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NOVA SCOTIA  
2023**

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**VOLUME B**



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**VOLUME B**

**Revised Statutes of Nova Scotia**

**2023**

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## CHAPTER B-1

# An Act to Prohibit the Display or Sale of Artificially Coloured Living Chickens

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#### Short title

**1** This Act may be cited as the *Baby Chick Protection Act*. R.S., c. 29, s. 1.

#### Offence and penalty

**2** Every person who displays, sells, barter, gives or offers to sell, barter or give a living chicken under two months of age that has been dyed, coloured or otherwise treated so as to impart to it an artificial colour is guilty of an offence and liable on summary conviction to a fine not exceeding \$100 or to imprisonment for not more than 30 days or to both. R. S., c. 29, s. 2.

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## CHAPTER B-2

# An Act to Incorporate the Nova Scotia Registered Barbers Association

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**Short title**

- 1** This Act may be cited as the *Barbers Association Act*. R.S., c. 390, s. 1.

**Interpretation**

- 2** In this Act,
- “Association” means the Nova Scotia Registered Barbers Association;
- “barbershop” includes all premises or part thereof wherein is carried on the business of shaving, or cutting, clipping, singeing or shampooing the hair or scalp, but does not include establishments where the foregoing services are rendered incidentally to the business of waving or dressing the hair, which establishments are commonly known as beauty shops or beauty parlours;
- “certificate of registration” means a certificate of registration as a barber which is issued and in force pursuant to this Act;
- “Council” means the Council of the Association;
- “member” means a registered member of the Association;
- “Registrar” means the Registrar of the Association;
- “Secretary” means the Secretary of the Association;
- “Treasurer” means the Treasurer of the Association. R.S., c. 390, s. 2.

**Head office**

- 3** The head office of the Association must be in the former City of Halifax. R.S., c. 390, s. 3.

**Association continued**

- 4** The Nova Scotia Registered Barbers Association is continued as a body corporate. R.S., c. 390, s. 4.

**OBJECTS****Objects of Association**

- 5** The objects of the Association are to
- (a) promote and increase the skill and proficiency of the members of the Association in all matters relating to the trade and business of a barber;
- (b) do all such matters and things as will advance and protect the interests of the members of the Association in the trade and business of barbers, and protect the interest of the public in all matters relating thereto;

(c) do all such matters and things as are calculated to give the public a greater appreciation of the usefulness and competency of the members of the Association in the carrying on of their trade and business as barbers. R.S., c. 390, s. 5.

## POWERS

### Powers of Association

**6 (1)** The Association, in addition to all other powers vested in corporations, is authorized and empowered to

(a) hold and dispose of real estate for the purposes of the Association;

(b) enter into any contract with any other person, firm or corporation relating to the borrowing of money for the purposes of carrying out any of the objects of the Association and give security for any money so borrowed on any of the real or personal property of the Association by way of mortgage, pledge, charge or otherwise;

(c) establish and maintain a register and cause to be recorded therein the names and addresses of all persons who are members of the Association;

(d) authorize the Registrar or other official of the Association as may be designated by the Association to grant a certificate of competency or a diploma to each member of the Association;

(e) fix the fees payable by any person upon being admitted as a member of the Association, annual fees, examination fees, fees payable for a certificate of registration and fees for registration as a registered apprentice;

(f) assess its members for any ordinary, special or extraordinary expenditures considered necessary or expedient to further any of the objects of the Association, and such assessment may be made in the manner provided by the bylaws of the Association;

(g) discipline, suspend or expel any of its members from membership in the manner provided by the bylaws of the Association;

(h) inspect barbershops as defined herein and to authorize the Council to appoint inspectors for that purpose;

(i) do all such other matters and things as may be necessary for or incidental or conducive to the exercise of any of the hereinbefore enumerated powers;

(j) make bylaws relating to the powers of the Association and prescribing the mode of installation and duties of the officers of the Association.

**(2)** No bylaw has any force or effect unless and until approved by the Governor in Council and no bylaw may be submitted to the Governor in Council unless and until it has been adopted by the Association at an annual or special meeting of the members of the Association, by a two-thirds majority vote of the members present at such meeting.

(3) No bylaw may be amended, varied or repealed at any such annual or special meeting unless written notice of the intention to deal with the same and a copy of every such proposed amendment, variation or repeal has first been given by the Secretary to each member of the Association at least 14 days before the holding of such meeting, said notice and copy to be mailed to the member, postage prepaid, addressed to the last address of each member as shown on the register. R.S., c. 390, s. 6.

#### **Death benefit**

7 (1) There must be paid to the estate of every deceased member out of the funds of the Association upon receipt by the Treasurer of proof of the death of such member satisfactory to the Treasurer, a death benefit in the amount of \$50.

(2) Such payment shall be made upon the passage of a resolution of the Council authorizing the payment. R.S., c. 390, s. 7.

### **MEMBERSHIP**

#### **Eligibility for membership**

8 A person who has complied with the bylaws of the Association relating to the training, qualification, examination and admission of members is eligible to become a member of the Association. R.S., c. 390, s. 8.

#### **Restrictions on carrying on business as barber**

9 Every person who, not being the holder of a certificate of registration pursuant to this Act, carries on trade or business as a barber in a city or incorporated town having a population, according to the latest census, exceeding 5,000, is liable to a penalty not exceeding \$100 and in default of payment thereof to imprisonment for a period not exceeding two months. R.S., c. 390, s. 9.

#### **Membership for member of reciprocating association**

10 A person who becomes a resident of the Province and who is a duly registered member of an association of barbers of any province, of any other part of the Commonwealth or of the United States similarly constituted to this Association and that grants reciprocal privileges of membership therein, may, upon application to the Council, be admitted to membership in the Association on producing a certificate of membership in such other association. R.S., c. 390, s. 10.

#### **Medical certificate required**

11 No person who is suffering from tuberculosis or any other contagious or infectious disease may be registered as a member of the Association and every person applying for membership in the Association shall furnish such medical certificate of freedom therefrom as the bylaws of the Association may prescribe. R.S., c. 390, s. 11.

#### **Offence respecting sanitation**

12 A member who is guilty of a violation of a provision respecting sanitation in barbershops and premises or sanitary precautions to be observed by barbers pursuant to the *Health Protection Act* or of the regulations made thereunder, or of



the bylaws of any municipal corporation, shall be forthwith dealt with by the Association as provided by the bylaws in such cases. R.S., c. 390, s. 12; 2004, c. 4, s. 117.

#### Use of designation

**13** Every member of the Association is entitled to take and use the title “registered barber” and no person who is not a member of the Association shall take or use the title “registered barber” or any abbreviation thereof calculated to represent such non-member as being a registered barber, and any person who violates this Section is liable to a penalty of not more than \$20, and such penalty is recoverable pursuant to the *Summary Proceedings Act*. R.S., c. 390, s. 13.

#### Apprentice

**14 (1)** A person is entitled to receive a certificate of registration as a registered apprentice provided that the person

(a) is not less than 17 years of age; and

(b) has passed an examination conducted by the Association to determine the person’s fitness to practise as a registered apprentice.

**(2)** No person shall practise as an apprentice unless the person has been registered as such by and has received a certificate from the Association therefor.

**(3)** No registered apprentice may independently practise barbering, but may, as an apprentice, do any or all of the acts constituting the practice of barbering under the immediate personal supervision of a registered barber or a barber holding a certificate of exemption.

**(4)** No barber shall employ or work with more than one apprentice at one time.

**(5)** Nothing in this Section prevents any person, being an instructor or student, from doing any or all of the acts constituting the practice of barbering in a trade school registered pursuant to the *Private Career Colleges Act*. R.S., c. 390, s. 14.

#### Certificate of registration

**15 (1)** A person is qualified to receive a certificate of registration as a registered barber if the person

(a) has practised as a registered apprentice under the immediate supervision of a registered barber, or of a barber holding a certificate of exemption, or has successfully completed the course of study in a trade school registered pursuant to the *Private Career Colleges Act*, in which barbering is taught;

(b) has passed an examination conducted by a board of examiners appointed as hereinafter provided to determine the person’s fitness to practise barbering;

(c) has paid all fees prescribed therefor; and

(d) has otherwise complied with this Act.

(2) If an applicant fails to pass an examination referred to in clause (1)(b) the applicant may continue to practise as a registered apprentice as hereinbefore provided and may after three months reapply for another examination.

(3) All certificates of registration expire on December 31st in the year in which they are issued.

(4) Every person who holds a certificate of registration shall annually, on or before December 15th, apply to the Registrar for a renewal thereof for the next ensuing year, and such renewal shall be granted upon payment of the annual fees prescribed by the bylaws.

(5) If a person holding a certificate of registration fails to pay the annual fees prescribed by the bylaws within three months of the date upon which such fees become payable, the Registrar, after issuing 10 days notice by registered mail, addressed to the last known address of such person on the register, shall cause the name of such person to be struck off the register and such person thereupon ceases to be deemed to be a member and the person's certificate of registration is deemed to have been revoked.

(6) Such person is at any time within two years after the name of the person is struck off the register, upon paying such annual fees and any arrears thereof, entitled to be reinstated as a member and to have a certificate of registration reissued to the person.

(7) If an application is made two years after the name of such person is struck off the register, then such person is only entitled to be reinstated as a member and to have the person's certificate of registration reissued upon complying with the terms prescribed by the Council.

(8) A certificate purporting to be under the hand of the Registrar and bearing the seal of the Association is prima facie evidence in any court or elsewhere of the issuance of a certificate of registration or of the non-issuance thereof.

(9) No person shall wilfully have or attempt to have a certificate of registration granted to the person or to be registered as a member or enrolled as a registered apprentice by making or producing or causing to be made or produced any false or fraudulent representation or declaration. R.S., c. 390, s. 15.

#### **Board of Examiners**

16 (1) There is a Board of Examiners consisting of such number of persons as may be determined by bylaw, to examine such persons as from time to time apply to be examined and registered as apprentices or barbers pursuant to this Act.

(2) At least one half of the Board of Examiners must be appointed by the Minister of Labour, Skills and Immigration and the remainder by the Council.

(3) Every examiner appointed by the Minister of Labour, Skills and Immigration must be appointed for three years and must have practised the trade of barbering for at least 10 years prior to appointment.

(4) The Board of Examiners shall meet at least twice in every year for the purpose of examining candidates for registration pursuant to this Act.

(5) Due notice of all such examinations must be given by advertisement in one or more public newspapers in the former City of Halifax.

(6) A majority of the members of the Board constitutes a quorum thereof.

(7) The Board of Examiners has power to examine such candidates, and upon their report to the Council that any candidate has passed the prescribed examinations, the Registrar shall sign and issue the requisite certificate.

(8) Two classes of examinations must be held by virtue of the provisions of this Act, namely,

- (a) examinations for registered apprentices; and
- (b) examinations for registered barbers. R.S., c. 390, s. 16.

### **Regulations**

17 (1) The Council has power to make regulations not inconsistent with this Act concerning the following matters:

- (a) the holding and conduct of examinations of candidates for registration as apprentices and barbers pursuant to this Act;
- (b) the prescribing of subjects upon which such candidates are examined, and any further qualifications of any such candidates;
- (c) the prescribing of the matters in which registered apprentices are instructed, the manner of such instruction and the duties to be performed by such apprentices while engaged as such.

(2) No such regulation comes into effect until approved by the Minister of Labour, Skills and Immigration. R.S., c. 390, s. 17.

### **Honorary membership**

18 (1) The Council may, upon application in writing to the Secretary by any member of the Association who at the time of making such application is carrying on the trade of a barber in the Province, who has attained the age of 65 years or who has satisfied the Council that the person is unable to carry on the trade of a barber regularly due to ill health, grant to such member an honorary membership in the Association and issue a certificate to that effect.

(2) Such member thereupon ceases to be liable to pay dues and assessments to the Association but continues to be entitled to carry on as a barber.

(3) The Association, at any general meeting thereof, may, in recognition of the services to the Association of any person, elect such person as an honorary member of the Association and cause to be issued to such person a certificate to that effect, but such person does not by reason of honorary membership have the right to carry on the trade of a barber in the Province nor hold any elective office in the Association nor be liable to pay any fees or assessments but is entitled to attend any meeting of the Association. R.S., c. 390, s. 18.

## COUNCIL

**Council of Association**

**19** There is a Council of the Association of seven members, who must be British subjects, and who must have resided and carried on, or been employed in, the trade or business of a barber in the Province for at least five years. R.S., c. 390, s. 19.

**Quorum and meetings**

**20 (1)** Any four members of the Council constitute a quorum.

**(2)** The President may call a meeting of the Council at such time and place as the President may determine and shall call a meeting of the Council when requested in writing by a majority of the members of the Council to do so. R.S., c. 390, s. 20.

**Election of members and term of office**

**21** The members of the Council must be elected at the annual meeting of the Association, by sealed ballot, in the manner provided by the bylaws of the Association and hold office until their successors are duly elected. R.S., c. 390, s. 21.

**Vacancy**

**22** If any vacancy occurs in the Council it may be filled by the unanimous vote of the remaining members of the Council. R.S., c. 390, s. 22.

## OFFICERS

**Officers of Association**

**23** The officers of the Association consist of a President, Vice-president, Registrar, Secretary, Treasurer and Sergeant-at-arms. R.S., c. 390, s. 23.

**Election and term of office and re-election**

**24 (1)** The President, Vice-president, Registrar, Secretary and Treasurer must be elected by the Association at the annual meeting and hold office for the period of one year and are eligible for re-election for further periods of one year each.

**(2)** The President and Vice-president must be elected from among the persons elected as members of the Council and the Registrar, Secretary and Treasurer may be elected from among the members of the Association.

**(3)** The Secretary and Treasurer shall, before taking office, furnish a bond with such sureties as may be approved by the Council conditioned upon the faithful performance of their duties and the premium for such bond must be paid out of the funds of the Association. R.S., c. 390, s. 24.

## MEETINGS

**Annual meeting**

**25** The annual general meeting of the Association must be held on the second Wednesday of September in each year, at such time and place as the Council may determine. R.S., c. 390, s. 25.

**Special meeting by resolution of Council**

**26** A special general meeting of the Association must be held at any time and place upon a resolution passed to that effect by a majority of the members of the Council. R.S., c. 390, s. 26.

**Special meeting by request of members**

**27** A special general meeting of the Association must be held within 30 days after any request to do so, made in writing to the Council and signed by not less than 20% of the members of the Association, is lodged with the Secretary. R.S., c. 390, s. 27.

**Notice of meeting and quorum**

**28 (1)** Written notice of the annual general meeting and of any special general meeting of the Association must be given by the Secretary at least 14 days before the meeting is held to each member of the Association by mailing the same to each member, postage prepaid, at the member's last address as shown on the register.

**(2)** Twenty members form a quorum at any meeting of the Association. R.S., c. 390, s. 28.

## REGISTRAR

**Certificate of membership and register**

**29 (1)** The Registrar shall issue to each member of the Association a certificate of membership, which must be signed by the President or Vice-president and by the Registrar and must bear the seal of the Association.

**(2)** The Registrar shall enter in the register, provided by the Council, the names and addresses of all members.

**(3)** The Registrar shall keep the register in accordance with this Act and the bylaws of the Association.

**(4)** Any member whose name has been removed from the register is thereafter not entitled to any of the rights or privileges conferred by this Act unless and until the member has been readmitted as a member of the Association and the member's name again entered upon the register. R.S., c. 390, s. 29.

**Summary Proceedings Act**

**30** The provisions of the *Summary Proceedings Act* apply where any person violates any of the provisions of this Act. R.S., c. 390, s. 30.

## CHAPTER B-3

# An Act to Preserve and Protect the Beaches of Nova Scotia

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### Short title

**1** This Act may be cited as the *Beaches Act*. R.S., c. 32, s. 1.

### Dedication of beaches and purpose of Act

**2** (1) The beaches of Nova Scotia are dedicated in perpetuity for the benefit, education and enjoyment of present and future generations of Nova Scotians.

(2) The purpose of this Act is to

(a) provide for the protection of beaches and associated dune systems as significant and sensitive environmental and recreational resources;

(b) provide for the regulation and enforcement of the full range of land-use activities on beaches, including aggregate removal, so as to leave them unimpaired for the benefit and enjoyment of future generations;

(c) control recreational and other uses of beaches that may cause undesirable impacts on beaches and associated dune systems.  
R.S., c. 32, s. 2.

### Interpretation

**3** In this Act,

“beach” means that area of land on the coastline lying to the seaward of the mean high watermark and that area of land to landward immediately

adjacent thereto to the distance determined by the Governor in Council, and includes any lakeshore area declared by the Governor in Council to be a beach;

“Minister” means the Minister of Natural Resources and Renewables;

“peace officer” includes a member of the Royal Canadian Mounted Police, a police officer appointed by a regional municipality, town or municipality of a county or district and a conservation officer as defined in the *Crown Lands Act*, *Forests Act* and *Wildlife Act*;

“vehicle” means a vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the *Motor Vehicle Act*, and includes an airplane;

“vessel” means a means of conveyance of a kind used on water, and includes an accessory to the vessel. R.S., c. 32, s. 3.

#### **Administration**

**4 (1)** The administration, management and control of beaches is under the direction of the Minister.

**(2)** The Minister may utilize, upon such terms and conditions as the Minister considers fit, the services of such persons as the Minister considers necessary for the efficient carrying out of the purpose of this Act and the regulations.

**(3)** The Minister may, for the effective management of beaches, enter into agreements with the Government of Canada or an agency thereof, with a provincial or municipal government or an agency thereof or with a person for the purpose of this Act or the regulations.

**(4)** Without restricting the generality of subsection (4), the Minister may enter into an agreement with the owner or occupier of land adjacent to a beach to manage or preserve that land so that it complements the beach.

**(5)** The Minister, with the consent of the Governor in Council, may acquire land or an interest in land to provide public access to and from a beach and to provide facilities there.

**(6)** The Minister may authorize lifeguard and other services on a beach.

**(7)** The Minister may undertake studies and carry out research on beaches in the Province.

**(8)** In an effort to create greater public awareness and understanding of the beaches in the Province, the Minister may promote educational programs that emphasize the importance of conserving beaches and using them for recreational and other purposes in such a manner as to maintain their environmental integrity. R.S., c. 32, s. 4; 1993, c. 9, s. 9.

**Determination of beach area**

**5** (1) The Governor in Council, on the recommendation of the Minister, may determine what area of land to the landward of mean high watermark and immediately adjacent thereto and what lakeshore area is a beach within the meaning of this Act.

(2) When the Governor in Council determines pursuant to subsection (1) that an area of land to the landward of mean high watermark is a beach, the Minister shall

(a) publish a notice containing a description of the beach in the Royal Gazette and in a newspaper circulated in the county or counties to which the beach is contiguous;

(b) deposit a description and plan of the beach in the office of the registrar of deeds for the registration district in which the beach is situate, signed either by the Minister or the Deputy Minister of Natural Resources and Renewables or by a Nova Scotia Land Surveyor;

(c) give notice to the owner of the beach, if the owner is known, by serving upon the owner or by mailing by registered post addressed to the owner at the owner's last known place of abode, a notice containing a description of the beach and notifying the owner that the beach is a beach under this Act; and

(d) post signs about the beach indicating that it is a beach and that no sand, gravel, stone or other material may be removed from it without the consent of the Minister.

(3) Evidence that a sign has been posted is prima facie proof that the sign has been posted pursuant to clause (2)(d).

(4) A description and plan of a beach, appearing to be certified by the Minister or the Registrar of Crown Lands appointed pursuant to the *Crown Lands Act*, must be received as evidence without proof of the signature of the Minister or Registrar of Crown Lands and the designation of any lands on the plan as a beach is prima facie proof that the lands so designated are a beach. R.S., c. 32, s. 5.

