsible,
  - (a) for ensuring that every X-ray machine operated in the facility is maintained in safe operating condition; and
  - (b) for such other matters related to the safe operation of each X-ray machine in the facility as are prescribed by the regulations. R.S.O. 1990, c. H.2, s. 9 (4).

**Proposal to refuse to issue or to revoke an approval**

10. (1) Where the Director proposes to refuse to issue or to revoke an approval under section 3 for the installation or for a change in the installation of an X-ray machine, the Director shall serve notice of his or her proposal, together with written reasons therefor, on the applicant or the person to whom the approval was issued, as the case may be. R.S.O. 1990, c. H.2, s. 10 (1).

**Notice**

(2) A notice under subsection (1) shall inform the applicant or person to whom the approval was issued that he or she is entitled to a hearing by the Appeal Board if, within fifteen days after the notice under subsection (1) is served on him or her, the applicant or person gives written notice to the Director and the Appeal Board requiring a hearing by the Appeal Board and the applicant or person may so require such a hearing. R.S.O. 1990, c. H.2, s. 10 (2).

#### **Powers of Appeal Board**

(3) Where a hearing is required under subsection (2), the Appeal Board shall appoint a time for and hold the hearing and may direct the Director to carry out his or her proposal or refrain from carrying out his or her proposal and to take such action as the Appeal Board considers the Director ought to take in accordance with this Act and the regulations and, for such purposes, the Appeal Board may substitute its opinion for that of the Director. R.S.O. 1990, c. H.2, s. 10 (3).

#### **Hearing**

11. (1) The Director, the applicant or other person who has required the hearing and such other persons as the Appeal Board may specify are parties to proceedings before the Appeal Board under this Act. R.S.O. 1990, c. H.2, s. 11 (1).

#### **Notice of hearing**

(2) Notice of a hearing shall afford the applicant or other person who has required the hearing a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue of the approval of the Director. R.S.O. 1990, c. H.2, s. 11 (2).

#### **Examination of documentary evidence**

(3) Any party to proceedings under section 10 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. H.2, s. 11 (3).

#### **Members holding hearing not to have taken part in investigation, etc.**

(4) Members of the Appeal Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or the party's or person's representative except upon notice to and opportunity for all parties to participate, but the Appeal Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. R.S.O. 1990, c. H.2, s. 11 (4).

#### **Recording of evidence**

(5) The oral evidence taken before the Appeal Board at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Superior Court of Justice. R.S.O. 1990, c. H.2, s. 11 (5); 2006, c. 19, Sched. C, s. 1 (1).

#### **Findings of fact**

(6) The findings of fact of the Appeal Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1990, c. H.2, s. 11 (6).

(7) REPEALED: 1998, c. 18, Sched. G, s. 51 (7).

#### **Release of documentary evidence**

(8) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person by the Appeal Board within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. H.2, s. 11 (8).

#### **Appeal to court**

12. (1) Any party to the proceedings before the Appeal Board under this Act may appeal from its decision or order to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. H.2, s. 12 (1).

#### **Record to be filed in court**

(2) Where any party appeals from a decision or order of the Appeal Board, the Appeal Board shall forthwith file in the Superior Court of Justice the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Appeal Board's record, shall constitute the record in the appeal. R.S.O. 1990, c. H.2, s. 12 (2); 2006, c. 19, Sched. C, s. 1 (1).

#### **Minister entitled to be heard**

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. R.S.O. 1990, c. H.2, s. 12 (3).

**Powers of court on appeal**

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm, alter or rescind the decision of the Appeal Board and may exercise all powers of the Appeal Board to direct the Director to take any action which the Appeal Board may direct him or her to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Appeal Board, or the court may refer the matter back to the Appeal Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. R.S.O. 1990, c. H.2, s. 12 (4).

**Order by Director or inspector**

13. (1) The Director or an inspector may make a written order directed to any one or more of,

- (a) the owner of an X-ray machine;
- (b) any person who operates the X-ray machine; or
- (c) the radiation protection officer for the facility in which the machine is installed or, in the case of a portable X-ray machine, the radiation protection officer for the portable X-ray machine,

requiring the taking of such action as, in the opinion of the Director or inspector, upon reasonable and probable grounds, is necessary in order to achieve compliance with this Act or the regulations, or both, or is necessary or advisable to protect the health or safety of any patient or member of the public in or near the premises where the X-ray machine is operated. R.S.O. 1990, c. H.2, s. 13 (1).

**Notice of proposal to make order**

(2) The Director or the inspector who proposes to make an order under subsection (1) shall serve notice of the proposal, together with written reasons therefor, on the person to whom he or she proposes to direct the order. R.S.O. 1990, c. H.2, s. 13 (2).

