

Conservation Authorities Act

ONTARIO REGULATION 687/21

TRANSITION PLANS AND AGREEMENTS FOR PROGRAMS AND SERVICES UNDER SECTION 21.1.2 OF THE ACT

Consolidation Period: From January 1, 2023 to the [e-Laws currency date](#).

Last amendment: 399/22.

Legislative History: 399/22.

This is the English version of a bilingual regulation.

Definitions

1. In this Regulation,

“cost apportioning agreement” means an agreement between an authority and one or more participating municipalities in the authority’s area of jurisdiction that,

- (a) is required under subsection 21.1.2 (2) of the Act on and after the transition date, and
- (b) apportions capital costs referred to in section 25 of the Act and operating expenses referred to in section 27 of the Act that are associated with the provision of certain programs and services under section 21.1.2 of the Act to the participating municipalities; (“entente de répartition des coûts”)

“inventory” means an inventory prepared by an authority of the authority’s programs and services; (“inventaire”)

“transition date” means the day prescribed under subsection 2 (1); (“date de transition”)

“transition period” means the period that begins on the 60th day after the day this Regulation comes into force and ends on the transition date. (“période de transition”)

Transition date

2. (1) January 1, 2024 is prescribed for the purposes of subsections 21.1.2 (2), 21.1.4 (1), 25 (1.1) and 27 (1.1) of the Act, as the day an authority is required to enter into one or more cost apportioning agreements with the participating municipalities.

(2) For greater certainty, entering into a cost apportioning agreement before the transition date,

- (a) demonstrates that the transition plan required under subsection 21.1.4 (1) of the Act has been successfully implemented so as to ensure the authority’s compliance with subsection 21.1.2 (2) of the Act; and
- (b) ensures that, on and after the transition date, the authority,
 - (i) is not prohibited by subsection 21.1.2 (2) of the Act from providing any program or service under section 21.1.2 of the Act that requires financing by one or more participating municipalities,
 - (ii) is not prevented by subsection 25 (1.1) of the Act from including any capital costs that are connected to a project related to a program or service under section 21.1.2 of the Act in the apportionment of capital costs of projects among the participating municipalities under section 25 of the Act, and
 - (iii) is not prevented by subsection 27 (1.1) of the Act from including any operating expenses that are related to a program or service under section 21.1.2 of the Act in the apportionment of annual operating expenses among the participating municipalities under section 27 of the Act.

Transition plans

3. Every authority shall, on or before December 31, 2021,

- (a) develop a transition plan that includes a timeline for the authority to meet the requirements for the first and second phases of the transition period, as set out in this Regulation;
- (b) send a copy of the transition plan to each participating municipality in the authority’s area of jurisdiction and to the Ministry; and
- (c) publish a copy of the transition plan on the authority’s website or make the transition plan available to the public by such other means as the authority considers advisable.

First and second phases of transition period requirements

4. Requirements for the first phase of the transition period must be met by February 28, 2022 and requirements for the second phase of the transition period must be met by the transition date.

First phase of transition period

5. (1) During the first phase of the transition period and no later than February 28, 2022, an authority shall,
- (a) prepare an inventory in accordance with paragraph 1 of subsection 21.1.4 (2) of the Act;
 - (b) circulate the inventory to all the participating municipalities in the authority's area of jurisdiction and, if the authority considers it advisable, to any other municipality with which the authority has entered into, or intends to enter into, a memorandum of understanding or other agreement;
 - (c) maintain a record of the municipalities referred to in clause (b) and the date upon which the inventory was circulated to each municipality; and
 - (d) provide the inventory and the record prepared under clause (c) to the Ministry.
- (2) The authority may make changes to the inventory after February 28, 2022 to address comments or other feedback submitted by a municipality referred to in clause (1) (b).
- (3) If changes are made to the inventory in accordance with subsection (2), the authority shall,
- (a) include the changed inventory in the next progress report required to be submitted to the Ministry under subsection 7 (2); and
 - (b) ensure that the progress report clearly describes the changes between the previous inventory and the changed inventory.