**Prohibited removal of sand**

**6** (1) No person shall wilfully take or remove any sand, gravel, stone or other material from a beach without the permission of the Minister.

(2) Nothing in this Section shall prevent or restrict a fish harvester from removing from a beach rocks for ballast for the fish harvester's lobster pots. R.S., c. 32, s. 6.

**Powers of peace officer**

**7** (1) A peace officer may

(a) search without a warrant and seize a vessel, a vehicle, including an off-highway vehicle, or other property if the peace officer has reasonable and probable grounds to believe that an offence has been committed pursuant to this Act or any other enactment, if the offence is committed on a beach, and may detain the



same for a period not exceeding 24 hours where the peace officer has reasonable and probable grounds to believe the seizure and detention are necessary to prevent the continuation or repetition of the offence;

(b) order a person removing or displacing sand, gravel, stone or other material from a beach without a permit or lawful authorization to return it to the general area from where it was removed;

(c) arrest without warrant a person a peace officer finds committing an offence pursuant to this Act or the regulations or any other enactment if the offence is committed on a beach;

(d) exercise all the powers of a peace officer as defined in the *Criminal Code* (Canada).

(2) Where a vehicle, vessel or other property is seized and detained pursuant to this Act, the costs of impounding and storing it must be paid by the person to whom the seized property is to be released before it is released.

(3) Where the registered owner of the seized property wilfully fails to identify the person in charge of the vehicle or vessel at the time at which it is operated in violation of a provision of this Act or the regulations within 48 hours of a demand by a peace officer, the registered owner is guilty of an offence.

(4) The registered owner of a vehicle or vessel is liable to incur the penalties provided for a violation of this Act or the regulations unless, at the time of the violation, the vehicle or vessel was in the possession of a person without the registered owner's consent, either expressed or implied.

(5) Where the registered owner of a vehicle or vessel is present on or in the vehicle or vessel at the time of the violation of a provision of this Act or the regulations by another person operating that vehicle or vessel, the registered owner, as well as the operator, is guilty of the offence.

(6) Where not inconsistent with this Act, the *Summary Proceedings Act* and forms authorized thereunder apply with necessary changes to all prosecutions and proceedings pursuant to this Act.

(7) Any person who fails to comply with an order made pursuant to clause (1)(b) is guilty of an offence. R.S., c. 32, s. 7.

#### **Prohibited activities and order of Minister**

- 8** (1) No person shall, while on a beach,
- (a) be impaired by alcohol or drugs;
  - (b) act in a noisy or disorderly manner;
  - (c) create a disturbance;
  - (d) pursue a course of conduct that is detrimental to the safety of other beach users or their enjoyment of the beach and its facilities;
  - (e) wilfully destroy property and other natural resources found on or adjacent to a beach;

(f) dump or deposit garbage or other material on a beach other than in a receptacle so provided;

(g) engage in any other activity prohibited by regulation.

(2) Where there are reasonable and probable grounds to believe that a person has violated or is about to violate any provision of this Act or the regulations, or that the entry upon or remaining within a beach by any person may be detrimental to the safety of other beach users or their enjoyment of the beach, the Minister or a person authorized to act on the Minister's behalf may, without notice or hearing, issue a verbal or written order prohibiting that person from entering upon or being within a beach specified in the order for a period specified therein.

(3) Any person having knowledge of an order made pursuant to subsection (2) shall observe that order and, in the event the person is within a beach when the order is made, shall leave forthwith. R.S., c. 32, s. 8.

### Offence

9 Every person contravening any provision of this Act or the regulations is guilty of an offence, and every violation in connection with a separate taking or removing of sand, gravel, stone or other material from a beach is a separate offence. R.S., c. 32, s. 9.

### Penalty

10 (1) Any person who violates this Act is liable upon summary conviction to a penalty of not more than \$2,000 and in default of payment thereof to imprisonment for not more than 90 days.

(2) In addition to any penalty imposed, the court may order a person convicted of an offence pursuant to this Act to restore the beach as nearly as possible to the condition it was in before the offence was committed and pay an amount equal to twice the market value of any aggregate or other property, damaged or removed. R.S., c. 32, s. 10.

### Permission for removal of sand

11 The Minister, upon such terms and conditions as the Governor in Council prescribes, may grant permission for the removal of sand, gravel, stone or other material from a beach. R.S., c. 32, s. 11.

### No compensation entitlement

12 No person affected by this Act is entitled to compensation for any restriction, encumbrance or use or lack of use, of any nature or kind whatsoever, of a beach that may result or results from the enacting of this Act. R.S., c. 32, s. 12.

### Regulations

13 The Governor in Council may make regulations

(a) for the preservation, control and management of beaches;

(b) for the granting of leases, licences and permits authorizing the removal of sand, gravel, stone or other material from beaches and determining the fees and charges for such leases, licences and permits;

- (c) providing for the removal from a beach, by specified persons or persons in specified trades or occupations, of quantities of sand, gravel, stone or other material in such amount as the Governor in Council determines;
  - (d) exempting any beach from the operation of this Act and the regulations hereto;
  - (e) to preserve and protect flora and fauna located on a beach;
  - (f) to restrict or regulate traffic by vehicles, vessels or pedestrians on a beach;
  - (g) to restrict or regulate certain activities on a beach;
  - (h) to prevent the disposal of garbage on a beach;
  - (i) prescribing a minimum penalty of not less than \$50 and a maximum penalty of not more than \$2,000 for offences contrary to the regulations;
  - (j) respecting the management or preservation of lands adjacent to a beach in accordance with an agreement made pursuant to Section 4 or where the lands are owned or occupied by the Crown in right of the Province;
  - (k) defining any word or expression used in this Act but not defined herein;
  - (l) respecting such other matters as the Governor in Council considers necessary for the carrying out of the intent and purpose of this Act.
- R.S., c. 32, s. 13.

**Regulations Act**

**14** The exercise by the Governor in Council of the authority contained in Section 13 is a regulation within the meaning of the *Regulations Act*. R.S., c. 32, s. 14.

## CHAPTER B-4

# An Act Respecting Foreshores and Beds of Rivers and Lakes

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### Short title

**1** This Act may be cited as the *Beaches and Foreshores Act*. R.S., c. 33, s. 1.

### Grant or lease of beach or foreshore

**2 (1)** The Governor in Council may, upon application therefor in writing to the Minister of Natural Resources and Renewables,

(a) give a grant from the Crown to any person of any ungranted flat, beach or foreshore upon the coast of the Province; or

(b) enter into a lease with any person of any such flat, beach or foreshore.

**(2)** Every such grant when issued vests absolutely the fee simple of the land conveyed thereby in the person receiving the same, subject to any control vested in the Parliament of Canada in respect to the navigation of any lands covered with water embraced in such grant.

**(3)** Any lease made under this Section is between the Crown, represented by the Minister of Natural Resources and Renewables, and the person applying therefor, and must before being issued be approved by the Governor in Council.

**(4)** Nothing in this Section authorizes the granting or leasing of any fishing right or privilege in any river or fresh water lake of the Province. R.S., c. 33, s. 2.

**Price or rental terms**

**3** The price to be paid for grants of land capable of being granted under this Act, and the rental terms and conditions of leases of such land, shall be fixed by the Governor in Council. R.S., c. 33, s. 3.

**Grant of water front**

**4** No grant of a waterfront may be issued to any other person than the owner of the land on which the waterfront abuts, without the consent in writing of the owner. R.S., c. 33, s. 4.

**Prohibited oyster cultivation**

**5 (1)** No person shall cultivate oysters upon any beach, flat, harbour, river, lake or foreshore without having obtained a lease of the land upon which oysters are so cultivated under this Act, and any oysters so cultivated on land unleased belong to the Crown, and may be leased with the land by the Crown at any time to any person.

**(2)** No lease of land for the cultivation of oysters may include a greater area than five acres and the length of the area so leased must not exceed twice the breadth thereof.

**(3)** Where more than one application is made for a lease of the same beach or flat, or for the same land upon any beach or flat, the Minister of Natural Resources and Renewables shall direct such beach or flat to be surveyed, and shall allot areas of the size and dimensions before mentioned to be allotted to the applicants in order of application. R.S., c. 33, s. 5.

**Fish trap or weir**

**6 (1)** The Governor in Council may, upon application in writing to the Minister of Natural Resources and Renewables, authorize the leasing of land upon which to establish a fish trap, or fish traps, a weir or weirs, on any part of the coast of the Province.

**(2)** A lease, if granted, is between the Crown, represented by the Minister of Natural Resources and Renewables, and the person applying for the same and is upon such terms and conditions as the Governor in Council determines. R.S., c. 33, s. 6.

**Administration of Act**

**7** The Governor in Council may appoint such person or persons as are considered necessary in order to carry out this Act. R.S., c. 33, s. 7.

**Disposition of money**

**8** All money paid for the issue of grants and for rentals upon leases under this Act must be paid into the General Revenue Fund as part of the receipts from Crown lands. R.S., c. 33, s. 8.

## CHAPTER B-5

# An Act Respecting the Bee Industry

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(The table of contents is not part of the statute)

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### Short title

- 1 This Act may be cited as the *Bee Industry Act*. 2005, c. 3, s. 1.

### Interpretation

- 2 In this Act,
- “apiary” means any place where bees are kept;
- “Apiculturist” means the person appointed under this Act to be the Apiculturist;
- “bee” means the insect known as *Apis mellifera* L.;
- “beekeeper” means a person who owns bees or has bees in the person’s possession;
- “beekeeping equipment” means a manufactured enclosure or part of a manufactured enclosure in which a colony of bees lives or would normally be expected to live, but does not include new bee equipment that has never been in contact with bees;
- “disease” means any disease designated in the regulations as a disease;
- “inspector” means an inspector appointed under this Act;
- “Minister” means the Minister of Agriculture;

“pest” means any insect or parasite designated in the regulations as a pest;

“reportable disease” means any disease or pest designated in the regulations as being required to be reported to the Apiculturist. 2005, c. 3, s. 2.

### **Registration**

**3 (1)** Every beekeeper or person planning to become a beekeeper shall register with the Apiculturist.

**(2)** Where a person registers in accordance with subsection (1), the Apiculturist shall issue a certificate to the person.

**(3)** A certificate issued under subsection (2) expires on December 31st in the year in which it is issued.

**(4)** Every person who acquires bees shall, within 10 days of acquiring the bees, register in accordance with subsection (1).

**(5)** Every person who holds a certificate shall, by November 1st in each year, reregister on a form prescribed by the Apiculturist and the Apiculturist shall issue a certificate for the following year.

**(6)** A certificate issued under subsection (5) expires on December 31st of the year for which it is issued.

**(7)** Subject to subsection (4), no person shall own bees or have bees in the person’s possession unless that person is registered for the current year with a certificate. 2005, c. 3, s. 3.

### **Importation of bees or equipment**

**4 (1)** Any person who obtains bees or beekeeping equipment from outside the Province may apply to the Minister for an import permit to import the bees or beekeeping equipment into the Province.

**(2)** The Minister may issue to that person an import permit setting out the conditions under which bees or beekeeping equipment obtained from outside of the Province may be received into the Province or transported within the Province.

**(3)** No person shall import bees or beekeeping equipment from outside the Province or transport those bees or beekeeping equipment into the Province without an import permit issued under subsection (2). 2005, c. 3, s. 4.

### **Delegation by Minister**

**5 (1)** The Minister may delegate the Minister’s authority to issue a permit pursuant to this Act to any person.

**(2)** A delegation made pursuant to subsection (1) must be made in writing. 2008, c. 4, s. 3.

**Apiculturist**

**6** (1) The Minister may appoint a person to be the Apiculturist, who is paid a salary to be determined by the Minister.

(2) The Apiculturist may prescribe forms to be used for the purpose of this Act and the regulations.

(3) The Apiculturist may, with the approval of the Minister, delegate the Apiculturist's duties to an inspector. 2005, c. 3, s. 5.

**Bee quarantine districts**

**7** (1) The Minister may designate the Province or any part of the Province to be a bee quarantine district.

(2) The Minister may issue a permit to a person to move bees or beekeeping equipment into or from a bee quarantine district.

(3) Except where the entire Province is designated as a bee quarantine district, no person shall move bees or beekeeping equipment into or from a quarantine district except in accordance with a permit issued under subsection (2). 2005, c. 3, s. 6.

**Sale or transfer of bees or equipment**

**8** No person shall sell, barter, give away or otherwise transfer ownership of bees or beekeeping equipment to an unregistered person without notifying the Apiculturist of the name, address and telephone number of the person who is the new owner of the bees or beekeeping equipment. 2005, c. 3, s. 7.

**Infected honeycomb or honey**

**9** No person shall expose to bees honeycomb or honey that is infected with a disease or pest. 2005, c. 3, s. 8.

**Inspectors**

**10** (1) The Minister may appoint an inspector for the purpose of this Act and the regulations.

(2) The Apiculturist has the powers of and may perform any of the duties of an inspector.

(3) The Apiculturist may employ such persons as an inspector requires to carry out the duties under this Act.

(4) Persons employed under subsections (1) and (3) are paid such amounts as the Minister determines. 2005, c. 3, s. 9.

**Power to enter**

**11** (1) An inspector may, at all reasonable times, enter any premises, other than a dwelling house, where the inspector believes on reasonable grounds that bees, beekeeping equipment, books or records pertaining to beekeeping are kept or stored and may



- (a) inspect any bees or beekeeping equipment;
- (b) carry out an inspection to determine whether this Act and the regulations are being complied with;
- (c) inspect any books or records required by this Act or the regulations; and
- (d) take any samples that the inspector considers necessary to determine whether any pest is present or disease exists in bees or whether beekeeping equipment is infected.

(2) Every person shall, where requested to do so by an inspector, provide the inspector with all necessary assistance required to inspect the premises, an apiary, bees or beekeeping equipment.

(3) Every inspector shall, where requested, produce the certificate of the inspector's appointment upon entering the premises to carry out the inspector's duty under this Act.

(4) No person shall obstruct the Apiculturist or an inspector in the performance of their duties or furnish them with false information. 2005, c. 3, s. 10.

#### **Order by inspector**

**12** (1) Where an inspector has reasonable grounds to believe that

- (a) any pest or disease exists in bees; or
- (b) any beekeeping equipment is infected,

the inspector may, by order in writing, require the beekeeper to

- (c) treat or disinfect the bees or beekeeping equipment in the manner and in the period of time specified in the order; or
- (d) keep the bees or beekeeping equipment at a location required in the order for the period of time specified in the order.

(2) Where, in the opinion of the inspector, bees or beekeeping equipment cannot be properly treated or disinfected in accordance with clause (1)(c), the inspector may order the beekeeper to destroy the bees or the beekeeping equipment in the manner approved by the Apiculturist and within the period of time specified in the order.

(3) Where a beekeeper fails to carry out an order made under subsection (1) or (2), the inspector may carry out the order.

(4) Where required by the Apiculturist, the beekeeper who is the subject of an order under subsection (1) or (2) that is carried out by an inspector under subsection (3) shall pay the costs incurred in carrying out the order. 2005, c. 3, s. 11.

#### **Transfer of bees to moveable frame hives**

**13** (1) An inspector shall order a beekeeper that has bees in a box or immovable frame hive to transfer the bees to moveable frame hives within the period of time specified in the order.

(2) Where a beekeeper fails to comply with an order under subsection (1), the inspector may destroy, or order the destruction of, the hives. 2005, c. 3, s. 12.

#### **Order respecting disposal**

14 (1) Where dead colonies of bees or honeycomb are exposed in a manner that is accessible to bees, or where colonies of bees are abandoned or not regularly and properly attended to, an inspector may order the beekeeper to dispose of the colonies or honeycombs in the manner and within the period of time specified in the order.

(2) Where a beekeeper fails to comply with an order under subsection (1), the inspector may dispose of the bees or honeycomb.

(3) Where required by the Apiculturist, the beekeeper who is the subject of an order under subsection (1) that is carried out by an inspector under subsection (2) shall pay the costs incurred in carrying out the order. 2005, c. 3, s. 13.

#### **Order by justice of the peace**

15 Where a beekeeper

- (a) fails to carry out the directions of an inspector;
- (b) fails to comply with an order of an inspector; or
- (c) obstructs an inspector in carrying out the inspector's duties,

a justice of the peace may, upon the laying of an information by an inspector, order that the bees and beekeeping equipment be seized and destroyed. 2005, c. 3, s. 14.

#### **Disinfection**

16 An inspector and any person assisting the inspector shall, after inspecting infected bees or beekeeping equipment or handling diseased bees and before leaving the premises or proceeding to another apiary, disinfect themselves, their clothing and any appliances used. 2005, c. 3, s. 15.

#### **Duty respecting reportable disease**

17 (1) Every beekeeper who is aware of or suspects that a reportable disease is present in the beekeeper's bees or beekeeping equipment shall immediately notify the Apiculturist.

(2) No beekeeper referred to in subsection (1) shall allow the removal of the bees or beekeeping equipment from the beekeeper's premises until the bees or beekeeping equipment have been inspected. 2005, c. 3, s. 16.

#### **Regulations**

18 (1) The Governor in Council may make regulations

- (a) providing for a register of beekeepers;
- (b) respecting a permit, an import permit or a certificate issued under this Act;

- (c) designating any disease to be a disease within the meaning of this Act;
- (d) designating any insect or parasite to be a pest within the meaning of this Act;
- (e) designating any reportable disease;
- (f) prescribing the requirements for reporting diseases or pests;
- (g) respecting orders;
- (h) prescribing the books and records to be kept by beekeepers and persons who sell bees;
- (i) respecting information the apiculturist may require of beekeepers and persons who sell bees;
- (j) prescribing the standards and requirements for acquiring and keeping bees in a bee quarantine district;
- (k) respecting the use of the sperm and eggs of a bee;
- (l) prescribing fees for the purpose of this Act;
- (m) defining any word or expression used but not defined in this Act or further defining any word used in this Act;
- (n) for any purpose the Governor in Council considers necessary or advisable for carrying out the intent and purpose of this Act.

(2) The Minister may make a regulation designating a bee quarantine district.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) and the Minister of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*. 2005, c. 3, s. 17; 2012, c. 55, s. 1.

#### Offence and penalty

**19** Every person who violates any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or imprisonment for a period not exceeding six months. 2005, c. 3, s. 18.

## CHAPTER B-6

# **An Act Respecting the Designation of Beneficiaries under Employee Benefit Plans**

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### **Short title**

**1** This Act may be cited as the *Beneficiaries Designation Act*. R.S., c. 36, s. 1.

### **Interpretation**

**2** In this Act,  
“designation” means a written instrument to which Section 3 refers;  
“employer” includes the trustee under a plan;  
“participant” means a person who is participating in a plan established by an employer and who  
(a) is or has been employed by the employer; or  
(b) is an agent or former agent of the employer;  
“plan” means a pension, retirement, welfare or profit-sharing fund, trust, scheme, arrangement or other plan established for the purpose of providing pensions, retirement allowances, annuities, or sickness, death or other benefits to, or for the benefit of, employees, former employees, agents and former agents of an employer, or any of them, and for the surviving spouses, dependants or other beneficiaries of any of them. R.S., c. 36, s. 2.

### **Effect of designation**

**3** Where, in accordance with the terms of a plan, a participant, by a written instrument signed by the participant or on behalf of the participant by another person in the presence of the participant and by the participant’s direction,

has designated a person to receive a benefit payable under the plan in the event of the participant's death,

(a) the employer is discharged upon paying to the person designated the amount of the benefit; and

(b) subject to Section 4, the person designated may, on the death of the participant, enforce payment of the benefit to the person designated for the person designated's own use. R.S., c. 36, s. 3.

#### **Defence by employer**

4 Where a person designated under Section 3 seeks to enforce payment of the benefit, the employer may set up any defence the employer could have set up against the participant or the participant's personal representative. R.S., c. 36, s. 4.

