

Hon. Madeleine Meilleur,
Attorney General of Ontario
McMurtry-Scott Bldg
720 Bay St
Toronto ON M7A2S9

June 15, 2015

Dear Hon. Ms. Meilleur,

The undersigned are writing to you today to voice our concerns regarding the recent decision of the E-Laws editorial team to discontinue the production of the Ontario Table of Public Statutes.

The Table of Public Statutes has been produced as far back as RSO 1877, as an essential legal research tool designed to assist users in quickly understanding:

1. Statutes which have amended other statutes, organized by section of Act;
2. The commencement date, commencement provision and authority by which amendments came into force.

It was originally compiled to reflect amendments to statutes contained within a particular set of the Revised Statutes of Ontario.

In 2002, the Table of Public Statutes was no longer produced in a printed format in the back of the Statutes of Ontario. This in and of itself was extremely problematic at the time for users of historical legal information. At the time, users were directed to refer to the new Detailed Legislative History Tables on the E-Laws website.

The discontinuation of the Table of Public Statutes in an archival format in the Statutes of Ontario created a larger problem, which some of us predicted. This is that, due to the discontinuation of the Revised Statutes of Ontario, the table itself would become a *cumulative table into perpetuity*. For example, historically, the Table itself would normally *start anew* on the day after the coming into force of each set of the RSO.

Ultimately, by putting the Tables online in a cumulative format, the E-Laws team were creating an unsustainable legal research tool.

Since we operate in a common law environment, persons tasked with designing legal research tools *must always contemplate the sustainability of the architecture, and its ease of navigation, to encompass decades of information*. The move away from RSO to consolidations and away from the Table of Public Statutes to the Detailed Legislative History tables are both examples of legal research tools whose architecture has been built almost solely with access to current content in mind, and with fairly low regard being given to how people will be able to access this information over time.

As predicted, the Detailed Legislative History Tables have now been deemed to be too large to sustain. The E-Laws team have now advised us that they have no intention of continuing to produce the Detailed Legislative History Tables, but that "an alternative approach to providing provision-level and other more detailed legislative history information in an accessible format, using a more streamlined and automated process, is being developed." See the attached email thread below.

As advanced users of legal information, we are opposed to the discontinuation of this research tool, particularly insofar as an alternative has not yet been devised.

No technology upgrade should result in a loss of functionality - upgrades should achieve the goal of maintaining and enhancing existing functionality. This project should not have been rolled out until a suitable solution was devised, and after appropriate consultation with stakeholders.

If an alternative is devised in one year, this is one full year of legislative activity which will not have been tabulated. The longer it takes to devise a strategy, the more the tracking of amendments is aggregated, creating a larger problem requiring more and more resources to remedy in time. The outcome may surely be an entire timeframe where there is no tool to assist researchers. *If you do not have the resources today to maintain the existing system, how will you ever have enough resources to compile one or two year's worth of work after the fact?*

Ultimately, it is our concern that the E-Laws team have no intention of tracking amendments into the future. We have concerns about the current web team for Ontario legal information. For example, Annette Demers, one of the drafters of this letter, communicated with the Ontario Gazette website prior to and after its transition to a new web format, to protest the problems that occurred in using the calendar on the Gazette website. *Fully one year later, these problems have yet to be rectified.* This leads us to lose confidence in the Ontario web team charged with the task of providing perpetual access to Ontario's legal information into the future.

If the Detailed Legislative History Tables are no longer produced, the following research tasks will be complicated for users:

Research Task Using the Tables	Research Task with No Tables	Comments
Quickly see whether an amending Act had come into force.	Visit the consolidated statute - amendment will be greyed out.	Not problematic.
Look at the Table to quickly find out when an amendment came into force.	User must undertake a full CIF tracking. Locate the Table of Proclamations, or alternatively, locate the amendment information line on the consolidation; locate the annual statute listed therein; locate its CIF provision; note the Royal Assent date or locate the Proclamation in the Ontario Gazette.	These additional steps will add a significant amount of time to the research process. The Table of Proclamations on E-Laws, and the Ontario Gazette cannot be discontinued in this scenario.
Look at the Table to quickly understand whether an amendment was in force at a specific point in time.	Locate the PIT version on E-Laws.	Not problematic.
Understand when an historical amendment came into force.	The PIT version does not assist with answering this question. See extended research steps above.	Adds significant time to the research process.
Determine whether there have	The researcher will have to go	Adds significant time to the

been any changes to a statute since a particular year.	through the proclamations for every amending statute to locate CIF information during the affected years.	research process.
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We understand that AODA compliance may have been a factor in this decision, and are discouraged that the government has chosen a solution which will remove access for all, rather than devising a better solution.

In terms of solutions, Ontario might look to the solution devised by BC, which is to cut off the table periodically, to create new editions so as to ensure that the table does not become unwieldy. See for example, the explanatory note located here:
<http://www.bclaws.ca/civix/document/id/complete/statreg/E3tlc96238>

We feel that perpetual access to legal information, including the research tools necessary to navigate its complexity, is a necessary precursor to every Ontarian's rights to fundamental justice protected under section 7 of the *Canadian Charter of Rights and Freedoms*.

Accordingly, we humbly request that the E-Laws editorial team be instructed forthwith that they shall not discontinue the Detailed Legislative History Tables until a suitable replacement research tool can be found.

A reply to this letter can be sent to:

who will communicate it to the signatories, thank you.

Sincerely Yours,

cc. Robin M Thompson, Chief Information Officer, Justice Technology Services

Mark Spakowski, Chief Legislative Counsel

Appendix: Enquiry and Response of Ontario E-Laws

From: do.not.reply@ontario.ca [mailto:do.not.reply@ontario.ca]

Sent: April-16-15 9:08 AM

To: E-laws (MBS)

Subject: Public statutes and ministers responsible

Message:

Please advise as to the new location of the detailed legislative history tables for Ontario. Thank you.

Reply Request: Yes

Name: Annette Demers

E-mail: ademers@uwindsor.ca

Phone number: 519-253-3000 ext 2976

Address: University of Windsor Faculty of Law 401 Sunset Avenue Windsor, ON N0R 1G0

April 20, 2015

Dear Ms. Demers:

Thank you for your e-mail concerning the new e-Laws web site (www.ontario.ca/laws).

Detailed legislative history (DLH) tables are no longer being maintained. As of April 10, 2015, there were 3,971 regulation tables and 998 statute tables, which were regularly being updated manually in Word format. In their current format, the DLH tables could not meet the web accessibility requirements set out under the Accessibility for Ontarians with Disabilities Act, 2005.

An alternative approach to providing provision-level and other more detailed legislative history information in an accessible format, using a more streamlined and automated process, is being developed. In the meantime, some provision-level legislative history may be found in the footnotes following provisions in the consolidated versions of laws on e-Laws. Provision-level history can also be tracked by comparing historical (period in time) versions of laws, where available on e-Laws. Information on when bills were enacted or regulations filed may be found on the source law versions of the applicable laws. Higher-level legislative history continues to be shown in the Table of Public statutes and ministers responsible, the Table of Regulations, and the Table of Private statutes.

Although the DLH tables will no longer be updated on e-Laws, archived versions of the tables (as they appeared on April 10, 2015) have been made available for download on the Legislative Tables page on e-Laws, for those wishing to continue to track legislative history in that format themselves. Here is a link to the Legislative Tables page: <http://www.ontario.ca/laws/legislative-tables> The download links are found under the heading "Detailed Legislative History Tables".

Yours truly

e-Laws