Inventory of programs and services

6. (1) An authority shall prepare an inventory to include in its transition plan in accordance with this section.
- (2) In preparing the inventory, the authority shall ensure that,
- (a) the inventory lists all the programs and services that the authority is providing as of February 28, 2022;
 - (b) the inventory lists all the programs and services described in subsection (7) that the authority intends to provide after February 28, 2022; and
 - (c) for each program or service listed in accordance with clause (a) or (b), the authority,
 - (i) estimates of the total annual cost of providing the program or service in the following manner and includes the estimate in the inventory:
 - (A) if the program or service has been provided by the authority for a period of five or more years, calculate the average annual cost of providing the program or service for five years,
 - (B) if the program or service has been provided by the authority for a period of less than five years, calculate the average annual cost of providing the program or service based on the period that the program was offered,
 - (C) if the program or service has not been provided by the authority but is intended to be provided after February 28, 2022, calculate the average annual cost of providing the program or service based on the authority's best assessment of what the costs will be and provide an explanation for the assessment, and
 - (D) if the authority is of the opinion that the average annual cost determined under sub-subclause (A) or (B) does not reflect the average annual cost to provide the program or service in the future, adjust the average annual cost and provide an explanation for this adjustment,
 - (ii) indicates the sources of funding available to cover the total annual cost estimated in subclause (i), including any municipal funding provided through municipal levy, provincial or federal funding, private funding or funding generated by the authority through user fees or otherwise, and
 - (iii) provides an estimate of the percentage of the total annual cost estimated in subclause (i) that each of the sources of funding referred to in subclause (ii) is expected to cover.
- (3) In the inventory, the authority shall classify all of the programs and services listed under clause (2) (a) according to the following categories of programs and services:
- 1. Category 1 programs and services - the mandatory programs and services provided under section 21.1 of the Act.
 - 2. Category 2 programs and services - the municipal programs and services provided under section 21.1.1 of the Act.
 - 3. Category 3 programs and services - the other programs and services provided under section 21.1.2 of the Act.

- (4) For each Category 1 program or service listed in the inventory under clause (2) (a), the authority shall,
- (a) indicate into which type of Category 1 programs and services it falls, based on the types of mandatory programs and services that are,
 - (i) described in paragraph 1 of subsection 21.1 (1) of the Act,
 - (ii) prescribed by regulation under paragraph 2 of subsection 21.1 (1) of the Act, and
 - (iii) described in subsection 21.1 (2) of the Act; and
 - (b) explain why, in the authority's opinion, each Category 1 program or service falls into the specified type of mandatory programs and services and, if the authority has concerns about how to classify certain programs and services, explain those concerns.
- (5) For each Category 2 program or service listed in the inventory under clause (2) (a), the authority shall include the following information:
1. The name of the municipality on behalf of which the program or service is provided.
 2. The date on which the authority and the municipality entered into a memorandum of understanding or another agreement with respect to the provision of the program or service.
- (6) For each Category 3 program or service listed in the inventory under clause (2) (a), the authority shall include the following information:
1. Whether or not the program or service was financed, in whole or in part, through municipal levies collected from participating municipalities.
 2. Whether or not the authority intends to seek to enter into a cost apportioning agreement with one or more participating municipalities to ensure all or part of the financing of the program or service after the transition date.
- (7) If an authority is aware on or before February 28, 2022 that it intends to provide a new Category 1, Category 2 or Category 3 program or service after February 28, 2022, the authority shall,
- (a) include the proposed program or service in the inventory;
 - (b) in the case of a Category 2 program or service, indicate in the inventory that the authority intends to enter into a memorandum of understanding or another agreement under section 21.1.1 of the Act with the municipalities on behalf of which the program or service will be provided; and
 - (c) in the case of a Category 3 program or service, indicate in the inventory whether the authority intends to seek to enter into a cost apportioning agreement with one or more participating municipalities to ensure all or part of the financing of the proposed program or service after the transition date.

Second phase of transition period

7. (1) During the second phase of the transition period and no later than the transition date, an authority shall,
- (a) consult with the participating municipalities on the inventory in accordance with paragraph 2 of subsection 21.1.4 (2) of the Act;
 - (b) take the necessary steps to seek to enter into cost apportioning agreements with the participating municipalities on or before the transition date in accordance with paragraph 3 of subsection 21.1.4 (2) of the Act and section 8 of this Regulation; and
 - (c) submit to the Ministry six progress reports that contain the information set out in subsection (3).
- (2) The authority shall submit the progress reports described in clause (1) (c) to the Ministry on the following dates:
1. July 1, 2022.
 2. October 1, 2022.
 3. January 1, 2023.
 4. April 1, 2023.
 5. July 1, 2023.
 6. October 1, 2023.
- (3) Each progress report shall contain,
- (a) any comments or other feedback submitted by a municipality referred to in clause 5 (1) (b) regarding the inventory;