#### **Alteration of designation**

5 A participant may alter or revoke a designation made under a plan, but, subject to Section 8, any such alteration or revocation may be made only in the manner set forth in the plan. R.S., c. 36, s. 5.

#### **Will**

6 Where a designation is contained in a will, the designation, notwithstanding Section 25 of the *Wills Act*, has effect from the time of its execution. R.S., c. 36, s. 6.

#### **Invalid will**

7 A designation contained in an instrument purporting to be a will is not invalid by reason only of the fact that the instrument is invalid as a testamentary instrument, and it may be revoked or altered by any subsequent designation. R.S., c. 36, s. 7.

#### **Revoked will**

8 Where a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked. R.S., c. 36, s. 8.

#### **Savings plan**

9 (1) In this Section,

“plan holder” means a person who has entered into a savings plan;

“savings plan” means a retirement savings plan, a retirement income fund, a tax-free savings account or a home ownership savings plan as each is defined in the *Income Tax Act* (Canada).

(2) Where, in accordance with the terms of a savings plan, a plan holder has designated a person or persons to receive a benefit payable under the savings plan in the event of the plan holder's death,

(a) the person administering the savings plan is discharged upon paying the benefit to the designated person or persons;

(b) the designated person or persons may, upon the death of the plan holder, enforce payment of the benefit, but the person administering the savings plan is entitled to set up any defence that could have been set up against the plan holder or the plan holder's personal representatives.

(3) Sections 5 to 8 apply with necessary changes to a designation under a savings plan.

(4) This Section applies to a designation made before or after May 17, 1985, in respect of a savings plan but only where the plan holder dies on or after that date. R.S., c. 36, s. 9; 2008, c. 49, s. 1; 2009, c. 9, s. 1.

**Act does not apply**

**10** This Act does not apply to a designation of a beneficiary to which Part VI or Part IX of the *Insurance Act* applies. R.S., c. 36, s. 10.

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## CHAPTER B-7

# An Act Relating to Bills of Lading

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#### Short title

**1** This Act may be cited as the *Bills of Lading Act*. R.S., c. 38, s. 1.

#### Right of consignee or endorsee

**2** Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement has transferred to and vested in the consignee all rights of action and is subject to the same liabilities in respect to such goods as if the contract contained in the bill of lading had been made to the consignee. R.S., c. 38, s. 2.

#### Right or liability unprejudiced

**3** Nothing contained in this Act prejudices or affects any right of stoppage in transit, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason of the original shipper or owner being such consignee or endorsee, or of the original shipper's or owner's receipt of the goods by reason or in consequence of such consignment or endorsement. R.S., c. 38, s. 3.

#### Evidence of shipment of goods

**4** Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel or train, is conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof have not been so shipped, unless such holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary, but the master or other person so signing may be exonerated in respect to such misrepresentation by showing that it was caused without any default on the master's or other person's part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. R.S., c. 38, s. 4.

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## CHAPTER B-8

# **An Act to Provide for the Conservation and Sustainable Use of Biodiversity in Nova Scotia**

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WHEREAS biodiversity is essential to healthy and productive ecosystems and is therefore essential to human well-being;

AND WHEREAS the conservation and sustainable use of biodiversity is interconnected with sustainable prosperity, a healthy environment, vibrant thriving communities, innovation and a strong competitive economy;

AND WHEREAS biodiversity and its sustainable uses are valued by Nova Scotians as important parts of the environment, heritage and economy of Nova Scotia;

AND WHEREAS an ecosystem approach that involves the integrated management of land, water and living organisms, promotes conservation and sustainable use of biodiversity in consideration of the precautionary principle and recognizes



that humans are an integral part of ecosystems will strengthen land-use planning and natural resources management;

AND WHEREAS programs, policies and protective measures for biodiversity enable the Government of Nova Scotia to maintain and restore the diversity of genes, species and ecosystems, ensuring healthy ecosystems and the provision of ecosystem goods and services;

AND WHEREAS the conservation and sustainable use of biodiversity is a complex, cross-cutting imperative that necessitates co-operation and collaboration among all sectors and is therefore a shared responsibility of all levels of government, non-government organizations, the private sector, land trusts and owners of private land, the Mi'kmaq of Nova Scotia and all other Nova Scotians;

AND WHEREAS biodiversity must be managed for the benefit of present and future generations, which is in keeping with the Mi'kmaq concept of *Netukulimk*, defined by the Mi'kmaq as the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community by achieving adequate standards of community nutrition and economic well-being without jeopardizing the integrity, diversity or productivity of the environment;

AND WHEREAS a number of Government departments and legislation such as the *Endangered Species Act*, the *Environment Act*, the *Wilderness Areas Protection Act* and the *Wildlife Act* play key roles in the conservation and sustainable use of biodiversity in Nova Scotia but do not address all aspects of conservation and sustainable use;

AND WHEREAS Nova Scotia is committed to a complete, holistic, integrated legislative framework that provides for all aspects of the conservation and sustainable use of biodiversity:

#### Short title

**1** This Act may be cited as the *Biodiversity Act*. 2021, c. 3, s. 1.

#### Purpose of Act

**2** The purpose of this Act is to provide for the stewardship, conservation, sustainable use and governance of biodiversity in the Province, as part of an integrated framework of legislation, while recognizing

- (a) biodiversity has inherent value;
  - (b) conservation and sustainable use of biodiversity is a responsibility shared by all Nova Scotians;
  - (c) the importance of reducing the direct pressures on biodiversity and promoting restoration and sustainable use; and
  - (d) the importance of implementation of this Act through participatory planning, education, sharing of information and capacity building.
- 2021, c. 3, s. 2.

**Interpretation****3**

In this Act,

“biodiversity” means

- (a) living organisms from all sources;
- (b) the ecological complexes of which living organisms are a part, including terrestrial, marine and other aquatic ecosystems; and
- (c) the variability and interdependence among living organisms and ecological complexes,

and includes genetic diversity, diversity within and between species and diversity of ecosystems and ecological processes;

“biodiversity management zone” means a specified area of land managed, for a period of time, for the purpose of supporting the conservation or sustainable use of specified biodiversity values;

“conservation” means the maintenance or sustainable use of the Earth’s resources in a manner that maintains biodiversity and the evolutionary and other processes that result in biodiversity;

“Department” means the Department of Natural Resources and Renewables;

“ecosystem” means a dynamic complex of plant, animal or micro-organisms and their non-living environment, interacting as a functional unit;

“ecosystem goods and services” means the natural goods provided by ecosystems, their role in regulating and supporting natural processes and the cultural and economic benefits they provide;

“habitat” means land, water or air where a plant, animal or other organism lives;

“land” includes land covered by water;

“Minister” means the Minister of Natural Resources and Renewables;

“organism” means an active, infective or dormant stage, or form of life, of any biological entity capable of reproducing itself, or of transferring genetic material, and includes plants, animals, fungi, mycoplasmas, micro-organisms, viruses and viroids, cell and tissue cultures, germinal cells, seeds, pollen and spores;

“private land” means lands situate in the Province that are not owned or held by or on behalf of the Crown in right of the Province or Canada;

“species” means a plant species, animal species or other species of organism, and includes one or more populations of a species, the eggs, larvae or other forms of developmental life of a species and any part of an individual of a species, but does not include a domesticated species;

“sustainable use” means, with respect to biodiversity, the use of biodiversity in a way and at a rate that does not lead to the long-term decline of biodiversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations. 2021, c. 3, s. 3.

**Act binds Crown**

4 This Act binds the Crown in right of the Province. 2021, c. 3, s. 4.

**Department of Natural Resources and Renewables**

5 The Department is the lead department with respect to the conservation and sustainable use of biodiversity and shall work with the other Government departments within their related mandates to achieve the purpose of this Act. 2021, c. 3, s. 5.

**Review of Act**

6 (1) The Minister shall initiate a review of this Act within five years of October 1, 2021, and make a written report respecting the review available to the public.

(2) In conducting the review of this Act, the Minister shall consult with the public, including landowners and stakeholders. 2021, c. 3, s. 6.

**MINISTERIAL POWERS AND DUTIES****Supervision and management of Act**

7 The Minister is responsible for the supervision and management of this Act. 2021, c. 3, s. 7.

**Powers of Minister**

8 The Minister may

(a) develop, coordinate, adopt and implement policies, standards, guidelines and programs for the conservation and sustainable use of biodiversity, including for

(i) the conservation and management of ecosystems and habitats,

(ii) the conservation and sustainable use of wild species,

(iii) the protection of human health, safety and property as it relates to biodiversity,

(iv) the observation, prevention and management of wild-life pathogens and diseases and other pathogens and diseases that impact on biodiversity,

(v) the management of organisms under human control, including wildlife as defined by the *Wildlife Act*,

(vi) the prevention and management of invasive or alien species, and

(vii) incentives for conservation and sustainable use of biodiversity, including a compensation framework for biodiversity conservation activities and a framework for the valuation of, and exchange or payment for, ecological goods and services;

(b) promote the purpose of this Act through proactive approaches through co-operation, communication, education, incentives and partnerships;

- (c) undertake, promote or recommend measures to allow for public co-operation in the conservation and sustainable use of biodiversity;
- (d) consult and coordinate with other departments and agencies of the Province with respect to their work and efforts relating to any matter involving the conservation or sustainable use of biodiversity;
- (e) coordinate and implement biodiversity policies and programs in co-operation with the Government of Canada, the government of a province of Canada or a municipality, or with an agency of any of the foregoing;
- (f) establish or adopt goals and targets for biodiversity and indicators of ecosystem health and integrity; and
- (g) provide funding and other support for biodiversity-related research, investigation and monitoring, as well as land securement and stewardship. 2021, c. 3, s. 8.

#### Agreement

**9** Subject to Section 11 of the *Public Service Act*, the Minister may enter into an agreement with any person, including the Government of Canada, the government of a province of Canada or a municipality, or with an agency of any of the foregoing, for any purpose related to this Act or the regulations, including an agreement respecting

- (a) the conservation and sustainable use of biodiversity;
- (b) co-operation between federal, provincial or municipal governments, or agencies thereof, for the enforcement of laws respecting the conservation and sustainable use of biodiversity;
- (c) the conduct of biodiversity or ecological investigations;
- (d) the development and implementation of collaborative programs for the classification, inventory and assessment of biodiversity;
- (e) the development and implementation of collaborative, informational, educational or training programs respecting biodiversity; and
- (f) research, programs and measures respecting the conservation and sustainable use of biodiversity. 2021, c. 3, s. 9.

#### Studies and research

**10** The Minister may cause studies to be undertaken and cause research to be carried out to

- (a) identify, evaluate, monitor and study biodiversity and any threats to biodiversity;
- (b) provide for inventories of biodiversity;
- (c) assess the impacts of land-use and resource-use activities on biodiversity;
- (d) establish priorities for the conservation and sustainable use of biodiversity based on consistent evaluation protocols for biodiversity throughout the Province;
- (e) promote the long-term productivity, diversity and functioning of ecosystems;

- (f) assess the value of biodiversity and ecosystem goods and services;
- (g) investigate and establish methods to
  - (i) incorporate the value of biodiversity and ecosystem goods and services into decision-making, and
  - (ii) manage the conservation and sustainable use of biodiversity;
- (h) establish priorities and methods for restoring degraded or impaired biodiversity; and
- (i) investigate any other matter associated with the conservation and sustainable use of biodiversity. 2021, c. 3, s. 10.

### Experts

- 11** The Minister may
- (a) retain experts with expertise in the areas of natural science, traditional knowledge, conservation and sustainable uses to report to the Minister with respect to
    - (i) any matters relating to the conservation and sustainable use of biodiversity,
    - (ii) any policies, programs or other matters under the administration of the Minister under this Act, and
    - (iii) any other matters the Minister, in the Minister's sole discretion, considers advisable to refer to an expert;
  - (b) specify the functions that experts are to perform, including the seeking of input from the public, and the manner and period in which those functions are to be performed; and
  - (c) provide for the remuneration and defraying of expenses to experts. 2021, c. 3, s. 11.

### Education and outreach

- 12** For the purpose of promoting greater public awareness, understanding and shared stewardship of biodiversity, the Minister may
- (a) undertake educational programs respecting the conservation and sustainable use of biodiversity;
  - (b) undertake or provide for environmental, educational and natural history interpretation at biodiversity management zones;
  - (c) work with private agencies and individuals to achieve the objects of this Act; and
  - (d) encourage an exchange of information respecting biodiversity between the public and private sectors. 2021, c. 3, s. 12.

### Monitoring and information-sharing

- 13** The Minister shall establish and maintain such classification, inventory, status-assessment and monitoring programs as the Minister considers neces-

sary or advisable to assess the state of biodiversity in the Province and to provide information to inform the responsible conservation and sustainable use of biodiversity. 2021, c. 3, s. 13.

#### **Data sharing and reporting**

**14 (1)** The Minister shall establish mechanisms to share data relating to biodiversity.

**(2)** The Minister shall begin reporting to the public on the state of the Province's biodiversity within three years of October 1, 2021, and shall give regular updates no later than every five years thereafter. 2021, c. 3, s. 14.

### **BIODIVERSITY MANAGEMENT ZONES**

#### **Biodiversity management zone on Crown land**

**15 (1)** The Minister, with the approval of the Governor in Council, may

(a) establish and administer a biodiversity management zone on any land vested in the Crown in right of the Province;

(b) alter the boundaries of a biodiversity management zone established under clause (a); and

(c) declare any area established under clause (a) to no longer be a biodiversity management zone.

**(2)** The Governor in Council may make regulations respecting biodiversity management zones established under this Section, including regulations

(a) setting out or altering the boundaries of a biodiversity management zone;

(b) respecting the management and conservation actions to be undertaken in a biodiversity management zone;

(c) respecting activities necessary to fulfill the objectives of a biodiversity management zone;

(d) respecting monitoring and reporting activities to be undertaken in a biodiversity management zone;

(e) respecting the period for which a biodiversity management zone is established;

(f) respecting any other matter relating to a biodiversity management zone.

**(3)** The exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*. 2021, c. 3, s. 15.

**Voluntary biodiversity management zones on private land**

**16 (1)** The Minister may establish a biodiversity management zone on private land with the consent of the owner of the private land by entering into an agreement with the owner.

**(2)** An agreement entered into pursuant to subsection (1) may contain such terms and conditions as the Minister and the owner of the private land agree to, which may include

- (a) boundaries of the biodiversity management zone;
- (b) specifying management and conservation actions to be undertaken in the biodiversity management zone;
- (c) specifying activities necessary to fulfill the objectives of the biodiversity management zone;
- (d) specifying monitoring and reporting activities to be undertaken in the biodiversity management zone;
- (e) specifying the period for which the biodiversity management zone is established;
- (f) outlining compensation to be provided to the owner of the private land; and
- (g) providing for any other matter relating to the biodiversity management zone. 2021, c. 3, s. 16.

**Notice of biodiversity management zone**

**17** Where the Minister establishes a biodiversity management zone pursuant to Section 15 or 16, the Minister shall publish a notice containing a description of the biodiversity management zone in the Royal Gazette and on the Department website, and may circulate the notice in any other manner the Minister considers appropriate. 2021, c. 3, s. 17.

**GENERAL****Regulations**

- 18 (1)** The Governor in Council may make regulations
- (a) respecting the establishment, control and management of biodiversity management zones on land vested in the Crown in right of the Province pursuant to Section 15;
  - (b) respecting the establishment of mechanisms by which the Minister reports to the public on matters relating to biodiversity, and the information that must be included in such reports;
  - (c) respecting the establishment or adoption of goals and targets for biodiversity and indicators of ecosystem health and integrity;
  - (d) respecting the conservation and sustainable use of biodiversity;
  - (e) respecting the prevention and management of threats to biodiversity and the restoration of biodiversity;

- (f) respecting the prevention and management of invasive or alien species;
- (g) respecting the import and export of organisms in the Province;
- (h) respecting the prevention, management and surveillance of diseases that affect biodiversity;
- (i) respecting access to and the sharing of benefits arising from genetic resources;
- (j) respecting the prevention and management of impacts on human health, safety and property from biodiversity;
- (k) respecting the valuation of, and exchange or payment for, ecological goods and services;
- (l) respecting a compensation framework for biodiversity conservation activities;
- (m) prescribing fees for the purpose of this Act and the regulations;
- (n) defining any word or expression used but not defined in this Act;
- (o) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

**(2)** The Minister shall consult with the public, including landowners and stakeholders, in such manner as the Minister considers appropriate before proposing a new regulation or a substantive amendment to a regulation under subsection (1) for Governor in Council consideration.

**(3)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2021, c. 3, s. 18.



## CHAPTER B-9

# An Act Respecting Certain Rights of Blind Persons

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### Short title

- 1** This Act may be cited as the *Blind Persons Rights Act*. R.S., c. 40, s. 1.

### Interpretation

- 2** In this Act,
- “blind person” means a person who
- (a) is registered as blind with the Canadian National Institute for the Blind;
- (b) having been in receipt of a pension on account of blindness under Chapter 12 of the Acts of 1952, the *Blind Persons’ Allowances Act*, or Chapter 23 of the Revised Statutes, 1954, the *Blind Persons’ Allowances Act*, is in receipt of a pension under the *Old Age Security Act* (Canada) and is still blind within the meaning of said *Blind Persons’ Allowances Act* and regulations made thereunder; or
- (c) is blind within the meaning of any other Act of the Legislature or any regulations made under any such Act;
- “dog guide” means a dog trained as a guide for a blind person and having the qualifications prescribed by the regulations. R.S., c. 40, s. 2.

### Application of Act

- 3** (1) This Act applies notwithstanding any other enactment.
- (2) This Act is binding on the Crown in right of the Province.

R.S., c. 40, s. 3.

**Prohibition**

**4** (1) No person, directly or indirectly, alone or with another or by the interposition of another, shall

(a) deny to any person the accommodation, services or facilities available in any place to which the public is customarily admitted; or

(b) discriminate against any person with respect to the accommodation, services or facilities available in any place to which the public is customarily admitted or the charges for the use thereof,

for the reason that the person is a blind person accompanied by a dog guide.

(2) No person, directly or indirectly, alone or with another or by the interposition of another, shall

(a) deny to any person occupancy of any self-contained dwelling unit; or

(b) discriminate against any person with respect to any term or condition of occupancy of any self-contained dwelling unit,

for the reason that the person is a blind person keeping or customarily accompanied by a dog guide.

(3) Nothing in this Section is to be construed to entitle a blind person to require any service, facility or accommodation in respect of a dog guide other than the right to be accompanied by the dog guide. R.S., c. 40, s. 4.

**Prohibited use of white cane**

**5** No person, other than a blind person, shall carry or use a cane or walking stick, the major part of which is white, in any public place, public thoroughfare or public conveyance. R.S., c. 40, s. 5.

**Regulations**

**6** (1) The Governor in Council may make regulations prescribing qualifications for dog guides.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 40, s. 6.

**Offence**

**7** Every person who, not being a blind person, purports to be a blind person for the purposes of obtaining or attempting to obtain the benefit of this Act is guilty of an offence. R.S., c. 40, s. 7.

**Penalty**

**8** Every person who violates this Act is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not more than \$3,000. R.S., c. 40, s. 8; 2016, c. 4, s. 20.

## CHAPTER B-10

# **An Act to Provide for Compensation to Blind Workers for Injuries Sustained and Industrial Diseases Contracted in the Course of their Employment**

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(The table of contents is not part of the statute)

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### **Short title**

**1** This Act may be cited as the *Blind Workers' Compensation Act*. R.S., c. 41, s. 1.

### **Interpretation**

**2** In this Act,

“blind worker” means a worker as defined by the *Workers' Compensation Act*, possessing in the worker's better eye a central actual acuity either with or without glasses not greater than 6-60 or 20-200 (Snellen);

“Board” means the Workers' Compensation Board of Nova Scotia;

“employer” means an employer as defined by the *Workers' Compensation Act* who employs a blind worker;

“full cost of compensation” means and includes compensation, burial expenses, the cost of furnishing medical aid and all other amounts payable under or by virtue of Part I of the *Workers' Compensation Act*, by reason of a blind worker meeting with an accident for which the worker would be entitled to compensation under that Act, and includes the capitalized sum or present value of the sum required, as determined by the Board, to provide for future payments of compensation to the pensioner or the pensioner's dependents;

“Institute” means The Canadian National Institute for the Blind;

“Minister” means the Minister of Finance and Treasury Board. R.S., c. 41, s. 2.

