

The Regional Municipality of York

Committee of the Whole
Finance and Administration
April 16, 2020

Report of the Regional Solicitor

Transfer of Part III Prosecutions to the Regional Municipality of York

1. Recommendations

1. That Council authorize the execution of amending agreements between the Province, The Regional Municipality of York (York Region) and the nine local municipalities which amend the Memorandum of Understanding and the Local Side Agreement involving the prosecution of offences commenced under Part III of the *Provincial Offences Act* (POA).
2. That Council seek resolutions from the nine local municipalities in the suggested form to delegate authority to York Region to enter into amending agreements with the Province to amend the Memorandum of Understanding and the Local Side Agreement on behalf of the local municipalities (Attachment 1).

2. Summary

This report seeks Council authorization to execute agreements that amend the Memorandum of Understanding and the Local Side Agreement to transfer the prosecution of Part III proceedings from the Province to York Region. Local municipalities are also parties to these agreements requiring amendment. To facilitate the transition, a draft resolution delegating local Councils' authority to York Region to execute these agreements on their behalf is proposed for circulation to the local municipalities.

Key Points:

- On June 30, 1999, the Province entered into agreements with York Region and the nine local municipalities to transfer the operation of the Provincial Offences Court and the prosecution of proceedings commenced under Parts I and II of the POA to York Region. The Province retained the prosecution of proceedings commenced under Part III of the POA, except for those proceedings already prosecuted by municipalities
- In December, 2017, the Province amended the POA to allow for an agreement to be entered into for the transfer of proceedings commenced under Part III of the POA
- For transfer of Part III prosecutions to occur, the amending agreements must be signed by the Province, York Region and the nine local municipalities

3. Background

Province transferred Provincial Offences Court program to Municipalities in 1999

Between April 29 and June 30, 1999, the Province, York Region and the nine local municipalities signed the Memorandum of Understanding and the Local Side Agreement which transferred to operation of the Provincial Offences Court and the prosecution of charges laid using the process under Parts I and II of the POA to York Region. Part I involves an officer issuing a ticket to a defendant with three options available – pay the set fine (plus costs and victim fine surcharge), complete a walk-in guilty plea, or request a trial. Part II involves parking tickets. The Province retained the prosecution of charges laid using the process under Part III of the POA, except for those offences previously prosecuted by municipalities. Part III proceedings are commenced by swearing an Information and serving a summons requiring a defendant to appear in court and involve more serious charges.

***Provincial Offences Act* amended to allow for transfer of Part III prosecutions**

On Dec 14, 2017, Bill 177 (*Stronger, Fairer Ontario Act (Budget Measures) 2017*) received Royal Assent. Sections 162 and 173 of the POA were amended to allow the Province to enter into agreements with municipalities to prosecute Part III charges. These are primarily charges for offences under the *Highway Traffic Act*, *Compulsory Automobile Insurance Act*, and the *Dog Owners' Liability Act*.

York Region currently prosecutes Part III charges under municipal by-laws, and some Provincial statutes and regulations including the *Building Code Act*, *Fire Protection and Prevention Act*, *Health Protection and Promotion Act*, and *Smoke Free Ontario Act*. Other Part III charges laid under various other Provincial statutes and regulations are prosecuted by the ministry responsible for the Act and are not included in the transfer (e.g. Ministry of Labour, Ministry of Transportation, and Ministry of the Environment).

Authorization to execute amending agreements required

The transfer will require the Province and local municipalities to sign amending agreements to the Memorandum of Understanding as well as the Local Side Agreement. Authorization to sign these agreements will be required from York Region Council as well as the nine local municipalities since all are named as parties to the original agreements.

4. Analysis

Provisions contained in the draft agreement would facilitate the transfer

The draft amending agreement to the Memorandum of Understanding contains provisions that would transfer the prosecution of proceedings commenced under Part III of the POA to York Region, with the exception of certain Part III proceedings. The provisions contained in the draft agreement would facilitate the transfer.

The draft amending agreement to the Local Side Agreement contain provisions that would transfer files from the Province to York Region, with an effective date for the transfer to be agreed upon. It also requires York Region to make available workspace and access to technology for the Province for those matters retained by the Province.

Efficiencies may be realized through the transfer

The transfer of Part III prosecutions from the Province to York Region will create efficiencies in the operation of the Provincial Offences Court including:

- The opportunity to end segregated dockets and improve trial scheduling by combining Part I and III charges together in one courtroom (currently Part I and Part III charges are segregated into separate courtrooms)
- The opportunity to end conflicting court appearances for officers having to attend in separate courtrooms as Part I and III charges laid by an officer can now be combined into the same courtroom
- Enhanced service delivery to the public by having one prosecution office for defendants, agents, lawyers and witnesses to deal with (currently there are two offices - Provincial prosecutors and Regional prosecutors)
- A more streamlined process and simplified communications regarding which office is dealing with the matter as there will only be one office for the majority of charges
- The majority of appeals will be handled by Regional prosecutors which will improve customer service, allow for more efficient use of court time and create consistency in the appeal court
- Police will have one prosecution office with one disclosure process
- Greater control in response to local specific issues/concerns/practices and procedures
- Professional development opportunities for staff

Initiative supports the 2019 to 2023 Strategic Plan and aligns with Vision 2051

The transfer of Part III prosecutions to York Region will enhance the delivery of court services to the community through a more efficient and streamlined process, aligning with the 2019 to 2023 Strategic Plan priority area of supporting community health, safety and well-being and delivering trusted and efficient services. The transfer reflects an open and responsive government, a focus area of Vision 2051.

5. Financial

Four additional staff to address the workload associated with the transfer of Part III charges have been hired. There is no additional budget impact to York Region.

6. Local Impact

There is no budget impact to the local municipalities as the POA program is operated solely at the expense of York Region. Local prosecutions will continue to be conducted by York Region. Local city managers and CAO's are aware of the pending transition and the attached draft resolution is intended to provide a template for local Council's delegation.

7. Conclusion

The Province is seeking to transfer the prosecution of proceedings commenced under Part III of the POA, except for certain offences. The transfer will improve the functioning of the POA court and make it more user friendly for the public to deal with one prosecution office. Amending agreements to the Memorandum of Understanding and Local Side Agreement must be executed by York Region and the nine local municipalities for the transfer to occur. Authorization is required from Council to execute the amending agreements. It is also necessary to seek resolutions from the nine local municipalities to delegate authority to York Region to execute the amending agreements.

For more information on this report, please contact Hans Saamen, Director of Prosecutions, at 1-877-331-3309 ext.73212. Accessible formats or communication supports are available upon request.

Recommended by: **Joy Hulton**
Regional Solicitor

Approved for Submission: **Bruce Macgregor**
Chief Administrative Officer

April 3, 2020
Attachment (1)
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