- (b) a summary of any changes that the authority has made to the inventory to address comments or other feedback referred to in clause (a), including the changed inventory and a clear description of the changes between the previous inventory and the changed inventory;
- (c) an update on the progress of negotiations of cost apportioning agreements with the participating municipalities; and
- (d) an outline of any difficulties that the authority is experiencing that might affect the ability of the authority to conclude any cost apportioning agreements with one or more participating municipalities by the transition date.

Cost apportioning agreements

8. (1) An authority may enter into a cost apportioning agreement with one or more participating municipalities and the agreement may relate to one or more programs or services provided by the authority under section 21.1.2 of the Act. O. Reg. 687/21, s. 8 (1).

(2) In accordance with paragraph 2 of subsection 21.1.2 (2) of the Act, a cost apportioning agreement must specify the termination date of the agreement and require that the agreement be reviewed by the parties to the agreement within at least six months, or such longer period as may be specified in the agreement, before the termination date, for the purpose of determining whether the agreement is to be renewed by the parties. O. Reg. 687/21, s. 8 (2).

(3) If a cost apportioning agreement provides that the agreement terminates more than five years after the agreement is entered into, the agreement must also require that the parties to the agreement review the agreement every five years while the agreement is in effect, or at such earlier intervals as may be specified in the agreement. O. Reg. 687/21, s. 8 (3).

(4) A cost apportioning agreement must include provisions relating to,

- (a) the early termination of the agreement by any party to the agreement, including,
 - (i) how notice of early termination is to be provided by one party to the other parties, and
 - (ii) a requirement that notice of early termination is required to be given at least 30 days before the early termination date or such greater period of time before the early termination date as may be specified in the agreement; and
- (b) the resolution of disputes that may arise between the parties while the agreement is in effect, including the establishment of an alternative dispute resolution mechanism for the settling of disputes outside the court system. O. Reg. 687/21, s. 8 (4).

(4.1) If the Minister's published list under subsection 21.2 (2) of the Act lists a program or service provided by an authority under section 21.1.2 of the Act and specifies that a cost apportioning agreement may include provisions to establish a fee to be charged by an authority for the program or service, the parties to a cost apportioning agreement may permit the authority who is a party to the agreement to establish a fee for the program or service. O. Reg. 399/22, s. 1 (1).

(4.2) If the conditions under subsection (4.1) are met and the parties to a cost apportioning agreement permit the authority who is a party to the agreement to establish a fee for the program or service provided by the authority, the agreement must include provisions that,

- (a) identify the program or service provided by the authority for which the authority may establish and charge a fee; and
- (b) set out any procedures that must be followed before a fee is established by the authority, including consultations with each participating municipality that is a party to the agreement with the authority. O. Reg. 399/22, s. 1 (1).

(5) A cost apportioning agreement is not effective unless it is approved by a resolution of the municipal council of each participating municipality that is a party to the agreement. O. Reg. 687/21, s. 8 (5).

(6) REVOKED: O. Reg. 399/22, s. 1 (2).

Final submissions due at end of transition period

9. Within 30 days after the transition date, the authority shall submit to the participating municipalities and to the Ministry,

- (a) the final version of the inventory; and
- (b) confirmation that the authority has entered into all necessary cost apportioning agreements with the participating municipalities.

Extension of transition date

10. (1) For the purposes of subsections 25 (1.3) and 27 (1.3) of the Act, an authority may be granted an extension of time beyond the transition date in the following circumstances:

1. The authority submits a request for the extension to the Ministry on or before October 1, 2023.
2. The request demonstrates that additional time is required for any of the following reasons:

- i. The authority and one or more participating municipalities need time to conclude a cost apportioning agreement for a particular program or service that the authority intends to provide under section 21.1.2 of the Act after the transition date.
- ii. The authority needs more time to wind down a particular program or service that was provided by the authority under section 21.1.2 of the Act before the transition date but that will no longer be provided after the transition date.

(2) The length of the extension shall be specified in the notice given by a person designated by the Minister under subsection 25 (1.3) or 27 (1.3) of the Act.

11. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

Français

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