**When Minister to pay cost of compensation**

**3** (1) Where the full cost of compensation exceeds \$50 and where the industry comes under Part I of the *Workers' Compensation Act*, the Minister shall pay to the Board the excess of the full cost of compensation over and above \$50.

(2) Such payment or payments must be credited by the Board to the Accident Fund created pursuant to the *Workers' Compensation Act* and such payment or payments must be made out of the General Revenue Fund. R.S., c. 41, s. 3.

**Consideration of previous award**

**4** In making any award to a blind worker for injury by accident under the *Workers' Compensation Act*, the Board may have regard to any previous awards made to the worker for injury under that Act. R.S., c. 41, s. 4.

**Assessment on employer**

**5** The assessment on any employer to be levied by the Board on the wages of a blind worker may be fixed by the Board at such an amount as may be considered fair, having regard to the provisions of the *Workers' Compensation Act*. R.S., c. 41, s. 5.

**Nature of work and placement**

**6** (1) Subject to subsection (2), the Institute has exclusive jurisdiction as to the nature of the work a blind worker does and as to the proper placement of such worker.

(2) Upon the recommendation of the Board, the Governor in Council may designate any other organization or institution to execute the powers and perform the duties assigned to the Institute under this Act and thereupon this Act is to be read as though the name of such other organization or institution was substituted for the Institute. R.S., c. 41, s. 6.

**Deemed waiver of right**

**7** Where, without the approval of the Institute, an employer gives employment to a blind worker or where, without such approval, changes the nature of the employment, the employer is deemed to have waived all right to any benefits of this Act in respect of injury to such blind worker. R.S., c. 41, s. 7.

**Right of access**

**8** Every officer of the Institute has a right of access at all reasonable times to the place of employment of a blind worker, provided that the consent or approval of the superintendent, supervisor or person in charge is first obtained. R.S., c. 41, s. 8.

**Material provided by Institute**

**9** The Institute shall provide the Board, upon request, with all such certificates or other material as may be required by the Board in the fulfillment of its duties. R.S., c. 41, s. 9.

## CHAPTER B-11

# **An Act Respecting the Cessation of the Use of the Boat Harbour Effluent Treatment Facility for the Reception and Treatment of Effluent from the Northern Pulp Mill**

### **Table of Contents**

(The table of contents is not part of the statute)

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### **Short title**

**1** This Act may be cited as the *Boat Harbour Act*. 2015, c. 4, s. 1.

### **Interpretation**

**2** In this Act,

“effluent” has the same meaning as in the *Pulp and Paper Effluent Regulations* (Canada), as amended from time to time;

“Facility” means the Boat Harbour Effluent Treatment Facility, comprising

(a) the effluent treatment system located at 340 and 580 Simpson Lane, Pictou Landing, in the County of Pictou, and consisting of two settling basins, an aerated stabilization basin, the former stabilization lagoon and all appurtenances thereof necessary to permit the receipt and disposal of effluent from the Mill; and

(b) the pipeline for the transmission of effluent from the Mill to the settling basins, which commences at a standpipe located at 260 Granton Abercrombie Branch Road, Abercrombie Point, in the County of Pictou, leads under the East River and discharges into the settling basins;

“Mill” means the Northern Pulp Mill, a bleached kraft pulp mill located at 260 Granton Abercrombie Branch Road, Abercrombie Point. 2015, c. 4, s. 2.

### **Prohibition**

**3** On and after the earlier of January 31, 2020, and the date on which the Northern Pulp Nova Scotia Corporation ceases to use the Facility, the use of the Facility for the reception and treatment of effluent from the Mill must cease. 2015, c. 4, s. 3.

**No action lies**

**4 (1)** No action, including any action for damages or any other compensation, lies against the Crown in right of the Province or a member of the Executive Council, their officers, employees or agents for any claims or causes of action, whether based in law or equity, in respect of the cessation of the use of the Facility for the reception and treatment of effluent from the Mill as a result of this Act.

**(2)** For greater certainty, subsection (1) includes all claims and causes of action seeking damages and other relief as currently pleaded in the Supreme Court of Nova Scotia, Hfx. No. 511473, *Northern Pulp Nova Scotia Corporation et al. v. The Attorney General of Nova Scotia*. 2015, c. 4, s. 4; 2022, c. 9, s. 1.

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## CHAPTER B-12

# An Act Respecting the Control of Body Armour

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(The table of contents is not part of the statute)

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### Short title

**1** This Act may be cited as the *Body Armour Control Act*. 2018, c. 22, s. 1.

### Purpose of Act

**2** The purpose of this Act is to increase public safety by preventing the use of body armour to further unlawful activity. 2018, c. 22, s. 2.

### Interpretation

**3** In this Act,  
“body armour” means

(a) a garment or item designed, intended or adapted for the purpose of protecting the human body from projectiles discharged from a firearm, as defined in the *Criminal Code* (Canada);

(b) a garment or item designed, intended or adapted for the purpose of protecting the human body from an item or object used to, or adapted to, stab, pierce, puncture or otherwise wound the body; or

(c) a prescribed garment or item;

“conservation officer” means a conservation officer within the meaning of the *Crown Lands Act*, the *Forests Act* or the *Wildlife Act*;

“peace officer” means a police officer or a conservation officer;

“police agency” means the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department providing policing services in the Province;

“police officer” means a member of a police agency;

“prescribed” means prescribed by the regulations;

“security agency” means a business entity that is licensed to provide an armoured vehicle service, a private investigation service or a private guard service in the Province;

“security agent” means a person who is licensed to act as an armed private guard, private investigator or private guard in the Province;

“security guard” means a person regularly employed for lawful purposes to protect property, assets or people and actively engaged in the prevention of crime;

“sell” includes offer for sale, expose for sale, have in possession for sale, distribute, give, transfer, lend, send or otherwise dispose of, whether or not for consideration. 2018, c. 22, s. 3.

## POSSESSION OF BODY ARMOUR

### Unauthorized possession prohibited

**4 (1)** Except as provided in subsections (2) and (3), no person shall possess body armour.

**(2)** Subsection (1) does not apply to

(a) the following persons in the course of their lawful employment or duties of a statutory appointment:

(i) a police officer,

(ii) a conservation officer,

(iii) a special constable or bylaw enforcement officer appointed under the *Police Act* and whose appointment specifies the individual is authorized to possess body armour,

(iv) a sheriff or deputy sheriff,

(v) a correctional services employee,

(vi) a paramedic,

(vii) a security agent,

(viii) a security guard,



(ix) a provincial civil constable appointed under the *Civil Constables Act* and whose appointment specifies the individual is authorized to possess body armour,

(x) an employee of the Province, of a municipality within the meaning of the *Municipal Government Act* or the *Halifax Regional Municipality Charter*, of another province of Canada or of the Government of Canada and whose employer specifies the individual is authorized to possess body armour,

(xi) a person appointed under an enactment and whose appointment specifies the person is authorized to possess body armour;

(b) the following persons:

(i) a police cadet while training to be a police officer,

(ii) an auxiliary police officer in the course of that person's duties as authorized under the *Police Act*;

(c) the following persons in the course of operating a lawful business:

(i) a security agency,

(ii) the owner and the employees of a business who purchase, sell or transport body armour,

(iii) a person who employs security guards;

(d) a person under the lawful custody, care and control of an individual listed in subclauses (a)(i), (ii) or (iv) to (vii) or an individual prescribed by the regulations, who has been directed to wear body armour by that individual in the course of that individual's employment;

(e) a prescribed person or a member of a prescribed class of persons who are authorized to possess body armour; or

(f) a prescribed person who is authorized by permit to possess body armour on a temporary basis.

**(3)** Where the exemption in subsection (2) ceases to apply and that person is in possession of body armour, the person shall within 14 days

(a) return or sell all body armour possessed to the person's employer;

(b) give or sell all body armour possessed to a person authorized under this Act to possess body armour; or

(c) turn in all body armour possessed to a police agency to be destroyed in such manner as the Attorney General directs.

**(4)** Where a person authorized to possess body armour under this Act becomes aware that the body armour in that person's possession is lost or stolen, that person shall, within 14 days of becoming aware, report the loss or theft to a police agency.

of (5) For greater certainty, this Act does not apply to the possession

(a) safety equipment or personal protective equipment designed, intended for use and worn by a person to protect the person from injury as required by the regulations made under the *Occupational Health and Safety Act* or required by another Act or regulations made under other Acts; or

(b) medieval or historical personal armour or a reproduction of medieval or historical personal armour that is

(i) designed, intended for use and worn by a person for the purposes of a historical re-enactment or a sporting event in which such equipment is required,

(ii) on display for viewing purposes,

(iii) for sale to museums and collectors,

(iv) in the possession of a person, organization or business for research or restoration, or

(v) intended and used for collection, display, costuming or decoration. 2018, c. 22, s. 4.

#### SALE OF BODY ARMOUR

##### Unauthorized sale prohibited

5 (1) No person shall sell body armour to another person unless the purchaser is authorized to possess body armour as provided by subsection 4(2) of this Act.

(2) The purchaser of body armour must provide evidence satisfactory to the seller that the purchaser is authorized to possess body armour as provided by this Act. 2018, c. 22, s. 5.

#### ENFORCEMENT

##### Warrant

6 A peace officer may, in accordance with the *Summary Proceedings Act*, obtain a warrant in the exercise of any of the power under this Act. 2018, c. 22, s. 6.

##### Power to search and seize

7 Where a peace officer has reasonable grounds to believe that a person is in possession of body armour in public and, on request of the peace officer, the person is unable to satisfy the peace officer that the person is authorized to possess body armour, the peace officer may, without a warrant, search that person, including any personal property in the person's possession, and seize any body armour found. 2018, c. 22, s. 7.

##### Notice of violation

8 (1) Where a peace officer has seized body armour in accordance with Section 6 or 7, the peace officer may issue a notice of violation to that person.

(2) A notice of violation must be in the form and contain the information prescribed.

(3) When a notice of violation is issued under subsection (1), the peace officer shall inform the person named in the notice that

(a) the person has the option of immediately forfeiting the body armour to the Crown in right of the Province by allowing the peace officer to take possession of the body armour and the body armour will be disposed of or otherwise dealt with as the Attorney General directs; and

(b) upon forfeiting the body armour it is deemed seized by the peace officer.

(4) Where a notice of violation is issued and the body armour is forfeited under subsection (3), no prosecution may be commenced respecting the matter referred to in the notice. 2018, c. 22, s. 8.

#### **Revocation of forfeiture**

9 (1) Where the person named in the issued notice of violation has forfeited body armour under subsection 8(3), that person may, within 30 days of the forfeiture, revoke the forfeiture by providing a written notice with the prescribed contents.

(2) Notwithstanding the making of the revocation in accordance with subsection (1), the peace officer that seized the body armour at the time of the forfeiture retains possession of the seized body armour.

(3) Where, anytime on or before the expiry of 30 days from the date of the forfeiture, no revocation has been made in accordance with subsection (1), and a person is able to satisfy a peace officer that the person is authorized to possess the seized body armour, the peace officer shall without delay return the body armour to that person.

(4) Where a notice of violation is issued and body armour is not forfeited under subsection 8(3), or a person gives a notice of revocation under subsection (1), a peace officer shall retain the seized body armour and may prosecute the person in accordance with this Act in the same manner as if the notice had not been issued. 2018, c. 22, s. 9.

#### **Forfeiture application**

10 (1) Where, within six months of a seizure under subsection 9(4), no person is charged with an offence under this Act or the regulations, a peace officer shall make an application to a justice for an order that the body armour be forfeited to the Crown in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs.

(2) Notice of the application made under subsection (1) must be given to the person from whom the body armour was seized and to the person authorized to possess the body armour, if that person exists and is known, no less than 30 days before the application is heard and in accordance with the regulations.

(3) Where, anytime before the hearing of the application under subsection (2), a person is able to satisfy a peace officer that the person is authorized to possess the seized body armour, the peace officer shall without delay return the body armour to that person.

(4) Where a person has been charged with an offence under this Act or the regulations and no conviction results from that charge, and all appeals have been exhausted or the time limit for appeals has expired without an appeal having been taken, a peace officer shall make an application to a justice for an order that the body armour be forfeited to the Crown in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs.

(5) Notice of the application made under subsection (4) must be given to the person from whom the body armour was seized and to the person authorized to possess the body armour, if that person exists and is known, no less than 30 days before the application is heard and in accordance with the regulations.

(6) Subject to subsection (7), where a person is convicted of an offence under this Act or the regulations, a justice shall order that any body armour seized under this Act, in addition to any other penalty provided for by this Act, is forfeited to the Crown in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs, unless the person who is authorized to possess the body armour exists and is known, in which case the judge may order the body armour be returned to that person.

(7) Where a person is convicted by way of summary offence ticket under the *Summary Proceedings Act* by payment of a fine in relation to a contravention of this Act or the regulations, any body armour seized under this Act is forfeited to the Crown in right of the Province, to be disposed of or otherwise dealt with as the Attorney General directs. 2018, c. 22, s. 10.

#### **Notice of violation and report**

11 (1) For greater certainty, nothing in this Act requires a peace officer to issue a notice of violation before initiating a prosecution under this Act.

(2) A peace officer who has seized body armour with or without a warrant in accordance with Section 6 or 7 shall within 10 days after the seizure report the circumstances to a justice.

(3) A report in accordance with subsection (2) is not required if a person named in a notice of violation has forfeited the seized body armour to the Crown in right of the Province. 2018, c. 22, s. 11.

#### **No action lies**

12 No action lies or proceedings may be brought against a peace officer or any other person acting under the authority of this Section for any loss or damage suffered by a person because of an act or omission done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of power under this Section. 2018, c. 22, s. 12.

**False information or obstruction**

**13** No person shall provide false information to or obstruct a peace officer who is exercising powers under this Act or a warrant issued for the purpose of enforcing this Act. 2018, c. 22, s. 13.

**GENERAL****Offence**

**14 (1)** An individual who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or imprisonment for not more than three months, or to both fine and imprisonment.

**(2)** A corporation that contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000.

**(3)** Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (1), whether or not the corporation has been prosecuted or convicted. 2018, c. 22, s. 14.

**Regulations**

- 15 (1)** The Governor in Council may make regulations
- (a) prescribing persons or a member of a prescribed group of persons authorized to possess body armour;
  - (b) respecting a system of permits, including fees, authorizing persons to possess body armour on a temporary basis;
  - (c) prescribing persons who may direct another person to wear body armour;
  - (d) prescribing a garment or item for the purpose of the definition of body armour;
  - (e) prescribing types of equipment, garments or items that are not subject to this Act;
  - (f) respecting the form and contents of notices;
  - (g) defining any word or expression used but not defined in this Act;
  - (h) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2018, c. 22, s. 15.

## CHAPTER B-13

# An Act to Establish Build Nova Scotia

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### Short title

- 1 This Act may be cited as the *Build Nova Scotia Act*. 2022, c. 34, s. 1.

### Interpretation

- 2 In this Act,  
“Advisory Board” means the Advisory Board of the Corporation;

“Corporation” means Build Nova Scotia;

“Deputy Minister” means the Deputy Minister of Public Works;

“former corporation” means Nova Scotia Lands Incorporated, registered under the *Companies Act*, or Develop Nova Scotia, continued under the former *Develop Nova Scotia Act*;

“Minister” means the Minister of Public Works;

“strategic infrastructure” has the meaning defined in the regulations. 2022, c. 34, s. 2.

### **Supervision and management of Act**

**3** The Minister has the general supervision and management of this Act. 2022, c. 34, s. 3.

### **Former corporations amalgamated and continued as Build Nova Scotia**

**4** Effective December 1, 2022,

(a) the former corporations are amalgamated and continued as a body corporate with share capital, to be known as Build Nova Scotia;

(b) all shares of the former corporations are cancelled;

(c) the registration of Nova Scotia Lands Incorporated under the *Companies Act* is revoked;

(d) all matters, affairs and actions of the former corporations are assigned to the Corporation;

(e) all assets of the former corporations, including all the rights, titles and interests of the former corporations, are vested in the Corporation;

(f) all obligations and liabilities of the former corporations are the obligations and liabilities of the Corporation; and

(g) subject to Section 5, a reference in any enactment or document to a former corporation is to be read and construed as a reference to the Corporation, unless a contrary intention appears. 2022, c. 34, s. 4.

### **Assignment of agreements**

**5 (1)** Any agreement to which a former corporation is a party that is in effect immediately before December 1, 2022, is assigned to the Corporation and the Corporation is bound by and may enforce the agreement as if it were an original party.

**(2)** Where an agreement is assigned under subsection (1),

(a) the assignment may be carried out notwithstanding any restriction on the assignment under any agreement, contract or enactment;

(b) the assignment is not subject to any requirement for notice that may exist in any agreement, contract or enactment;

(c) the assignment is not required to be in writing, notwithstanding any requirement to the contrary in any agreement, contract or enactment; and

(d) no person has or may maintain any cause of action or claim against the Crown in right of the Province, the Minister, the Department of Public Works or the Corporation arising from or in relation to the assignment. 2022, c. 34, s. 5.

#### **Actions of former corporations ratified**

6 Any act or thing done by or on behalf of the Corporation or a former corporation before December 1, 2022, is ratified and confirmed. 2022, c. 34, s. 6.

#### **Capital stock of Corporation**

7 The capital stock of the Corporation is one share with a par value of one dollar, to be issued and registered in the name of the Crown in right of the Province as represented by the Minister. 2022, c. 34, s. 7.

#### **Agent of the Crown**

8 The Corporation is an agent of the Crown in right of the Province. 2022, c. 34, s. 8.

#### **Objects of Corporation**

9 The objects of the Corporation are to implement the policy objectives and priorities of the Government with respect to strategic infrastructure, including

- (a) planning, designing, building, operating and preserving economically vibrant, sustainable and inclusive communities;
- (b) acquiring, holding, managing, improving, developing or disposing of, whether directly or in partnership with the private sector, strategic infrastructure;
- (c) providing services and programs relating to and promoting the development of quality and sustainable strategic infrastructure throughout the Province;
- (d) communicating and collaborating with communities, municipalities and others to optimize strategic infrastructure;
- (e) leading the implementation of the Government's strategy to expand telecommunications infrastructure to enable access to global information and communication networks throughout the Province;
- (f) exercising and performing the functions and duties conferred on it by this Act, the regulations, the business plan of the Corporation and the strategic plan of the Corporation; and
- (g) fulfilling such other roles and responsibilities as may be assigned to the Corporation by the Minister. 2022, c. 34, s. 9.

#### **Powers of Corporation**

10 The Corporation may

- (a) employ and contract with, in accordance with the *Personal Services Contract Regulations* made under the *Public Service Act*, such persons as it may require for the purpose of carrying out its objects;



(b) plan, design, build, develop, acquire, hold, manage, improve, remediate, lease, dispose of and otherwise deal with any personal and real property or any interest therein;

(c) where directed by the Minister, provide such programs and services as the Minister considers desirable;

(d) with the approval of the Minister, enter into agreements for the purpose of this Act with any person or body, including a federal, provincial or municipal government or any department or agency thereof;

(e) with the consent of the Minister, provide security or guarantee the payment or performance of the obligations of any other person;

(f) do such other things as may be incidental or conducive to carrying into effect the purpose and intent of this Act or of the regulations; and

(g) exercise such other powers as may be prescribed by the regulations. 2022, c. 34, s. 10.