**Notice requiring hearing**

(3) A notice under subsection (2) shall inform the person that the person is entitled to a hearing by the Appeal Board if the person gives notice in writing to the Director and the Appeal Board, within fifteen days after the notice under subsection (2) is served on the person, requiring a hearing, and the person may so require such a hearing. R.S.O. 1990, c. H.2, s. 13 (3).

**Power of Director or inspector where no hearing**

(4) Where a person served with notice under subsection (2) does not require a hearing in accordance with subsection (3), the Director or inspector may carry out the proposal stated in his or her notice. R.S.O. 1990, c. H.2, s. 13 (4).

**Powers of Appeal Board where hearing**

(5) Where a hearing is required under subsection (3), the Appeal Board shall appoint a time for and hold the hearing and by order may direct the Director or the inspector to carry out his or her proposal or refrain from carrying out his or her proposal and to take such action as the Appeal Board considers the Director or the inspector ought to take in accordance with this Act and the regulations and, for such purposes, the Appeal Board may substitute its opinion for that of the Director or the inspector. R.S.O. 1990, c. H.2, s. 13 (5).

**Application of ss. 11, 12**

(6) Sections 11 and 12 apply with necessary modifications to a proceeding under this section. R.S.O. 1990, c. H.2, s. 13 (6).

**Emergency order**

14. (1) Where the Director or an inspector is of the opinion, upon reasonable and probable grounds, that an emergency exists by reason of danger to the health or safety of any patient or member of the public in respect of an X-ray machine or the installation, operation or maintenance of an X-ray machine, the Director or inspector may make an oral or written order directed to any one or more of,

- (a) the owner of the X-ray machine;
- (b) any person who operates the X-ray machine;
- (c) the radiation protection officer for the facility in which the X-ray machine is installed or, in the case of a portable X-ray machine, the radiation protection officer for the portable X-ray machine. R.S.O. 1990, c. H.2, s. 14 (1).

**Contents of order**

(2) An order under subsection (1) may require the person to whom it is directed to stop operating or stop the operation of the X-ray machine either permanently or for a specific period of time. R.S.O. 1990, c. H.2, s. 14 (2).

**Immediate appeal**

(3) A person affected by an order under subsection (1) may appeal therefrom in person or by an agent and by telephone or otherwise to the Director, and the Director, after receiving the submissions of the person and of the inspector, shall vary, rescind or confirm the order. R.S.O. 1990, c. H.2, s. 14 (3).

**Written reasons for order**

(4) Where the Director makes an order under subsection (1) or varies or confirms an order under subsection (3), the Director shall forthwith thereafter serve a written copy of the order or the order as varied or confirmed, together with written reasons therefor, upon the person to whom the order is directed. R.S.O. 1990, c. H.2, s. 14 (4).

**Notice**

(5) An order under subsection (1) or an order as varied or confirmed under subsection (3) shall inform the person to whom it is directed that the person is entitled to a hearing by the Appeal Board if the person gives to the Director and the Appeal Board, within fifteen days after a copy of the order or the order as varied or confirmed is served notice in writing requiring a hearing, and the person may so require such a hearing. R.S.O. 1990, c. H.2, s. 14 (5).

**Effect of order**

(6) Although an appeal is taken against an order under subsection (1) or an order as varied or confirmed under subsection (3), the order is effective at and from the time it is communicated to the person to whom it is directed until it is confirmed, varied or rescinded on appeal and the person shall comply with the order immediately. R.S.O. 1990, c. H.2, s. 14 (6).

**Powers of Appeal Board**

(7) Where a hearing is required under subsection (5), the Appeal Board shall appoint a time for and hold the hearing and the Appeal Board by order may confirm, alter or rescind the order of the Director and for such purposes the Appeal Board may substitute its opinion for that of the Director. R.S.O. 1990, c. H.2, s. 14 (7).

**Application of ss. 11, 12**

(8) Sections 11 and 12 apply with necessary modifications to proceedings under this section. R.S.O. 1990, c. H.2, s. 14 (8).

**Where order rescinded by Director**

(9) The Director by an order may rescind an order made under subsection (1) or an order as varied or confirmed and in such case shall serve a copy of the order upon the person to whom the order or the order as varied or confirmed was directed. R.S.O. 1990, c. H.2, s. 14 (9).

15.-18. REPEALED: 2011, c. 9, Sched. 19, s. 2.

**Director of X-ray Safety**

19. The Minister shall appoint an employee of the Ministry of Health and Long-Term Care as Director of X-ray Safety for the purposes of this Act and the regulations. R.S.O. 1990, c. H.2, s. 19; 2006, c. 19, Sched. L, s. 11 (3).

