

Maintenance

44 (1) The municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge. 2001, c. 25, s. 44 (1).

Liability

(2) A municipality that defaults in complying with subsection (1) is, subject to the *Negligence Act*, liable for all damages any person sustains because of the default. 2001, c. 25, s. 44 (2).

Defence

(3) Despite subsection (2), a municipality is not liable for failing to keep a highway or bridge in a reasonable state of repair if,

- (a) it did not know and could not reasonably have been expected to have known about the state of repair of the highway or bridge;
- (b) it took reasonable steps to prevent the default from arising; or
- (c) at the time the cause of action arose, minimum standards established under subsection (4) applied to the highway or bridge and to the alleged default and those standards have been met. 2001, c. 25, s. 44 (3).

Regulations

(4) The Minister of Transportation may make regulations establishing minimum standards of repair for highways and bridges or any class of them. 2001, c. 25, s. 44 (4).

General or specific

(5) The minimum standards may be general or specific in their application. 2001, c. 25, s. 44 (5).

Adoption by reference

(6) A regulation made under subsection (4) may adopt by reference, in whole or in part, with such changes as the Minister of Transportation considers desirable, any code, standard or guideline, as it reads at the time the regulation is made or as it is amended from time to time, whether before or after the regulation is made. 2001, c. 25, s. 44 (6).

(7) REPEALED: 2002, c. 24, Sched. B, s. 25.

Untravelled portions of highway

(8) No action shall be brought against a municipality for damages caused by,

- (a) the presence, absence or insufficiency of any wall, fence, rail or barrier along or on any highway; or
- (b) any construction, obstruction or erection, or any siting or arrangement of any earth, rock, tree or other material or object adjacent to or on any untravelled portion of a highway, whether or not an obstruction is created due to the construction, siting or arrangement. 2001, c. 25, s. 44 (8).

Sidewalks

(9) Except in case of gross negligence, a municipality is not liable for a personal injury caused by snow or ice on a sidewalk. 2001, c. 25, s. 44 (9).

Notice

(10) No action shall be brought for the recovery of damages under subsection (2) unless, within 10 days after the occurrence of the injury, written notice of the claim and of the injury complained of, including the date, time and location of the occurrence, has been served upon or sent by registered mail to,

- (a) the clerk of the municipality; or
- (b) if the claim is against two or more municipalities jointly responsible for the repair of the highway or bridge, the clerk of each of the municipalities. 2001, c. 25, s. 44 (10); 2017, c. 10, Sched. 1, s. 4.

Exception

(11) Failure to give notice is not a bar to the action in the case of the death of the injured person as a result of the injury. 2001, c. 25, s. 44 (11).

Same

(12) Failure to give notice or insufficiency of the notice is not a bar to the action if a judge finds that there is reasonable excuse for the want or the insufficiency of the notice and that the municipality is not prejudiced in its defence. 2002, c. 24, Sched. B, s. 42.

(13) REPEALED: 2002, c. 24, Sched. B, s. 42.

No responsibility for acts of others

(14) Nothing in this section imposes any obligation or liability on a municipality for an act or omission of a person acting under a power conferred by law over which the municipality had no control unless,

(a) the municipality participated in the act or omission; or

(b) the power under which the person acted was a by-law, resolution or licence of the municipality. 2001, c. 25, s. 44 (14).

No liability

(15) A municipality is not liable for damages under this section unless the person claiming the damages has suffered a particular loss or damage beyond what is suffered by that person in common with all other persons affected by the lack of repair. 2001, c. 25, s. 44 (15).