#### **Management and control of Corporation**

**11 (1)** The management and control of the affairs of the Corporation are vested in the Minister.

**(2)** The Minister may exercise the powers of the Corporation subject to this Act and the regulations. 2022, c. 34, s. 11.

#### **Chief Executive Officer**

**12 (1)** The Governor in Council shall appoint a Chief Executive Officer of the Corporation.

**(2)** The Chief Executive Officer reports to the Deputy Minister.

**(3)** The Chief Executive Officer shall perform such duties as the Minister may determine. 2022, c. 34, s. 12.

#### **Advisory Board**

**13** The Corporation has an Advisory Board that provides advice and recommendations to further the Corporation's objects. 2022, c. 34, s. 13.

#### **Composition and term of Advisory Board**

**14 (1)** The Advisory Board consists of not more than 10 members appointed by the Governor in Council.

**(2)** Advisory Board members hold office for such period of time as is determined by the Governor in Council and may be reappointed. 2022, c. 34, s. 14.

#### **Chair and Vice-chair of Advisory Board**

**15** The Governor in Council shall appoint a Chair and Vice-chair of the Advisory Board, who hold office for such period of time as is determined by the Governor in Council. 2022, c. 34, s. 15.

**Vacancy on Advisory Board**

**16** A vacancy on the Advisory Board does not impair the right of the remaining members to act. 2022, c. 34, s. 16.

**Remuneration and expenses of Advisory Board**

**17** Each Advisory Board member is entitled to such remuneration and reimbursement of expenses as is determined by the Governor in Council. 2022, c. 34, s. 17.

**Powers of Advisory Board respecting Corporation employees**

**18** Subject to the approval of the Deputy Minister, the Advisory Board may

- (a) avail itself of the services of employees of the Corporation;
- and
- (b) appoint an employee of the Corporation to act as Secretary of the Advisory Board. 2022, c. 34, s. 18.

**Quorum**

**19** A majority of Advisory Board members constitutes a quorum. 2022, c. 34, s. 19.

**Deputy Minister and Chief Executive Officer at Board meetings**

**20** The Deputy Minister and Chief Executive Officer of the Corporation may attend meetings of the Advisory Board but the Deputy Minister and Chief Executive Officer

- (a) are not members of the Advisory Board; and
- (b) may not vote at meetings of the Advisory Board. 2022, c. 34, s. 20.

**Duty of good faith and care**

**21** A member of the Advisory Board shall, when exercising the powers and performing the duties of the member's position,

- (a) act honestly and in good faith with a view to the best interests of the Corporation;
- (b) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
- (c) act in accordance with this Act and the regulations. 2022, c. 34, s. 21.

**Duties of Advisory Board**

**22** The Advisory Board shall

- (a) report to the Minister through the Chief Executive Officer;
- (b) advise the Minister on such matters related to strategic infrastructure in the Province as are referred by the Minister to the Board for consideration; and

(c) bring to the attention of the Minister matters of interest and concern to the public or other stakeholders respecting strategic infrastructure in the Province. 2022, c. 34, s. 22.

#### **Advisory Board resolutions**

**23** The Advisory Board may pass resolutions to document its recommendations to the Minister but, for greater certainty, the Minister is not bound by any recommendation or resolution of the Board. 2022, c. 34, s. 23.

#### **Bylaws**

**24** The Minister may make bylaws, not inconsistent with this Act, respecting the internal organization and procedures of the Advisory Board, subject to the approval of the Governor in Council. 2022, c. 34, s. 24.

#### **Policy directions**

**25 (1)** The Minister may issue such policy directions to the Advisory Board as are consistent with this Act if, in the opinion of the Minister, it is in the public interest to do so.

**(2)** The Advisory Board shall comply with a direction issued under subsection (1). 2022, c. 34, s. 25.

#### **Fiscal year of Corporation**

**26** The fiscal year of the Corporation is the same as that of the Province. 2022, c. 34, s. 26.

#### **Accounting system**

**27** The Corporation's system of accounting is subject to the approval of the Minister of Finance and Treasury Board. 2022, c. 34, s. 27.

#### **Not subject to taxation**

**28** The Corporation, its property and its assets are not subject to taxation. 2022, c. 34, s. 28.

#### **Annual business plan**

**29 (1)** Annually as required by the Minister, the Corporation shall submit to the Minister for approval a detailed business plan for the Corporation for the following fiscal year.

**(2)** The business plan must contain such information as required by the Minister. 2022, c. 34, s. 29.

#### **Multi-year strategic plan**

**30** When required by the Minister, the Corporation shall submit to the Minister for approval a multi-year strategic plan for the operation of the Corporation. 2022, c. 34, s. 30.

**Conflict of Interest Act**

**31** The Advisory Board is a department for the purpose of the definition of “department” in the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to Advisory Board members. 2022, c. 34, s. 31.

**Freedom of Information and Protection of Privacy Act**

**32** The Corporation is a public body as defined in the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act applies to the Corporation. 2022, c. 34, s. 32.

**Civil Service Act**

**33** Section 41 of the *Civil Service Act* applies with necessary changes to the Corporation and the Advisory Board. 2022, c. 34, s. 33.

**Proceedings against the Crown Act**

**34 (1)** The *Proceedings against the Crown Act* applies to actions and proceedings against the Corporation.

**(2)** For the purpose of this Section, a reference in the *Proceedings against the Crown Act* to

(a) the Crown is to be construed as a reference to the Corporation; and

(b) the General Revenue Fund is to be construed as a reference to the funds of the Corporation.

**(3)** In proceedings under this Section, an action must be brought against the Corporation in the name of the Corporation.

**(4)** Where a document or notice is to be served upon or given to the Corporation pursuant to this Section or the *Proceedings against the Crown Act*, it may be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or any lawyer employed in the Legal Services Division of the Department of Justice or by delivering a copy to a lawyer designated for that purpose by the Attorney General and such service is deemed to be service on the Corporation. 2022, c. 34, s. 34.

**Regulations**

**35 (1)** The Governor in Council may make regulations

(a) respecting the powers, duties and activities of the Corporation;

(b) respecting any matter authorized by this Act to be done by regulation;

(c) defining any word or expression used but not defined in this Act;

(d) respecting any matter or thing that the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the power conferred under subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 34, s. 35.

### Transfer of employees

**36** (1) Effective December 1, 2022, every employee of a former corporation

(a) ceases to be an employee of the former corporation and becomes an employee of the Corporation;

(b) is employed by the Corporation on the same or equal terms and conditions of employment as those under which the employee was employed by the former corporation, until changed by contract of employment;

(c) is deemed to have been employed with the Corporation for the same period of employment that the employee was credited with as an employee of the former corporation; and

(d) is entitled to all vacation leave accumulated, less any vacation arrears that accrued, while the employee was employed by the former corporation.

(2) The continuity of employment of an employee transferred under this Section is not broken by the effect of this Section.

(3) The obligations and liabilities of the former corporations in respect of their employees are the obligations and liabilities of the Corporation, including all employee benefits and entitlements.

(4) For greater certainty, the operation of this Section is deemed not to

(a) constitute a termination, constructive dismissal or lay-off of any employee;

(b) constitute a breach, termination, repudiation or frustration of any contract;

(c) constitute an event of default or *force majeure* under any contract; or

(d) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right, or to any right to terminate or repudiate a contract, licence, permit or other right, or to any estoppel. 2022, c. 34, s. 36.

### Public Service Superannuation Act

**37** Each employee of the Corporation who, immediately before December 1, 2022, was an employee within the meaning of the *Public Service Superannuation Act* or was included in a bargaining unit whose collective agreement provided for participation in the Public Service Superannuation Plan is deemed to continue to be an employee in the public service of the Province for the purpose of the *Public Service Superannuation Act*, and service in the employment of the Corporation is

deemed to be service in the public service of the Province for the purpose of that Act. 2022, c. 34, s. 37.

**Long term disability**

**38** Subject to any applicable collective agreement or contract of employment, each employee of the Corporation who, immediately before December 1, 2022, was covered by the Nova Scotia Public Service Long Term Disability Plan or was included in a bargaining unit whose collective agreement provided for long-term disability benefits under the Plan is deemed to continue to be a person to whom the Plan applies. 2022, c. 34, s. 38.

**Civil Service Act and Civil Service Collective Bargaining Act**

**39** The *Civil Service Act* and the regulations made under that Act and the *Civil Service Collective Bargaining Act* do not apply to employees of the Corporation. 2022, c. 34, s. 39.

**Public service award**

**40** Where, at retirement, an employee transferred under Section 36 would have been eligible for a public service award pursuant to the *General Civil Service Regulations* made pursuant to the *Civil Service Act* if the person had remained as an employee of the Province, the Crown in right of the Province shall pay to the person, on retirement, an amount equivalent to the amount of the public service award that it would have paid to the person for the person's years of employment as an employee of the Province. 2022, c. 34, s. 40.

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## CHAPTER B-14

# An Act to Establish Liens in Favour of Builders and Others

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### Short title

**1** This Act may be cited as the *Builders Lien Act*. R.S., c. 277, s. 1; 2004, c. 14, s. 2.

### Interpretation

**2** In this Act,

“contractor” means a person contracting with or employed directly by the owner or the owner’s agent for the doing of work or service or placing or furnishing material for any of the purposes mentioned in this Act;

“land” includes the property mentioned in Section 6;

“material” includes every kind of moveable property;

“owner” extends to any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the land upon or in respect of which the work or service is done, or material is placed or furnished, at whose request and

(a) upon whose credit;



- (b) on whose behalf;
- (c) with whose privity and consent; or
- (d) for whose direct benefit,

work, or service is performed or material is placed or furnished, and all persons claiming under the owner whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the material furnished has been commenced to be furnished;

“registrar” means a registrar of deeds;

“subcontractor” means a person not contracting with or employed directly by the owner or the owner’s agent for the purposes aforesaid, but contracting with or employed by a contractor, or under the contractor by another subcontractor;

“wages” means money earned by a person for work done, whether by the day or other time or as piece work. R.S., c. 277, s. 2; 2004, c. 14, s. 3.

### Application of Act

**3 (1)** Nothing in this Act extends to any public street or highway or to any work or improvement done or caused to be done thereon.

**(2)** A lien does not attach to and cannot be registered against the estate or interest in the land of the Crown in right of the Province.

**(3)** Where the circumstances referred to in Section 6 apply to land in which the Crown in right of the Province has an estate or interest but the Crown is not an owner, the lien may attach to the estate or interest of any other person in that land.

**(4)** Where the Crown in right of the Province is an owner, the lien does not attach to the land but constitutes a charge as provided in Section 13, and this Act applies without requiring registration pursuant to Section 20 of a claim of lien against the land.

**(5)** Where the owner of a property is the Crown in right of the Province, the claim for lien made in accordance with Section 21 or 22 may be served upon the Minister of Justice and Sections 26 to 33 apply with necessary changes.

**(6)** Subject to this Section, this Act is binding upon the Crown in right of the Province.

**(7)** Notwithstanding Section 17 of the *Proceedings against the Crown Act*, no action may be brought against the Crown in right of the Province under this Act unless 30 days previous notice in writing has been served on the Attorney General, in which notice the name and residence of the proposed plaintiff, the cause of action and the court in which it is to be brought must be explicitly stated. 2004, c. 14, s. 4.

**Agreement not to apply Act**

4 (1) Every agreement, verbal or written, expressed or implied, on the part of any person employed in any kind of manual labour intended to be dealt with in this Act, that this Act does not apply, or that the remedies provided by it are not available for the benefit of such person, is null and void.

(2) This Section does not apply to a manager, officer or supervisor. R.S., c. 277, s. 4; 2004, c. 14, s. 5.

**Effect of agreement to waive lien**

5 No agreement may deprive any person otherwise entitled to a lien under this Act who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. R.S., c. 277, s. 5.

**Lien**

6 (1) Unless that person signs an express agreement to the contrary and in that case subject to Section 4, a person who performs any work or service upon or in respect of, or places or furnishes any material to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, pavement, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, or the appurtenances to any of them, for any owner, contractor or subcontractor, has by virtue thereof a lien for the price of such work, service or material upon the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees and appurtenances, and the land occupied thereby or enjoyed therewith or upon or in respect of which such work or service is performed, or upon which such material is placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner.

(2) A person who rents to an owner, contractor or subcontractor equipment used on land or in such place in the immediate vicinity thereof as is designated by the owner, contractor, subcontractor or agent thereof, performs a service within the meaning of subsection (1). R.S., c. 277, s. 6; 2004, c. 14, s. 6.

**Interest of spouse bound**

7 Where work or service is done or material furnished upon or in respect of the land of a married person with the privity and consent of the spouse of that person, the spouse is deemed to be acting so as to bind the interest of that spouse, as the agent for the other spouse, unless, before so doing such work or service or furnishing such material, the person doing or furnishing the same had actual notice to the contrary. R.S., c. 277, s. 7.

**Property to which lien attaches**

8 (1) The lien attaches upon the estate or interest of the owner in the property mentioned in Section 6.

(2) Where the estate or interest upon which the lien attaches is leasehold, the fee simple may also, with the consent of the owner thereof, be subject

to the lien, if such consent is testified by the signature of the owner upon the claim of lien at the time of the registering thereof, verified by affidavit.

(3) Where the land upon or in respect of which any work or service is performed, or material is placed or furnished to be used, is encumbered by a prior mortgage or other charge and

(a) the selling value of the land is increased by the work or service, or by the furnishing or placing of the material; and

(b) the mortgagee consents to the performance of such work or service or the furnishing, or placing of such material,

the lien attaches upon such increased value in priority to the mortgage or other charge. R.S., c. 277, s. 8.

#### **Effect and effective date of lien**

9 A lien, upon registration, under this Act, attaches and takes effect from the date of the registration as against subsequent purchasers, mortgagees or other encumbrancers. R.S., c. 277, s. 9.

#### **Destruction of property by fire**

10 Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee takes the place of the property so destroyed, and is subject to the claims of all persons for liens to the same extent as if such money was realized by a sale of such property in an action to enforce the lien. R.S., c. 277, s. 10.

#### **Maximum amount of lien**

11 Except as otherwise provided under this Act, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S., c. 277, s. 11.

#### **Maximum lien if claim by other than contractor**

12 Except as otherwise provided under this Act, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work or service has been done or the material placed or furnished. R.S., c. 277, s. 12.

#### **Holdback**

13 (1) In this Section, a contract under which a lien can arise pursuant to Section 6 is deemed to be substantially performed

(a) if the work or improvement is ready for use or is being used for the purpose intended; and

(b) if the work to be done under the contract is capable of completion or correction at a cost of not more than two and one-half per cent of the contract price.

(2) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or material is furnished under the contract, deduct from any payments to be made by the person in respect of the contract, and retain for a period of 60 days after the contract is substantially performed, 10% of the value of the work, service and material actually done, placed or furnished as mentioned in Section 6, and such value must be calculated on the basis of the contract price, or where there is no specific contract price, then on the basis of the actual value of the work, service or material.

(3) Where, 60 days after the date on which a contract is deemed to be substantially performed, services or material remains to be supplied to complete the contract, the person primarily liable upon the contract shall retain a separate holdback equal to 10% of the price of the remaining services or material as it is actually supplied under the contract, until all liens that may be claimed against the holdback have expired or have been satisfied, discharged or vacated in accordance with this Act.

(4) The lien is a charge upon the amount directed to be retained by this Section in favour of subcontractors whose liens are derived under persons to whom such money so required to be retained are respectively payable.

(5) All payments up to 90% of the contract price or actual value made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of such lien given by the person claiming the lien to the owner, contractor or subcontractor, operate as a discharge *pro tanto* of the lien.

(6) Where the person primarily liable upon the contract has received notice in writing of a lien and has retained, in addition to any holdback required under this Section, an amount sufficient to satisfy the lien, the person may, without jeopardy in respect of any other lien, make payment on the contract up to 90% of the price of the services or material that has been supplied under the contract, less the amount retained.

(7) Payment of the percentage required to be retained pursuant to subsections (2) and (3) may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the periods mentioned in subsections (2) and (3) unless in the meantime proceedings have been commenced to enforce any lien or charge against such percentage as hereinafter provided.

(8) Where, pursuant to subsection (3), anyone retains a separate holdback in respect of services or material that remains to be supplied to complete a contract, everyone retaining the separate holdback shall make payment of the holdback retained pursuant to subsection (2).

(9) Anyone retaining a holdback who does not make payment within 65 days immediately following substantial performance as permitted by subsection (3) or (8) is liable to the person entitled to such payment for interest on the amount that should have been paid at the prime rate of interest then commonly charged by chartered banks plus two per cent unless there has been agreement on some other rate of interest.

(10) As funds retained are paid eventually according to entitlement under this Act, the liability of the owner to a lien claim is reduced in the same pro-

portion as such payments. R.S., c. 277, s. 13; 2004, c. 14, s. 7; 2005, c. 8, s. 3; 2013, c. 14, s. 1; 2014, c. 42, s. 1.

#### **Certifying subcontract complete**

**14 (1)** A subcontract may, upon the request of the contractor or a subcontractor, be certified complete by the architect, engineer or other person upon whose certificate payments are to be made.

**(2)** Where there is no architect, engineer or other person upon whose certificate payments are to be made and the owner and the contractor determine that a subcontract is complete, the subcontract may be certified complete by the owner and the contractor acting jointly.

**(3)** Where there is a failure or refusal to certify, within a reasonable time, that a subcontract is complete, any person may apply to a court having jurisdiction to try an action to realize a lien, and the court, upon being satisfied that the subcontract is complete and upon such terms as to costs or otherwise as it considers fit, may issue an order certifying the subcontract to be complete.

**(4)** Where a subcontract is certified complete, the subcontract is deemed to have been completed on the date of certification. 2013, c. 14, s. 2; 2014, c. 42, s. 2.

#### **Holdback for certified complete subcontract**

**15 (1)** Where a subcontract has been certified complete under Section 14, the owner may, without jeopardy in respect of any other lien, make payment reducing the holdback required by Section 13 to the extent of the amount of holdback the payer has retained in respect of the completed subcontract if all liens that may be claimed against the holdback have expired or have been satisfied or discharged in accordance with this Act.

**(2)** Where the owner makes payment pursuant to subsection (1), everyone retaining a holdback in respect of any subcontract to the completed subcontract, as certified under Section 14, shall make payment reducing the holdback required by Section 13 to the extent of the amount of holdback the payer has retained in respect of the subcontract to the completed subcontract if all liens that may be claimed against the holdback have expired or have been satisfied, discharged or vacated in accordance with this Act.

**(3)** Anyone retaining a holdback in respect of a completed subcontract, or any subcontract thereto, who does not make payment within 65 days immediately following the certification of the completed subcontract as permitted by subsection (1) or (2) is liable to the person entitled to such payment for interest on the amount that should have been paid at the prime rate of interest then commonly charged by chartered banks plus two per cent unless there has been agreement on some other rate of interest. 2013, c. 14, s. 2; 2014, c. 42, s. 3.

#### **Direct payment by person not primarily liable**

**16** Where an owner, contractor or subcontractor makes a payment to any person entitled to a lien under Section 6 for or on account of any debt justly due to that person for work or service done or for material placed or furnished to be used as therein mentioned, for which the owner, contractor or subcontractor is not primarily

liable, and within three days afterwards gives, by letter or otherwise, written notice of such payment to the person primarily liable, or that person's agent, such payment is deemed to be a payment on that person's contract generally to the contractor or subcontractor primarily liable, but not so as to affect the percentage to be retained by the owner as provided by Section 13. R.S., c. 277, s. 14.

#### **Priority of lien and among lien holders**

**17 (1)** The lien has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien to the person making such payments or after registration of a claim for such lien as hereinafter provided.