**Inspectors**

20. (1) The Minister may appoint in writing one or more employees in the Ministry of Health and Long-Term Care or other persons as inspectors for the purposes of this Act and the regulations and in an appointment may limit the authority of an inspector in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. H.2, s. 20 (1); 2006, c. 19, Sched. L, s. 11 (3).

**Certificate of appointment**

(2) The Minister shall issue to every inspector appointed under subsection (1) a certificate of appointment. R.S.O. 1990, c. H.2, s. 20 (2).

**Production of certificate**

(3) Every inspector, in the execution of duties under this Act and the regulations, shall produce his or her certificate of appointment upon request. R.S.O. 1990, c. H.2, s. 20 (3).

**Inspection**

(4) An inspector at all reasonable times may enter and inspect the premises and may inspect the operations and all records and radiographs where an X-ray machine is installed or operated and may require the production of proof that any person who operates an X-ray machine meets the qualifications and requirements prescribed by the regulations to ensure that this Act and the regulations are complied with. R.S.O. 1990, c. H.2, s. 20 (4).

#### **Powers of inspector**

(5) Upon an inspection under this section, an inspector is entitled to make tests and examinations to determine whether or not X-ray machines are installed and used in compliance with this Act and the regulations. R.S.O. 1990, c. H.2, s. 20 (5).

#### **Copies**

(6) Upon an inspection under this Act, an inspector, upon giving a receipt therefor, may remove any material that relates to the purpose of the inspection in order to make a copy thereof, but the copying shall be carried out with reasonable dispatch and the material in question shall be promptly thereafter returned to the person being inspected. R.S.O. 1990, c. H.2, s. 20 (6).

#### **Admissibility of copies**

(7) Any copy made as provided in subsection (6) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. R.S.O. 1990, c. H.2, s. 20 (7).

#### **Obstruction**

(8) No person shall obstruct an inspector or withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of an inspection. R.S.O. 1990, c. H.2, s. 20 (8).

#### **Information confidential**

21. (1) The Director, each inspector appointed under this Act and each person engaged in the administration of this Act and the regulations shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of employment or duties pertaining to the health of any person and shall not communicate any such matter to any other person except as provided in this Act. R.S.O. 1990, c. H.2, s. 21 (1); 2011, c. 9, Sched. 19, s. 3.

#### **Exceptions**

- (2) A person referred to in subsection (1) may furnish information pertaining to the health of a person,
- (a) in connection with the administration of this Act or any Act of Ontario or of Canada related to the delivery of health services or to safety in relation to irradiation from X-rays or regulations made thereunder;
  - (b) in proceedings under this Act or the regulations;
  - (c) to the person who provided a service to which the information is related, the person's solicitor, other personal representative, executor, administrator, guardian of property, trustee in bankruptcy or other legal representative; or
  - (d) to the person who received the service to which the information is related, his or her solicitor, personal representative, another person who has lawful custody of or is guardian for the person or other legal representative of the person. R.S.O. 1990, c. H.2, s. 21 (2); 1992, c. 32, s. 14.

#### **Exception for professional discipline**

(3) The Director may communicate information of the kind referred to in subsection (2) and any other information related thereto to the statutory body governing the profession or to a professional association of which a person who provides a service referred to in subsection (2) is a member or governing the health practice practised by the person. R.S.O. 1990, c. H.2, s. 21 (3).

#### **Regulations**

22. The Lieutenant Governor in Council may make regulations,
- (a) prescribing any matter required or authorized by this Act to be, or referred to in this Act as, prescribed by the regulations;
  - (b) prescribing classes of or in respect of any matter that is or may be prescribed under the regulations;
  - (c) limiting the application of any regulation to any one or more of the classes prescribed under clause (b);
  - (d) exempting any class of persons, X-ray machines or facilities from any provision of this Act or the regulations and attaching conditions to any such exemption;

