

BILL 8 Q&A

Public Sector and MPP Accountability and Transparency Act, 2014



WHAT IS THE STATUS OF BILL 8?

Bill 8, the *Public Sector and MPP Accountability and Transparency Act*, passed its third and final reading on December 9th and received Royal Assent on the 11th of December. At this point, there is no known date for proclamation, but most estimates suggest that it will be a few months at minimum. The legislation cuts across a number of sectors and to operationalize it the government will have to introduce or amend existing regulations which will take some time. AMCTO will share the proclamation date and any of the forthcoming regulations associated with this legislation as it becomes available.

WHAT IS THE SCOPE OF THE LEGISLATION?

While the implementation details still need to be worked out, Bill 8 gives the Ontario Ombudsman the authority to investigate complaints at the municipal level, only after local investigations have been completed.

The Ontario Ombudsman will also be able to investigate “systemic” administrative matters (an example of a systemic investigation is the Ombudsman’s 2013 review of how the Ministry of Education responds to complaints about unlicensed daycare providers) in a municipality on his own initiative. This is the same structure that currently exists at the provincial level.

DOES EVERY MUNICIPALITY NOW HAVE TO APPOINT THEIR OWN OMBUDSMAN?

The legislation does not require every municipality to appoint their own Ombudsman, nor does it prohibit municipalities from appointing one in the future. For municipalities that do not currently have an Ombudsman, however, the Ontario Ombudsman will become their default municipal Ombudsman.

WHAT HAPPENS IF A MUNICIPALITY ALREADY HAS AN OMBUDSMAN, OR PLANS TO APPOINT ONE?

While the current Bill does not require every municipality to have their own Ombudsman, it does give the Ontario Ombudsman oversight authority over every municipality in Ontario, with the exception of the City of Toronto. If a municipality does have its own Ombudsman, however, the Ontario Ombudsman’s oversight is limited to the following circumstances:

- A municipal ombudsman has refused to investigate a complaint;
- The deadline for bringing a complaint to the municipal ombudsman has passed; or
- A municipal ombudsman has finished his or her investigation of a specific complaint.

CAN THE ONTARIO OMBUDSMAN NOW OVERRULE A LOCAL MEETING INVESTIGATOR?

No, while this provision did exist in the original version of the bill, subsequent amendments have removed this authority from the Ombudsman’s office. As a result, the existing system for closed meeting investigation will be maintained, meaning that the Ombudsman will continue to serve as the default closed meeting investigator in municipalities that have not appointed their own independent investigator.

CAN THE OMBUDSMAN NOW OVERRULE MUNICIPAL AUDITORS GENERAL, REGISTRARS OR INTEGRITY COMMISSIONERS?

Similar to the situation around municipal Ombudsmen, the Ontario Ombudsman can only overrule municipal auditors general, registrars or integrity commissioners in the following circumstances:

- They have refused to investigate a complaint;
- The deadline for bringing a complaint to the local investigator, AG, or registrar has passed; or
- A local investigator, AG, or registrar has finished his or her investigation of a specific complaint.

WHAT IS AMCTO DOING ABOUT BILL 8?

In preparation for the Bill's implementation AMCTO has reached out to the Ombudsman's Office to seek greater clarity on how the Bill will be operationalized, and will share any new information as it becomes available.

AMCTO is also exploring what new training opportunities would help municipalities to ensure their own due diligence and prepare for any new requirements they may be responsible for.