**(2)** Where there is an agreement for the purchase of land, and the purchase money or part thereof is unpaid, and no conveyance has been made to the purchaser, the purchaser is, for the purpose of this Act, deemed a mortgagor and the seller a mortgagee.

**(3)** Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lien holders ranks *pari passu* for their several amounts, and the proceeds of any sale must be distributed among them pro rata according to their several classes and rights. R.S., c. 277, s. 15.

#### **Lien for wages**

**18 (1)** Every person whose lien is for wages has, to the extent of 30 days wages, priority over all other liens derived through the same contractor or subcontractor to the extent of and on the amount directed to be retained by Section 13, to which the contractor or subcontractor, through whom such lien is derived, is entitled, and all such persons rank thereon *pari passu*.

**(2)** Every wage-earner is entitled to enforce a lien in respect of a contract not completely fulfilled.

**(3)** Where the contract has not been completed when the lien is claimed by a wage-earner, the percentage must be calculated on the value of the work done or material furnished by the contractor or subcontractor by whom such wage-earner is employed, having regard to the contract price, if any.

**(4)** Where the contractor or subcontractor makes default in completing a contract, the percentage may not, as against a wage-earner claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose, nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor, nor in payment or satisfaction of any claim against the contractor or subcontractor.

**(5)** Every device by an owner, contractor or subcontractor to defeat the priority given to a wage-earner for wages, and every payment made for the purpose of defeating or impairing a lien, is null and void. R.S., c. 277, s. 16; 2004, c. 14, s. 8.

## MATERIAL

**Material subject to lien**

**19 (1)** During the continuance of a lien no part of the material affected thereby may be removed to the prejudice of the lien.

**(2)** Material actually brought upon any land to be used in connection with such land for any of the purposes enumerated in Section 6 is subject to a lien in favour of the person furnishing it until placed in the building, erection or work, and is not subject to execution or other process to enforce any debt other than for the purchase thereof due to the person furnishing the same. R.S., c. 277, s. 17.

## REGISTRATION OF CLAIM

**Registration of claim for lien**

**20** A claim for lien may be registered in the registry of deeds for the registration district in which the land is situated. R.S., c. 277, s. 18.

**Contents of claim**

**21 (1)** A claim for lien must state

(a) the name and residence of the person claiming the lien, and of the owner of the property to be charged, or of the person whom the person claiming the lien, or that person's agent, believes to be the owner of the property proposed to be charged, and of the person for whom and on whose credit the work or service was, or is to be, done, or material furnished or placed, and the time within which the same was, or is to be done, or furnished or placed;

(b) a short description of the work or service done, or to be done, or material furnished or placed, or to be furnished or placed;

(c) the sum claimed as due or to become due;

(d) a description of the land or property to be charged; and

(e) the date of expiry of the period of credit, if any, agreed upon by the lien holder for payment for the lien holder's work or service or material, where credit has been given.

**(2)** The claim may be in the form prescribed by the regulations or to the like effect, and must be verified by the affidavit prescribed by the regulations of the person claiming the lien, or that person's agent or assignee having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee must state that the agent or assignee has such knowledge.

**(3)** Where it is desired to register a claim for lien against the lands of a railway company, it is a sufficient description of such lands to describe them as the lands of such railway company, and every such claim for lien must be registered in the registry of deeds for the registration district in which such lien is claimed to have arisen. R.S., c. 277, s. 19.

**Claim for more than one lien**

**22** A claim for lien may include claims against any number of properties, and any number of persons claiming liens on the same property may unite therein in the form prescribed by the regulations, but when more than one lien is included in one claim each lien must be verified by the affidavit prescribed by the regulations, as provided in Section 21. R.S., c. 277, s. 20.

**Substantial compliance with Sections 21 and 22**

**23 (1)** Only substantial compliance with Sections 21 and 22 is required, and no lien may be invalidated by reason of the failure to comply with any of the requisites of such Sections, unless, in the opinion of the court or judge who has the power to try the action under this Act, the owner, contractor, subcontractor, mortgagee or other person, as the case may be, is prejudiced thereby, and then only to the extent to which that owner, contractor, subcontractor, mortgagee or other person is thereby prejudiced.

**(2)** Nothing contained in this Section dispenses with the registration required by this Act. R.S., c. 277, s. 21.

**Duty of registrar**

**24** The registrar upon payment of the fee prescribed by the *Costs and Fees Act* shall register the claim so that the same may appear as an encumbrance against the land so described. R.S., c. 277, s. 22.

**Registry of Deeds Act**

**25 (1)** Where the claim for lien is so registered the person entitled to the lien is deemed the purchaser *pro tanto* and within the provisions of the *Registry of Deeds Act* but, except as in this Act provided, that Act does not apply to any lien arising under this Act.

**(2)** A mortgage lender who has registered a mortgage obtains priority with respect to funds advanced in good faith, over any lien then existing for which a claim for lien has not been filed at the time the funds are paid to the owner. R.S., c. 277, s. 23.

**Time for registering claim for lien**

**26 (1)** A claim for lien by a contractor or subcontractor, in cases not otherwise provided for, may be registered before or during the performance of the contract, or within 60 days after the completion or abandonment thereof.

**(2)** A claim for lien for material may be registered before or during the furnishing or placing thereof, or within 60 days after the furnishing or placing of the last material so furnished or placed.

**(3)** A claim for lien for services may be registered at any time during the performance of the service or within 60 days after the completion of the service.

**(4)** A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within 60 days after the last work is done for which the lien is claimed.



(5) In the case of a contract that is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the claim for lien by a contractor may be registered within the time mentioned in subsection (1) or within seven days after the architect, engineer or other person has given, or has, upon application to the architect, engineer or other person by the contractor, refused to give a final certificate. R.S., c. 277, s. 24; 2004, c. 14, s. 9.

#### **Notice of registration of lien to owner of property**

27 A person who has registered a lien pursuant to this Act shall give notice of the registration of the lien to the owner of the property referred to in the claim for lien. 2004, c. 14, s. 10.

#### **Failure to comply with Section 27**

28 A failure to comply with Section 27 must be treated as an irregularity and does not nullify the lien. 2004, c. 14, s. 10.

### **EXPIRY AND DISCHARGE OF LIEN**

#### **Expiry of lien**

29 Every lien for which a claim is not registered absolutely ceases to exist on the expiration of the time limited for the registration of the claim under Section 26. R.S., c. 277, s. 25; 2004, c. 14, s. 11.

#### **Expiry of registered lien**

30 (1) Every lien for which a claim has been registered absolutely ceases to exist

(a) on the expiration of 105 days after the work or service has been completed or materials have been furnished or placed;

(b) after the expiry of the period of credit, where such period is mentioned in the claim for lien registered; or

(c) in the cases provided for in subsection 26(5), on the expiration of 30 days from the registration of claim,

unless in the meantime an action is commenced to realize the claim and a certificate thereof in the form prescribed by the regulations is registered in the registry of deeds in which the claim for lien was registered.

(2) Where the certificate referred to in subsection (1) relates to land that is a parcel registered pursuant to the *Land Registration Act*, the form of the certificate to be registered is the certificate of *lis pendens* prescribed under that Act.

(3) Where the period of credit mentioned in the claim for lien registered has not expired, it nevertheless ceases to have any effect on the expiration of six months from the registration or any re-registration thereof if the claim is not again registered within that period, unless in the meantime an action is commenced and a certificate thereof has been registered as provided by this Section. R.S., c. 277, s. 26; 2004, c. 14, s. 12; 2005, c. 8, s. 4.

**Where no period of credit or period uncertain**

**31** Where there is no period of credit, or where the date of the expiry of the period of credit is not stated in the claim so registered, the lien ceases to exist upon the expiration of 90 days after the work or service has been completed or material furnished or placed, unless in the meantime an action is commenced and a certificate thereof registered as provided by Section 30. R.S., c. 277, s. 27; 2004, c. 14, s. 13; 2005, c. 8, s. 5.

**Assignment of lien or transfer on death**

**32** The right of a lien holder may be assigned by an instrument in writing and, where not assigned, upon the lien holder's death passes to the lien holder's personal representative. R.S., c. 277, s. 28.

**Discharge of lien**

**33 (1)** A lien may be discharged by a receipt signed by the claimant, or the claimant's agent, duly authorized in writing, acknowledging payment, and verified by affidavit and registered.

**(2)** The receipt must be numbered and entered like other instruments, but must not be copied in any registry book, and there must be entered against the entry of the lien to which the discharge relates the word "discharged" and the registration number of such discharge.

**(3)** The fee is the same as for registering a claim.

**(4)** Upon application, the court or judge, having jurisdiction to try an action to realize a lien, may allow security for or payment into court of the amount of the claim, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered.

**(5)** Where the certificate required by Section 30 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate required by Section 30 or 31, the order vacating the lien may be made *ex parte* upon production of the certificate of a solicitor of the Supreme Court of Nova Scotia certifying the facts entitling the applicant to such order. R.S., c. 277, s. 29; 2002, c. 19, s. 36; 2004, c. 14, s. 14.

**EFFECT OF TAKING SECURITY OR EXTENDING TIME****Effect of taking security or extending time**

**34 (1)** The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgement of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive or pay, satisfy, prejudice or destroy the lien unless the claimant agrees, in writing, that it has that effect.

**(2)** Where any such promissory note or bill of exchange has been negotiated, the lien holder does not thereby lose its lien if, at the time of bringing an action to enforce it, or where an action is brought by another lien holder, the lien

holder is, at the time of proving a claim in such action, the holder of such promissory note or bill of exchange.

(3) Nothing in subsection (2) extends the time limited by this Act for bringing the action to enforce the lien.

(4) A person who has extended the time for payment of a claim for which the person has a lien, to obtain the benefit of this Section, shall commence an action to enforce such lien within the time prescribed by this Act, and shall register a certificate as required by Section 30 or 31, but no further proceedings may be taken in the action until the expiration of such extension of time. R.S., c. 277, s. 30; 2004, c. 14, s. 15.

#### **Proof of claim in action by another if time extended**

35 Where the period of credit in respect of a claim has not expired, or where there has been an extension of time for payment of the claim, the lien holder may nevertheless, where an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of the lien holder's claim in such action as if the period of credit or the extended time had expired. R.S., c. 277, s. 31.

### **LIEN HOLDER'S RIGHT TO INFORMATION**

#### **Right of lien holder to information**

36 (1) Any lien holder may, at any time, by written request, require information to be provided within a reasonable time, not to exceed 21 days, by the owner or the owner's agent, a contractor or a subcontractor.

(2) The information to be provided pursuant to subsection (1) by the owner or the owner's agent must include

- (a) the names of the parties to the contract;
- (b) the contract price;
- (c) the state of accounts between the owner and the contractor;
- (d) a copy of any labour and material payment bond in respect of the contract posted by the contractor with the owner; and
- (e) a statement of whether the contract provides in writing that liens arise and expire on a lot-by-lot basis.

(3) The information to be provided pursuant to subsection (1) by the contractor or subcontractor must include

- (a) the names of the parties to a subcontract;
- (b) the state of accounts between the contractor and a subcontractor or between a subcontractor and another subcontractor;
- (c) a statement of whether there is a provision in a subcontract providing for certification of the subcontract;
- (d) a statement of whether a subcontract has been certified as complete; and

(e) a copy of any labour and material payment bond posted by a subcontractor with the contractor or by a subcontractor with another subcontractor.

(4) Where a person, who is required under this Section to provide information, does not provide the information as required or knowingly or negligently misstates that information, the person is liable to the person who made the request for any damages sustained by reason thereof.

(5) Upon application, the court may at any time, whether or not an action has been commenced, order a person to comply with a request that has been made to the person under this Section and, when making the order, the court may make any order as to costs as it considers appropriate in the circumstances, including an order for the payment of costs on a solicitor-and-client basis. 2004, c. 14, s. 16.

#### LIENS ON MINING CLAIMS

##### **Liens respecting mining operation**

37 (1) In this Section, “mine” means a mine to which the *Occupational Health and Safety Act* applies and “mining” has the same meaning as the expression “to mine” in the *Mineral Resources Act*.

(2) Every labourer or worker to whom wages are due by any person, firm or corporation for labour or work performed at a mine or in connection with mining operations carried on by such person, firm or corporation and every person, firm or corporation who furnishes pit props, ties or lumber to be used in a mine or mining operation, or for a railway owned or operated by a coal-mining company, firm or corporation, has a lien upon the property and mining leases or licences in respect of which such labour or work has been performed, or such pit props, ties or lumber has been furnished, in the case of a labourer or worker to the extent of two months wages, and in the case of pit props, ties or lumber for the price thereof.

(3) Such lien has priority over all other liens, mortgages or charges upon the said property and mining leases or licences, whether the same are prior or subsequent to the performing of such work and labour.

(4) In the registration of such lien it is not necessary to describe the property and mining leases affected thereby, but it is sufficient to designate such property and mining leases as the property and mining leases of such person or corporation.

(5) Such lien must be registered in the office of the Minister of Natural Resources and Renewables at Halifax, as well as at the registry of deeds of the registration district in which the mine is situate, and the provisions of this Act apply, in so far as the same are applicable, to registration in the office of the Minister.

(6) Proceedings to enforce a lien created by this Section may be taken at any time within six months from the registration thereof and are deemed to be taken on behalf of all persons holding such liens at the time such proceedings are commenced or within 30 days thereafter. R.S., c. 277, s. 33; 1992, c. 14, s. 61.

## ARBITRATION

**Effect of stay of proceedings**

**38** Notwithstanding the *Arbitration Act*, the *Commercial Arbitration Act* or the *International Commercial Arbitration Act* or equivalent legislation of any other jurisdiction, a stay of proceedings granted by any court of competent jurisdiction to assist the conduct of an arbitration does not prohibit the taking of any step pursuant to this Act to

- (a) register a claim of lien;
  - (b) prevent the expiry of a lien; or
  - (c) preserve the land or personal property to which a lien attaches or any estate or interest in land or personal property to which a lien attaches.
- 2004, c. 14, s. 17.

**Does not constitute waiver**

**39** Notwithstanding the *Arbitration Act*, the *Commercial Arbitration Act* or the *International Commercial Arbitration Act* or equivalent legislation of any other jurisdiction, where the contract or subcontract of a lien claimant contains a provision respecting arbitration, the taking of any step described in Section 38 does not constitute a waiver of the lien claimant's rights to arbitrate a dispute pursuant to the contract or subcontract. 2004, c. 14, s. 17.

**Effect of action**

**40** Notwithstanding the *Arbitration Act*, the *Commercial Arbitration Act* or the *International Commercial Arbitration Act* or equivalent legislation of any other jurisdiction,

- (a) an action to enforce a lien that is commenced by a lien claimant whose contract or subcontract does not provide for arbitration is not stayed by the commencement or continuation of arbitration proceedings between other parties with respect to a matter that, in whole or in part, deals with the subject-matter of the action; and
- (b) no order may be made directing a stay of an action referred to in clause (a) solely on the grounds that arbitration proceedings have been commenced or continued between other parties with respect to a matter that, in whole or in part, deals with the subject-matter of that action. 2004, c. 14, s. 17.

## REALIZING LIENS AND PROCEDURE

**Action to enforce lien**

**41 (1)** The liens created by this Act may be enforced by an action to be brought and tried in the Supreme Court of Nova Scotia according to the ordinary procedure of that Court, except as varied by this Act.

**(2)** The jurisdiction of the Supreme Court of Nova Scotia under this Act includes a third-party procedure if the amount claimed relates to the lien claim and arises out of the building contract or the work done or the material supplied that is the subject of the lien claim.

(3) Without issuing an originating notice, an action under this Act is commenced by filing a statement of claim in the office of the prothonotary.

(4) Any number of lien holders claiming liens on the same property may join in the action, and any action brought by a lien holder is taken to be brought on behalf of all other lien holders on the property in question who have complied with this Act.

(5) It is not necessary to make any lien holders defendants to the action, but all lien holders served with a notice of trial must, for all purposes, be treated as if they were parties to the action.

(6) The statement of claim must be served within one month after it is filed, but the court or judge having power to try the action may extend the time for service.

(7) The statement of defence may be in one of the forms prescribed by the regulations.

(8) The service of all papers necessarily or usually served in the enforcement of this Act may be effected by any literate person. R.S., c. 277, s. 34; 2004, c. 14, s. 18.

#### **Powers of judge, right of lien holder and proceeds of sale**

**42** (1) After the delivery of the statement of defence, where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, where it is desired to try the action otherwise than at the ordinary sittings of the court, either party may apply to a judge who has power to try the action to fix a day for the trial thereof, and the judge shall make an appointment fixing the day and place of trial, and on the day appointed, or on such other day to which the trial is adjourned, shall proceed to try the action and all questions that arise therein, or that are necessary to be tried to fully dispose of the action, and to adjust the rights and liabilities of the persons appearing before the judge, or upon whom the notice of trial has been served, and at the trial shall take all accounts, make all inquiries, and give all directions, and do all things necessary to try and otherwise finally dispose of the action, and of all matters, questions and accounts arising in the action, or at the trial, and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action, or who have been served with the notice of trial, and shall embody all results in the judgment in the form prescribed by the regulations.

(2) The judge who tries the action may order that the estate or interest charged with the lien be sold, and when, by the judgment, a sale of the estate or interest charged with the lien is ordered, the judge who tries the action may direct the sale to take place at any time after judgment, allowing, however, a reasonable time for advertising the sale.

(3) The judge who tries the action may also order the sale of any material and authorize the removal of material.

(4) Any lien holder who has not proved the lien holder's claim at the trial of any action to enforce a lien, on application to the judge who tried the action, upon such terms as to costs and otherwise as are just, may be let in to prove its claim at any time before the amount realized in the action for the satisfaction of

liens has been distributed, and where such claim is proved and allowed, the judge shall amend the judgment so as to include such claim therein.

(5) Any lien holder for an amount not exceeding \$100, or any lien holder not a party to the action, may attend in person at the trial of an action to enforce a lien, and on any proceedings in such action, or may be represented by a solicitor.

(6) Where a sale is held, the money arising from the sale must be paid into court to the credit of the action and the judge upon whose order the lands were sold shall direct to whom the money is paid, and may add to the claim of the person conducting the sale the person's actual disbursements incurred in connection therewith and, where sufficient to satisfy the judgment and costs is not realized by the sale, the judge shall certify the amount of the deficiency and the names of the persons, with the amounts, who are entitled to recover the same and the persons by the judgment adjudged to pay the same, and such persons are entitled to enforce the same by execution or otherwise, as a judgment of the court. R.S., c. 277, s. 35.

#### **Notice of trial**

43 The party, who obtains an appointment fixing the day and place of trial, shall, at least eight clear days before the day fixed for the trial, serve a notice of trial, which may be in the form prescribed by the regulations, or to the like effect, upon the solicitors for the defendants who appear by solicitors, and upon all lien holders who have registered their liens as required by this Act, and upon all other persons having any registered charge or encumbrance or claim on the said lands who are not parties or, who being parties appear personally in the said action, and such service must be personal unless otherwise directed by the court or judge who is to try the action, and the court or judge may, in lieu of personal service, direct in what manner the notice of trial must be served. R.S., c. 277, s. 36.

#### **Consolidation of actions**

44 Where more than one action is brought to realize liens in respect of the same property, the court or judge having power to try such actions may, on the application of any party to any one of such actions, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff, in the court's or judge's discretion. R.S., c. 277, s. 37.

#### **Carriage of action**

45 Any lien holder entitled to the benefit of the action may apply for the carriage of the proceedings, and the court or judge having power to try the action may thereupon make an order giving such lien holder the carriage of the proceedings, and such lien holder shall, for all purposes in the action, be the plaintiff in the action. R.S., c. 277, s. 38.