- (e) governing or limiting, or both, the purposes for which any class of persons may operate X-ray machines or any class of X-ray machines;
- (f) prescribing an X-ray Safety Code including,
  - (i) prescribing standards for the installation of X-ray machines,
  - (ii) prescribing standards for darkrooms and darkroom procedures associated with the operation of X-ray machines or any class of X-ray machines,
  - (iii) prescribing standards and procedures for the operation of X-ray machines and X-ray equipment or any class of X-ray machines or X-ray equipment,
  - (iv) prescribing physical standards for persons who operate X-ray machines or X-ray equipment,
  - (v) prescribing standards and procedures for the purpose of minimizing exposure to X-rays of patients and members of the public,
  - (vi) governing the testing of X-ray machines and X-ray equipment including, but not limited to, prescribing tests in respect of X-ray machines and X-ray equipment and requiring persons operating X-ray machines and X-ray equipment and radiation protection officers to perform the tests,
  - (vii) prescribing programs for evaluation of performance of procedures and observance of standards,
  - (viii) prescribing additional duties of radiation protection officers and persons who own or operate X-ray machines,
  - (ix) prescribing standards of design, construction, operation and performance for X-ray machines and X-ray equipment operated in Ontario,
  - (x) requiring compliance with any matter prescribed or governed under subclauses (i) to (ix);
- (g) governing the keeping of records by persons who own or operate X-ray machines and by radiation protection officers and requiring and governing returns by them to the Director;
- (h) prescribing classes of radiation protection officers and restricting or limiting the types of facilities or X-ray machines or both for which any such class may be designated as radiation protection officers;
- (i) prescribing subject-matters for courses of study in the operation of X-ray machines and X-ray equipment;
- (j) prescribing additional duties and powers of the Director and inspectors;
- (k) REPEALED: 1997, c. 15, s. 4 (3).
- (l) adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted.
- (m) REPEALED: 1997, c. 15, s. 4 (3).

R.S.O. 1990, c. H.2, s. 22; 1997, c. 15, s. 4 (3); 2011, c. 9, Sched. 19, s. 4.

#### **Fees**

22.1 The Minister may establish and charge fees for registrations and approvals. 1997, c. 15, s. 4 (4).

#### **C.A.T. scanners**

23. (1) In this section,

“hospital” has the same meaning as in the *Public Hospitals Act*. R.S.O. 1990, c. H.2, s. 23 (1).

#### **Designations by Minister**

(2) The Minister may designate,

- (a) a hospital or facility or a class of hospitals or facilities within which it is permitted to install or operate computerized axial tomography scanners; and
- (b) the number of computerized axial tomography scanners that may be installed or operated in such hospitals or facilities. 1998, c. 18, Sched. G, s. 51 (8).

#### **Prohibition**

(3) No person shall install or operate or cause or permit the installation or operation of a computerized axial tomography scanner unless it is installed and operated in a hospital or facility that is designated under subsection (2) or in a hospital or facility that is part of a class of hospitals or facilities that is designated under subsection (2). 1998, c. 18, Sched. G, s. 51 (8).

**Same**

(3.1) No person shall install or operate or cause or permit the installation or operation of more computerized axial tomography scanners in a hospital or facility than the number designated under subsection (2). 1998, c. 18, Sched. G, s. 51 (8).

**Application**

(4) This section does not apply in respect of a computerized tomography scanner that was installed before the 1st day of May, 1984. R.S.O. 1990, c. H.2, s. 23 (4).

**Offence**

24. (1) Every person is guilty of an offence who,

- (a) knowingly furnishes false information in an application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations. 2002, c. 18, Sched. I, s. 4.

**Penalty, individual**

(2) Every individual who is convicted of an offence under subsection (1) is liable,

- (a) for a first offence, to a fine of not more than \$25,000 or to imprisonment for a term of not more than 12 months, or to both;
- (b) for a subsequent offence, to a fine of not more than \$50,000 or to imprisonment for a term of not more than 12 months, or to both. 2002, c. 18, Sched. I, s. 4.

**Same, corporation**

(3) Every corporation that is convicted of an offence under subsection (1) is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$200,000 for a subsequent offence. 2002, c. 18, Sched. I, s. 4.

**No limitation**

(4) Section 76 of the *Provincial Offences Act* does not apply to a prosecution under this section. 2002, c. 18, Sched. I, s. 4.

**Proceeding to prohibit continuation or repetition of contravention**

25. Where any provision of this Act or the regulations or any order issued under this Act by the Director is contravened, despite any other remedy or any penalty imposed, the Director may apply to the Superior Court of Justice for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or is likely to result in the continuation or repetition of the contravention by the person committing the contravention, and the court may make the order and it may be enforced in the same manner as any other judgment of the Superior Court of Justice. R.S.O. 1990, c. H.2, s. 25; 2006, c. 19, Sched. C, s. 1 (1).

**Protection from personal liability**

26. (1) No action or other proceeding for damages shall be instituted against the Director or an inspector for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of his or her duty. R.S.O. 1990, c. H.2, s. 26 (1).

**Crown not relieved of liability**

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1990, c. H.2, s. 26 (2).

**Service**

27. (1) Any notice, order, decision or other document required to be given, served or delivered under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is required to be given, served or delivered at the latest address for service appearing on the records of the

Ministry or, where there is no address for service so appearing, at the address, if any, last known to the Director. R.S.O. 1990, c. H.2, s. 27 (1).

**When service deemed made**

(2) Where service is made by registered mail in accordance with subsection (1), the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice, order, decision or other document until a later date. R.S.O. 1990, c. H.2, s. 27 (2).

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[Français](#)

[Back to top](#)