

REGION OF OTTAWA-CARLETON
RÉGION D'OTTAWA-CARLETON

REPORT
RAPPORT

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Information Previously Distributed

DATE 19 September 2000

To be listed on the Community Services
 Agenda, October 5 2000

TO/DEST. Coordinator
 Community Services Committee

FROM/EXP. Acting Regional Solicitor
 Medical Officer of Health

SUBJECT/OBJET **MOTION ARISING AT THE COMMUNITY SERVICES
 COMMITTEE MEETING OF 20 APRIL 2000 FOOD SAFETY
 IN OTTAWA-CARLETON**

BACKGROUND

CSC Motion No.52(00) requested the Health Department and Legal Services staff report back to Community Services Committee as soon as possible with the feasibility of increasing fines for food safety violations so they act as greater deterrent and more closely recover the costs involved in prosecuting infractions.

The Provincial Offences Act

Ontario Regulation 950 of 1990 made under the *Provincial Offences Act* R.S.O. 1990 c.P.33 established Schedule 40 which is the short form wording for Regulation 562 of the Revised Regulations of Ontario, 1990 under the *Health Protection and Promotion Act*. The tickets issued by the Health Department fall under this category.

a) Set Fines

Set fines for provincial offences for use under Part I are established in Ontario by judicial order. Rule 6, Regulation 200, provides that for the purposes of proceedings under Parts I of the *Act*, the amount of fine set by the court for an offence is such amount as may be set by the Chief Judge of the Ontario Court (Provincial Division). Set fines may be obtained for any provincial offence, including those under municipal by-laws.

The purpose in having a judicial official issue set fine order under the *Provincial Offences Act* is to ensure that there is judicial consideration applied in determining the amount that would be appropriate as an out-of-court settlement for the offence. When the *Act* was proclaimed in 1980, the set fine was intended to be an amount, somewhat above any minimum penalty, that would be appropriate for the average offender in average circumstances. Generally speaking the set fine was intended to be what the court would have imposed as a penalty had the defendant attended court to plead guilty.

b) Provincial Set Fines

For offences created by provincial enactment, the ministry responsible for the enactment causes the short form wordings for the offences to be enforced using the Part I procedures to be added as a schedule to Regulation 950 under the *Provincial Offences Act*. A submission is then made to the Chief Judge of the Ontario Court (Provincial Division) setting forth suggested fine amounts to be considered by the Chief Judge in the establishment of set fines for each offence. Provided that the suggested amounts do not exceed either the maximum under Part I (\$500) or the maximum penalty in the offence-creating enactment, the order is generally issued. The set fine order is not issued until the amendment to Regulation 950 takes effect and, in any event, cannot take effect unless the offence-creating enactment is proclaimed in force.

The Ontario Ministry of Health is responsible for the creating the short form wording for the offences to be enforced by the Health Department with regards to food safety issues. The suggested fine levels then go on to receive judicial consideration and then are approved by the Chief Judge of the Ontario Court. Therefore, as the Region is simply enforcing a provincial statute on behalf of the Province the feasibility of the Region increasing fines for food safety violations does not rest with the Region but rather with both the Province and the Judiciary. Staff have been advised that the Ministry of Health and Long Term Care is planning a consultation with Health Agencies on the issue of pursuing higher set fines for contravention's to Ontario Regulation 562/90 (food premises) as amended to O. Reg. 586/99 through the appropriate process. The Ministry has indicated that there is a general consensus across the Province that the fines need to be increased to provide increased deterrence to non compliance.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from this report.

PUBLIC CONSULTATION

No public consultation was required for this report.

Approved by
Dr. R. Cushman

Approved by
E. A. Johnston