#### **Costs**

46 (1) The costs of the action under this Act awarded to the plaintiffs and successful lien holders, must not exceed, in the aggregate, an amount equal to 25% of the amount of the judgment, besides actual disbursements, and is in addition to the amount of the judgment, and must be apportioned and borne in such proportion as the judge who tries the action may direct.

(2) Where the costs are awarded against the plaintiff or other persons claiming the lien, such costs must not exceed an amount, in the aggregate, equal to 25% of the claims of the plaintiff and other claimants, besides actual disbursements, and must be apportioned and borne as the judge may direct.

(3) In case the least expensive course is not taken by a plaintiff under this Act, the costs allowed to the solicitor must in no case exceed what would have been incurred if the least expensive course had been taken.

(4) Where a lien is discharged or vacated under Section 33, or where in an action judgment is given in favour of or against a claim for a lien, in addition to the costs of an action, the judge may allow a reasonable amount for costs of drawing and registering the lien or for vacating the registration of the lien.

(5) The costs of and incidental to all applications and orders made under this Act, and not otherwise provided for, are in the discretion of the judge. R.S., c. 277, s. 41.

#### **Fee for statement of claim**

47 Every statement of claim filed in an action to enforce a lien under this Act must be accompanied by a fee of three dollars which must be included in the costs and paid by law library stamp. R.S., c. 277, s. 42.

#### **Deficiency after sale**

48 All judgments in favour of lien holders must adjudge that the person or persons personally liable for the amount of the judgment shall pay any deficiency that may remain after sale of the property adjudged to be sold, and whenever, on a sale of any property to realize a lien under this Act, sufficient to satisfy the judgment and costs is not realized therefrom, the deficiency may be recovered against the property of such person or persons by the usual process of the court. R.S., c. 277, s. 43.

#### **Form of certificate vacating lien**

49 A certificate vacating a lien may be in the form prescribed by the regulations, or to the like effect. R.S., c. 277, s. 44.

### **TRUST PROVISIONS**

#### **Owner trustee of trust fund for contractor**

50 (1) All amounts received by an owner that are to be used in the financing of any of the purposes enumerated in Section 6, including any amount that is to be used in the payment of the purchase price of the land and the payment of prior encumbrances, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund for the benefit of the contractor.

(2) Where amounts become payable under a contract to a contractor by the owner, an amount that is equal to an amount that is in the owner's hands or received by the owner at any time thereafter constitutes a trust fund for the benefit of the contractor.

(3) Where the substantial performance of a contract has been deemed, or has been declared by the court, an amount that is equal to the unpaid



price of the substantially performed portion of the contract that is in the owner's hands or is received by the owner at any time thereafter constitutes a trust fund for the benefit of the contractor.

(4) The owner is the trustee of the trust fund created by subsection (1), (2) or (3), and the owner may not appropriate or convert any part of a fund to the owner's own use or to any use inconsistent with the trust until the contractor is paid all amounts related to any of the purposes enumerated in Section 6 owed to the contractor by the owner. 2004, c. 14, s. 20.

#### **Contractor trustee of trust fund**

##### **51 (1) All amounts**

- (a) owing to a contractor or subcontractor, whether or not due or payable; or
- (b) received by a contractor or subcontractor,

on account of the contract or subcontract price of any of the purposes enumerated in Section 6 constitute a trust fund for the benefit of the subcontractors and other persons who have supplied services or materials to any of the purposes enumerated in Section 6 who are owed amounts by the contractor or subcontractor.

(2) The contractor or subcontractor is the trustee of the trust fund created by subsection (1) and the contractor or subcontractor may not appropriate or convert any part of the fund to the contractor's or subcontractor's own use or to any use inconsistent with the trust until all subcontractors and other persons who supply services or material to any of the purposes enumerated in Section 6 are paid all amounts related to any of the purposes enumerated in Section 6 owed to them by the contractor or subcontractor. 2004, c. 14, s. 20.

#### **Where owner's interest in premises sold**

**52 (1)** Where the owner's interest in a premises is sold by the owner, an amount equal to

- (a) the value of the consideration received by the owner as a result of the sale;
- less
- (b) the reasonable expenses arising from the sale and the amount, if any, paid by the vendor to discharge any existing mortgage indebtedness on the premises,

constitutes a trust fund for the benefit of the contractor.

(2) The former owner is the trustee of the trust created by subsection (1), and may not appropriate or convert any part of the trust property to the former owner's own use or to any use inconsistent with the trust until the contractor is paid all amounts owed to the contractor that relate to any of the purposes enumerated in Section 6. 2004, c. 14, s. 20.

#### **Payment by trustee**

**53** Subject to Section 13, every payment by a trustee to a person the trustee is liable to pay for services or material supplied to any of the purposes enumer-

ated in Section 6 discharges the trust of the trustee making the payment and the trustee's obligations and liability as trustee to all beneficiaries of the trust to the extent of the payment made by the trustee. 2004, c. 14, s. 20.

#### **Retention or application of trust funds upon payment**

**54 (1)** A trustee who pays in whole or in part for the supply of services or material to any of the purposes enumerated in Section 6 out of money that is not subject to a trust under this Act may retain from trust funds an amount equal to that paid by the trustee without being in breach of the trust.

**(2)** Where a trustee pays in whole or in part for the supply of services or material to any of the purposes enumerated in Section 6 out of money that is loaned to the trustee, trust funds may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and the application of trust money does not constitute a breach of the trust. 2004, c. 14, s. 20.

#### **Retention of trust funds where outstanding debt or claim**

**55** A trustee may, without being in breach of trust, retain from trust funds an amount that, as between the trustee and the person the trustee is liable to pay under a contract or subcontract related to any of the purposes enumerated in Section 6, is equal to the balance in the trustee's favour of all outstanding debts, claims or damages, whether or not related to any of the purposes enumerated in Section 6. 2004, c. 14, s. 20.

#### **Persons liable for breach of trust**

**56 (1)** In addition to the persons who are otherwise liable in an action for breach of trust under this Act,

- (a) every director or officer of a corporation; and
- (b) any person, including an employee or agent of the corporation, who has effective control of a corporation or its relevant activities,

who assents to, or acquiesces in, conduct that the person knows or reasonably ought to know amounts to breach of trust by the corporation is liable for the breach of trust.

**(2)** The question of whether a person has effective control of a corporation or its relevant activities is one of fact and, in determining this, the court may disregard the form of any transaction and the separate corporate existence of any participant.

**(3)** Where more than one person is found liable or has admitted liability for a particular breach of trust under this Act, those persons are jointly and severally liable.

**(4)** A person who is found liable, or who has admitted liability, for a particular breach of trust under this Act is entitled to recover contribution from any other person also liable for the breach in such amount as will result in equal contribution by all parties liable for the breach unless the court considers such apportionment would not be fair and, in that case, the court may direct such contribution or indemnity as the court considers appropriate in the circumstances. 2004, c. 14, s. 20.

## MISCELLANEOUS PROVISIONS

**Builder's lien on chattel**

**57 (1)** Every person who has bestowed money or skill and material upon any chattel or thing in the alteration and improvement in its properties, or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and material bestowed, while such lien exists, but not afterwards, in case the amount to which the person is entitled remains unpaid for three months after the same ought to have been paid, has the right, in addition to all other remedies provided by law, to sell by auction the chattel or thing in respect to which the lien exists, on giving one week's notice by advertisement in a newspaper published in the county in which the work was done, or in case there is no newspaper published in such county, then in a newspaper circulating therein, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if the owner is a resident of such county.

**(2)** Such person shall apply the proceeds of the sale in payment of the amount due to such person and the costs of advertising and sale, and shall, upon application, pay over any surplus to the person entitled thereto. R.S., c. 277, s. 45.

**Personal judgment if lien not established**

**58** When, in any action brought under this Act, any claimant fails for any reason to establish a valid lien, the claimant may nevertheless recover therein a personal judgment against the party or parties to the action for such sum or sums of money as appear to be due the claimant from such party or parties, and that the claimant might recover in an action on the contract against such party or parties. R.S., c. 277, s. 46.

**Forms**

**59** The forms prescribed by the regulations, or forms similar thereto, or to the like effect, may be adopted in all proceedings under this Act. R.S., c. 277, s. 47.

**Regulations**

- 60 (1)** The Governor in Council may make regulations
- (a) respecting notice that a contract is substantially performed;
  - (b) respecting notice that a subcontract is complete;
  - (c) prescribing forms for the purpose of this Act.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**(3)** The forms contained in the Schedule to Chapter 277 of the Revised Statutes, 1989, are deemed to be prescribed pursuant to clause (1)(c) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act. 2013, c. 14, s. 3.

## CHAPTER B-15

# **An Act to Provide for the Accessibility by Physically Handicapped Persons to Buildings Constructed in Nova Scotia**

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### **Short title**

**1** This Act may be cited as the *Building Access Act*. R.S., c. 45, s. 1.

### **Interpretation**

**2** In this Act,

“building” means a building to which the public is admitted, but does not include apartment buildings, houses, boarding houses or buildings of Group F major occupancy as classified in the *National Building Code of Canada 1975*;

“Minister” means the Minister of Municipal Affairs and Housing;

“NBC” means the *National Building Code of Canada*;

“physically handicapped person” means a person who is subject to a physiological defect or deficiency regardless of its cause, nature or extent, and includes all such persons whether ambulatory or confined to a wheelchair. R.S., c. 45, s. 2.

### **Building access**

**3 (1)** Every building must have at least one principal entrance designed in conformance with NBC *Supplement No. 5, “Building Standards for the Handicapped 1975”*, for use by physically handicapped persons, opening to the outdoors at sidewalk level or to a ramp leading to an area at sidewalk level.

**(2)** Every building must provide access for physically handicapped persons from the entrance described in subsection (1) to public spaces on the entrance floor, and to at least one elevator where elevators are provided.

(3) In every building where washrooms are provided for the public, at least one washroom must be provided that is designed for and is accessible to physically handicapped persons in conformance with the appropriate provisions in NBC *Supplement No. 5, "Building Standards for the Handicapped 1975"*.

(4) Notwithstanding the definition of "building" in Section 2, for the purpose of subsections (1) and (2) "building" includes an apartment building containing more than eight dwelling units.

(5) Every bathroom or washroom doorway in an apartment building to which subsection (4) applies and, notwithstanding subsection (7), the construction of which commences on or after January 1, 1981, must be of a width of not less than 32 inches.

(6) Every person who is the owner, constructor, lessor or operator of a building that does not comply with this Section is guilty of an offence.

(7) This Section applies to new buildings the construction of which commences on or after April 1, 1977, but not to a new building to which the *Building Code Act* applies or a building existing at the time a building code is first adopted pursuant to the *Building Code Act* to the extent to which the *Building Code Act* applies to that building. R.S., c. 45, s. 3.

#### **Direction by Minister**

4 Where the Minister is of the opinion that Section 3 is being violated, the Minister may direct the person who owns or operates the building to provide access or facilities or cause access or facilities to be provided in accordance with Section 3 in a manner satisfactory to the Minister. R.S., c. 45, s. 4.

#### **National Building Code reference**

5 Where there is a reference in this Act to the *National Building Code of Canada* or a supplement thereto, such a reference is to be read and construed as if it incorporated the changes in the applicable portions of the *National Building Code of Canada* or the supplement as may be made from time to time. R.S., c. 45, s. 5.

#### **Enforcement**

6 Building inspectors in the employ of a regional municipality, town or other municipality shall enforce the provisions of this Act and shall report violations of this Act to the Minister. R.S., c. 45, s. 6.

#### **Regulations**

7 (1) The Governor in Council may make regulations respecting any matter or thing that is necessary to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 45, s. 7.

**Offence and penalty**

**8 (1)** Any person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for such offence is not otherwise provided, is liable to a fine of not more than \$1,000.

**(2)** Every person to whom a direction is given under Section 4 who fails to comply with it in accordance with its terms is guilty of an offence and on summary conviction is, in addition to the penalties mentioned in subsection (1), liable to a fine of not more than \$100 per day for every day upon which the offence continued after such order was given.

**(3)** Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed is \$5,000 and not as provided therein. R.S., c. 45, s. 8.

**Consent to prosecute**

**9** No prosecution may be commenced under this Act or the regulations without the consent of the Attorney General. R.S., c. 45, s. 9.

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## CHAPTER B-16

# An Act to Adopt and Implement a Building Code for Nova Scotia

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(The table of contents is not part of the statute)

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### Short title

**1** This Act may be cited as the *Building Code Act*. R.S., c. 46, s. 1.

### Interpretation

**2** In this Act,

“architect” means a member or licensee of the Nova Scotia Association of Architects;

“building” means a building as defined from time to time by the Building Code;

“Building Code” means the regulations made under Section 4;

“building official” means a person appointed as a building official under Section 5;

“clerk” means the clerk of a municipality;

“Committee” means the Nova Scotia Building Advisory Committee established by this Act;

“construct” means to do anything in the erection, installation, extension, relocation, material alteration or material repair of a building, and includes the installation of a factory-made building fabricated or moved from elsewhere;

“council” means the council of a municipality;

“demolition” means the doing of anything in the removal of a building or any material part thereof;

“Minister” means the Minister of Municipal Affairs and Housing or the Minister responsible for the *Building Code Act*;

“municipality” means a regional municipality, town or municipality of a county or district;

“National Building Code of Canada” means the *National Building Code* issued by the National Research Council;

“National Research Council” means the Associate Committee on the National Building Code of the National Research Council of Canada;

“occupancy” means the use or intended use of a building, as defined in the Building Code;

“owner” includes a person controlling the property under consideration, and also includes prima facie the assessed owner of the property whose name appears on the assessment roll prepared in accordance with the *Assessment Act*;

“permit” means a permit issued under this Act;

“professional engineer” means a member or licensee of the Association of Professional Engineers of Nova Scotia;

“regulations” includes bylaws. R.S., c. 46, s. 2; 2005, c. 47, s. 1.

### Application

**3** This Act applies to the construction or demolition of a building on and after April 1, 1987. R.S., c. 46, s. 3.

### Adoption of Building Code

**4 (1)** The Minister may make such regulations as are considered necessary or advisable for the purpose of establishing a Building Code governing minimum standards for the construction and demolition of buildings and, without limiting the generality of the foregoing, may make regulations

(a) adopting by reference the *National Building Code of Canada 1985* or any change thereto or any other code or requirement issued by the National Research Council, or any change thereto, in whole or in part with such modifications and additions as may be specified in the regulations, and requiring compliance with it as adopted;

(b) applying any or all the regulations to particular classes of buildings;



- (c) requiring the approval of a building official in respect of any method or matter of construction or demolition;
- (d) requiring notice to be given to a building official respecting
  - (i) any matter in the course of demolition or construction, or
  - (ii) any change in prescribed classes of occupancy made in a building;
- (e) requiring the transmission of reports and reviews to the building official;
- (f) requiring the making of tests, inspections or surveys necessary to prove compliance with the regulations;
- (g) requiring the remedying of an unsafe condition;
- (h) requiring that any part of the design, construction or demolition of a building be under the review of an architect, interior designer or engineer;
- (i) respecting the qualifications required for a building official to inspect a class of buildings;
- (j) prescribing the board, organization or institution from which a building official must obtain training or certification;
- (k) respecting the requirement for accreditation of a training or certification program for a building official;
- (l) respecting the qualifications required for members of the Committee;
- (m) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Upon the recommendation of the council of a municipality, the Minister may, by regulation, prescribe additional standards applicable to the construction or demolition of buildings in that municipality, if such standards are more stringent than the standards in the Building Code or relate to matters not regulated by the Building Code.

(3) The exercise by the Minister of the authority contained in subsections (1) and (2) is a regulation within the meaning of the *Regulations Act*.

(4) At least 45 days before prescribing regulations or amendments thereto under this Section, the Minister shall

- (a) give written notice of the Minister's intention to each council affected by the proposed regulations; and
- (b) give public notice of the Minister's intention by advertisement in a newspaper circulating in the municipalities affected, which notice must state
  - (i) where the proposed regulations may be inspected, and
  - (ii) the proposed effective date of the regulations.

(5) Copies of any regulations made under this Section must be mailed to the clerk of every municipality. R.S., c. 46, s. 4; 1998, c. 18, s. 550; 2005, c. 47, ss. 2, 12.

#### **Administration and enforcement of Act in municipality**

**5** (1) The council of a municipality is responsible for the administration and enforcement of this Act in the municipality.

(2) A building official or building officials must be appointed by each council to administer and enforce this Act in the municipality.

(3) The council of a municipality may enter into an agreement with another council or regional organization providing for the administration and enforcement of this Act in the municipality either in total or in respect of specific classes of buildings, and while the agreement is in effect the building officials of the municipality or regional organization designated to administer and enforce this Act have jurisdiction to do so in the municipality.

(4) The clerk of the municipality or the secretary of the regional organization shall issue a certificate of appointment bearing that person's signature or a facsimile thereof to each building official appointed by the municipality or regional organization who shall produce the certificate when requested to do so while in the performance of the building official's duties.

(5) Where an enactment requires that any action taken in a court of law be taken in the name of the municipality, any actions required to be taken with respect to the enforcement of this Act must be taken in the name of the municipality in which the property is located, but an agreement entered into between two or more municipalities or between a municipality and a regional organization under subsection (3) may provide that the authority to carry on actions or any class of actions may be delegated to a person or a regional organization, and in such cases the approval of the council of the municipality for each action is not required. R.S., c. 46, s. 5; 2005, c. 47, s. 12.

#### **Municipal bylaws**

**6** (1) The council of the municipality may pass bylaws not inconsistent with this Act or the regulations made by the Minister

(a) prescribing permits or classes of permits for the purpose of this Act and the regulations including permits in respect of construction or demolition or any stage thereof, and for occupancy and change of occupancy of a building;

(b) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;

(c) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;

(d) providing for the refunding of fees under such circumstances as are prescribed;

(e) providing for the inspection of construction or demolition;

(f) prescribing the time within which notices required by the regulations must be given to a building official;

(g) prescribing an expiry date for construction or demolition permits.

(2) A bylaw passed under this Section does not require the approval of the Minister but when a bylaw is published, the clerk shall file a certified copy of the bylaw with the Minister. R.S., c. 46, s. 7; 1998, c. 18, s. 550; 2005, c. 47, s. 3.

### Prohibitions

7 No person shall

(a) construct or demolish a building to which this Act applies; or

(b) occupy or change the class of occupancy of a building to which this Act applies,

except in accordance with this Act or the regulations and unless a permit therefor has been issued by a building official and the permit is in force. R.S., c. 46, s. 8; 2005, c. 47, s. 12.

### Issue of permits

8 (1) The building official shall issue a permit under Section 7 except if

(a) the proposed building or the proposed construction or demolition will not comply with an Act or a regulation or bylaw made under this Act or Part VIII or IX of the *Municipal Government Act*; or

(b) the application therefor is incomplete or any fees due are unpaid.

(2) An applicant for a permit shall inform the building official of any change in any information contained in the application.

(3) A building official may revoke a permit if

(a) it was issued on mistaken or false information;

(b) 12 months after its issuance, the construction or demolition in respect of which it was issued has not been seriously commenced; or

(c) the construction or demolition of the building is substantially suspended or discontinued for more than 12 months.

(4) A building official may not revoke a permit under subsection (3) until the building official has given written notice of an intention to do so to the permit holder and the owner of the building, if the owner is not the permit holder, at least 30 days prior to the proposed date of revocation.

(5) Any decision to refuse a permit or to revoke a permit and the reasons therefor must be communicated in writing to the permit holder or the owner. R.S., c. 46, s. 9; 1998, c. 18, s. 550; 2005, c. 47, s. 12.

**Entry by building official**

**9** (1) Subject to subsections (2) and (3), a building official may, for the purpose of ensuring compliance with the provisions of this Act or the Building Code, enter in or upon any land or premises at any reasonable time without a warrant.

(2) A building official may not enter any room or place actually being used as a dwelling without the consent of the occupier unless the entry is made during daylight hours and written notice of the time of the entry has been given to the occupier at least 24 hours in advance.

(3) Where a person refuses to allow a building official to exercise or attempts to interfere or interferes with a building official in the exercise of a power described in this Act, the municipality on whose behalf the building official is acting may apply to the Supreme Court of Nova Scotia for an order to allow the building official entry to the building and an order restraining the person from further interference. R.S., c. 46, s. 10; 2005, c. 47, ss. 4, 12.

**Powers of building official**

**10** (1) For the purpose of an inspection under Section 9, the building official may

(a) require the production of the drawings and specifications of the building or any part thereof that are in the possession of the owner, the permit holder, if the permit holder is not the owner, or agent of the owner;

(b) be accompanied by any person who has a special or expert knowledge of any matter in relation to a building or part thereof;

(c) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, inquiries or, subject to subsections (2) and (3), take such samples or photographs as are necessary for the purposes of the inspection;

(d) order any person responsible for the construction to take and supply at the person's own expense such tests and samples as are specified in the order.

(2) Where a building official takes a sample under clause (1)(c), the building official shall divide the sample into two parts and deliver one part to the owner, the permit holder, if the permit holder is not the owner, or the owner's agent, as the case may be, if any of them so requests at the time the sample is taken, and the necessary facilities are provided.

(3) Where a building official takes a sample under clause (1)(c) and has not divided the sample into two parts, a copy of any report on the sample must be given to the owner or the owner's agent, or the permit holder, if the permit holder is not the owner, as the case may be. R.S., c. 46, s. 11; 2005, c. 47, s. 12.

**Order to comply**

**11 (1)** Where a building official finds that any provision of this Act or the Building Code is being contravened or where a building official has given notice of intention to revoke a permit, the building official may give to the person whom the building official believes to be the contravener and the owner, if not the contravener, an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such reasonable time as the building official specifies.

**(2)** Where a building official gives an order under this Section, the order must contain sufficient information to specify the nature of the contravention and its location.

**(3)** Where a building official gives an order under this Section, the building official may affix a copy thereof to the site of the construction or demolition, and no person, except a building official, shall remove such copy unless authorized in writing by the building official.

**(4)** Except where an order given under subsection (1) is an order that the construction or demolition cease, where an order of a building official made under this Section is not complied with within the time specified therein or, where no time is specified, within a reasonable time in the circumstances, the building official may order that all or any part of the construction or demolition cease and such order must be served on the permit holder, the owner if the owner is not the permit holder and on such other persons affected thereby as the building official specifies.

**(5)** An order made under subsection (4) must be posted on the site of the construction or demolition and no person except a building official shall remove such copy unless authorized in writing by a building official.

**(6)** Where an order to cease construction or demolition is made under subsection (4), no person shall perform any act in respect of the construction or demolition of the building in respect of which the order is made other than

(a) such work as is necessary to carry out any other order of the building official made under this Section; or

(b) such work as is necessary to make the site of the construction or demolition safe. R.S., c. 46, s. 12; 2005, c. 47, s. 12.

**Nova Scotia Building Advisory Committee**

**12 (1)** A Nova Scotia Building Advisory Committee is established.

**(2)** The Minister may appoint to the Committee such number of members as the Minister determines for such terms as may be specified in the appointments.

**(3)** The Minister may prescribe the remuneration to be paid to members of the Committee who are not employees of the Crown in right of the Province.

**(4)** The Minister may designate from among the members of the Committee a Chair and a Vice-chair.

(5) A majority of the members of the Committee constitutes a quorum. R.S., c. 46, s. 13; 2005, c. 47, s. 5.

#### **Functions of Committee**

**13** The Committee shall

- (a) provide the Minister with such advice and assistance concerning this Act and the regulations as the Minister may require;
  - (b) provide a liaison between the Minister and the National Research Council, or any other persons or bodies interested in construction standards;
  - (c) hear disputes as provided by Section 14;
  - (d) respond to a matter referred to it by a court under Section 15;
- and
- (e) perform the duties and functions assigned to it by the Minister.
- R.S., c. 46, s. 14.

#### **Ruling on dispute**

**14 (1)** Where a dispute arises between an owner of a building or the owner's agent and a building official respecting the technical requirements of the Building Code or the sufficiency of compliance with such requirements, or respecting an order made by the building official under Section 11, the owner or the owner's agent may make an application to the Committee for a ruling on the subject-matter of the dispute.

(2) For the purpose of subsection (1), the agent of the owner includes any person employed by the owner in the design or construction of the building.

(3) An applicant for a ruling shall cause notice of the application to be served on the building official.

(4) The Committee may, with the approval of the Minister, establish the procedure to be followed before it in resolving a dispute, which may consist of the presentation of

- (a) written submissions;
- (b) oral submissions; or
- (c) a combination of written and oral submissions,

and the examination of witnesses on oath or affirmation.

(5) The parties to a dispute may agree upon the procedure to be followed by the Committee in the consideration of a particular question from among the procedures approved under subsection (4) but, in the absence of such agreement, the Committee shall decide which procedure will best permit the resolution of the dispute in the shortest practical time.

(6) The Committee may seek advice from such experts in the matter under consideration as it may consider advisable, but no decision may be

made until the parties to the dispute have received any report received by the Committee under this subsection and have responded to it.

(7) A member of the Committee shall not participate in a decision of the Committee under this Section if there is a hearing unless that member is present throughout the hearing and hears the submissions of the parties.

(8) No member of the Committee shall participate in the making of a decision under this Section where the member has an interest in or has previously considered the subject-matter of the dispute.

(9) The Chair may designate the members of the Committee who will consider an application for a ruling and, where the Chair is not one of the members so designated, the member who presides at any meeting of or hearing held by the members so designated.

(10) The Chair may, under subsection (9), designate fewer members of the Committee than a quorum thereof.

(11) Notwithstanding subsections (9) and (10), an application must be considered by at least three members of the Committee.

(12) A decision of the members designated under subsection (9) is a decision of the Committee.

(13) A decision of the Committee under this Section must be in writing although, where time constraints warrant, an oral decision may precede a written one.

(14) A decision of the Committee under this Section must either confirm or be substituted for the interpretation of the building official and the order of the building official that is the subject-matter of the appeal remains in force until the Committee renders a decision. R.S., c. 46, s. 15; 2005, c. 47, s. 12.

#### **Appeal to Supreme Court**

**15** (1) Any person who is adversely affected by an order given or decision made by a building official under this Act, or by a decision of the Committee may, within 30 days after the order or decision is made, apply to the Supreme Court of Nova Scotia for a hearing and appeal.

(2) Where an application is made under this Section in respect of a matter in which a question is pending before the Committee, the proceeding before the Committee is terminated.

(3) Where an application is made to the court for a hearing under subsection (1), the court shall appoint a time for and hold a hearing within 30 days after the application is made and may rescind or affirm the order or decision of the building official or the Committee, or take such action as the court considers the building official ought to take in accordance with this Act and the regulations, and for such purpose the court may substitute its opinion for that of the building official or the Committee.

(4) The court may refer a question respecting the technical requirements of the Building Code or the sufficiency of compliance with such technical requirements to the Committee for a determination, and the procedure before or the composition of the Committee must be determined under Section 14, following which the Committee shall report to the court.

(5) The court to which application is made for a hearing under subsection (1) may extend the time for making an application either before or after the time fixed therein, if the court is satisfied that there are prima facie grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as the court considers proper consequent upon the extension.

(6) Where, in the court's opinion, it is necessary in the interest of public safety and would not destroy the subject-matter of the appeal, the court may, upon application therefor, order that the order or decision appealed from not be stayed pending the outcome of the appeal, but rather take effect immediately. R.S., c. 46, s. 16; 2005, c. 47, ss. 6, 12.

### **Appeal to Court of Appeal**

16 (1) Any party to the hearing before the Supreme Court of Nova Scotia under Section 15 may appeal the decision to the Nova Scotia Court of Appeal in accordance with the *Civil Procedure Rules*.

(2) The Minister, either personally or by agent, is entitled to be heard upon the argument of an appeal under this Section.

(3) An appeal under this Section may be made upon any question that is not a question of fact alone. R.S., c. 46, s. 17; 2005, c. 47, s. 7.

### **Inquiry**

17 (1) Where it appears to the Minister that there is or may be a failure in construction or demolition standards or in the enforcement of this Act or the Building Code, the Minister may designate a person to conduct an inquiry into such failure.

(2) For the purpose of an inquiry under subsection (1), the person conducting the inquiry has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*. R.S., c. 46, s. 18.

### **Offences**

18 (1) Every person who

(a) knowingly furnishes false information in any application made under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with any order, direction or other requirement made under this Act or the regulations;

(c) contravenes any provision of this Act or the regulations,



and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to

(d) in the case of an individual, a fine of not less than \$500 and not more than \$25,000 or to imprisonment for a term of not more than one year, or both; and

(e) in the case of a corporation, a fine of not less than \$1,000 and not more than \$50,000.

(2) Notwithstanding subsection (1), where

(a) an individual knowingly commits;

(b) a director or officer of a corporation knowingly directs or authorizes, assents to, acquiesces in or participates in the commission of; or

(c) a corporation, whose director or officer knowingly directs, authorizes, assents to, acquiesces in or participates in the commission of,

an offence referred to in subsection (1) that results in

(d) the loss of human life, injury or damage to the health of a person; or

(e) a catastrophic impact on the community,

that person is guilty of an offence under this subsection and not under subsection (1), and is liable on summary conviction to

(f) in the case of an individual, a fine of not more than \$150,000 or to imprisonment for a term of not more than two years, or both; and

(g) in the case of a corporation, a fine of not more than \$250,000.

(3) Where an offence under subsection (1), (2) or (7) is committed on or continued for more than one day, it is deemed to be a separate offence for each day on which the offence is committed or continued.

(4) Any fines resulting from an offence under this Act accrue to the municipality in which the offence took place.

(5) In addition to any other penalty imposed for the conviction of an offence under this Act, the court may order the person to pay in trust to the Minister of Finance and Treasury Board a sum of money for the purpose of public safety education.

(6) In addition to any other penalty imposed for the conviction of an offence under this Act, the court may order the person to comply with this Act, the regulations, any bylaws made under this Act or a licence, a permit or any direction issued under this Act.

(7) Any person who fails to comply with an order issued under subsection (5) or (6) is guilty of an offence and is liable to the penalties set out in this Section. R.S., c. 46, s. 19; 2005, c. 47, s. 8.

#### **Limitation period**

19 The limitation period for the prosecution of an offence under this Act is two years from the date of the commission of the alleged offence. 2005, c. 47, s. 9.

#### **Action for remedy**

20 (1) In addition to any other remedy provided for by this Act, the council of the municipality, or a standing committee thereof, may authorize an action or other legal proceeding to be brought in the Supreme Court of Nova Scotia for any or all of the remedies provided by this Section.

(2) The Court or a judge thereof may, where a contravention of or failure to comply with this Act, the regulations or an order made under this Act has been established,

(a) make orders restraining the continuance or repetition of such contravention or failure and the new or further contravention or failure in respect of the same building;

(b) make orders directing the removal or destruction of the building or structure or a part thereof that is in contravention of or fails to comply with this Act or the regulations, and authorizing the council, a standing committee or official thereof, if such order is not complied with, to enter upon the land and premises with such necessary workers and remove and destroy the building or structure or part thereof at the expense of the owner; and

(c) make such further order as to the recovery of the expense of any such removal and destruction, and to enforce this Act and the regulations, and as to costs, as the Court or judge considers proper,

and any such order may be interlocutory, interim or final. R.S., c. 46, s. 20; 2005, c. 47, s. 10.

#### **Amendment of proceeding**

21 In the event of a fresh offence by the same person against this Act or the regulations after an action or other legal proceeding has been commenced, it is not necessary to bring any other action or proceeding, but the action or proceeding already begun and any pleading or information therein may be amended from time to time at any time before final judgment so as to include such fresh offences and the Court or judge shall hear, deal with and determine the whole matter of such violations. R.S., c. 46, s. 21.

#### **Evidence or proof**

22 (1) The production of a printed volume or paper purporting to contain the Building Code or the National Building Code of Canada or any other code adopted by regulation, or any amendment, revision or abridgement thereof is prima facie evidence of the Building Code or the National Building Code, other code, amendment, revision or abridgement, as the case may be.

(2) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is prima facie proof of the direction or order without proof of the signature or authority of the person by whom it purports to be signed. R.S., c. 46, s. 22.

#### **Public utilities**

**23** Notwithstanding the *Public Utilities Act*, the *Electrical Installation and Inspection Act* or any other Act, no public utility shall make a new permanent connection, or supply electric power, energy, water or steam heat through such connection, to any building until it is established that all permits required by this Act or the regulations prior to occupancy of the building have been obtained. R.S., c. 46, s. 23.

#### **Service of notice**

**24** Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given or the person's agent for service at the person's or agent's last known address. R.S., c. 46, s. 24.

#### **Interest of building official**

**25 (1)** No building official shall grant or revoke a permit, conduct an inspection or make an order under this Act in respect of a building or property in which the building official has any interest.

(2) Where subsection (1) precludes a building official from acting and where no other building official is available, the building official shall notify the council, which shall appoint a person to act as a building official for that purpose. R.S., c. 46, s. 25; 2005, c. 47, s. 12.

#### **Effect on other laws**

**26 (1)** This Act and the regulations supersede all municipal bylaws governing the construction or demolition of buildings, except with respect to construction or demolition for which a permit has been issued before April 1, 1987, and that has been seriously commenced within 12 months of the date the permit was granted and is not afterward abandoned for a period of more than 90 days, or where no permit is required, that has been commenced before April 1, 1987, and is not afterward abandoned for a period of more than 90 days.

(2) Nothing in this Act or the regulations affects the *Electrical Installation and Inspection Act*, the *Elevators and Lifts Act*, the *Fire Safety Act* or the *Technical Safety Act* and the regulations made thereunder.

(3) Where the provisions of any private or local Act conflict with the provisions of this Act, the provisions of this Act prevail. R.S., c. 46, s. 26; 2005, c. 47, s. 11.

#### **No action**

**27** No action or proceeding lies against the Crown, a municipality or a servant or agent thereof for any matter or thing done or omitted to be done by them

in good faith and with reasonable care in exercising their powers or carrying out their duties under this Act or the regulations. R.S., c. 46, s. 27.

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## CHAPTER B-17

# **An Act to Enable Information to be Filed Electronically by Business**

### **Table of Contents**

(The table of contents is not part of the statute)

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### **Short title**

**1** This Act may be cited as the *Business Electronic Filing Act*. 1995-96, c. 3, s. 1.

### **Purpose of Act**

**2** The purpose of this Act is to

- (a) enable information and forms to be filed electronically by business;
- (b) establish a system of business identifiers;
- (c) establish a unified database to provide access to information required to be maintained under designated enactments;
- (d) permit a person, other than an officer or employee of the Crown, to perform any function or service under a designated enactment;
- (e) simplify Government regulatory requirements, eliminate duplication in procedures and improve Government organizational arrangements; and
- (f) enhance the ability of Government to co-operate with other governments or levels of government for greater efficiency and to eliminate unnecessary duplication. 1995-96, c. 3, s. 2.

**Interpretation**

**3** In this Act,

“business” means

(a) a person authorized or entitled to carry on a trade, occupation, profession, service or venture with a view to profit, including a partnership and a limited partnership; and

(b) a society, non-profit corporation or Crown corporation, and, where the context requires, includes a person establishing a business pursuant to a designated enactment;

“Crown” means the Crown in right of the Province;

“designated enactment” means an enactment designated pursuant to this Act;

“file” means to file, register, submit, deposit, make an application or otherwise make available;

“Minister” means the member of the Executive Council assigned responsibility for the supervision and management of this Act and the regulations;

“officer”, in relation to the Crown, includes a member of the Executive Council and a servant or employee of the Crown;

“prescribed” means, except where the context otherwise requires, prescribed pursuant to this Act. 1995-96, c. 3, s. 3; 2006, c. 16, s. 2.

**Designation of enactments**

**4** The Governor in Council may designate any enactment for the purpose of this Act. 1995-96, c. 3, s. 4.

**Filing**

**5 (1)** The Governor in Council may make regulations

(a) authorizing or requiring information that businesses are required to file under this Act or a designated enactment, to be filed and maintained in an electronic or other prescribed format;

(b) authorizing or requiring information that businesses are required to file under this Act or a designated enactment, to be filed by direct electronic transmission to an electronic database;

(c) authorizing or requiring forms that businesses are required to file under this Act or a designated enactment, to be signed by electronic signature or by signature copied or reproduced in a prescribed manner;

(d) authorizing or requiring forms that businesses are required to file under this Act or a designated enactment, to be filed without signatures;

(e) prescribing fees for filing information or forms that businesses are required to file under this Act;

(f) prescribing fees for filing information or forms that businesses are required to file under a designated enactment or changing the filing fees prescribed under a designated enactment;

(g) prescribing the electronic format or formats that may be used when information is filed pursuant to this Act or a designated enactment;

(h) governing the time of filing assigned when the information is filed in electronic format or by direct electronic transmission;

(i) designating places where information may be filed in accordance with this Act and areas in respect of which information may be filed;

(j) governing the filing of information that is presented in a prescribed electronic format;

(k) governing the filing of information by direct electronic transmission;

(l) prescribing the effect of the payment of fees or charges electronically where payment is required to accompany a filing;

(m) unifying procedures for businesses to file information under designated enactments;

(n) unifying financial and statistical reporting requirements and procedures for businesses under designated enactments;

(o) prescribing common dates or time periods for businesses to file information or to pay fees, taxes or other charges under designated enactments;

(p) prescribing methods by which businesses may pay fees, taxes or other charges under designated enactments;

(q) prescribing methods for allocating payments made under designated enactments;

(r) requiring renewal of licences or filings pursuant to designated enactments from time to time, with or without conditions;

(s) prescribing information to be provided for the purpose of administering and enforcing this Act and requiring a business to provide that information to the Minister.

**(2)** Where information is filed by direct electronic transmission, the time or date of filing is the time or date assigned in the prescribed manner.

**(3)** A form filed in an electronic form has the same effect for all purposes as if the form were in writing.

**(4)** A form filed pursuant to clause (1)(d) has the same effect for all purposes as if the form were signed by the party or parties that would have been required to sign the form, but for a regulation made pursuant to that clause.

**(5)** A regulation made pursuant to a designated enactment may apply to some or all of the information or documents that may be filed under the designated enactment.

(6) Information filed electronically pursuant to this Act is deemed to be filed for the purpose of the designated enactment.

(7) A regulation made pursuant to subsection (1) may prescribe all the requirements that are necessary in the circumstances to achieve the objective of the regulation, including adjusting the amount of fees that businesses are required to pay under designated enactments.

(8) Nothing in this Section affects a provision in a designated enactment with respect to the maintenance of separate funds or the priority of entitlements to funds under the designated enactment. 1995-96, c. 3, s. 5; 2006, c. 16, s. 3.

### Forms

6 (1) The Governor in Council may, for the purpose of this Act, approve forms that have the same effect as forms prescribed or approved by the Governor in Council under designated enactments.

(2) The Minister may approve forms that have the same effect as forms prescribed or approved by a member of the Executive Council, board or agency under a designated enactment.

(3) Notwithstanding subsections (1) and (2), the Minister may combine forms prescribed or approved under either of those subsections into a single form and may adapt the form as is necessary in the circumstances for the purpose of a designated enactment.

(4) The Governor in Council may make regulations providing for the use of forms that are prescribed or approved pursuant to this Section. 1995-96, c. 3, s. 6.

### Filing and accessing of information

7 (1) Information that businesses are required to file or are authorized to access under a designated enactment may be filed or accessed, as the case may be, by a person who is authorized to do so by the Minister or by a person who is a member of a class of persons that is authorized to do so.

(2) The Minister may attach conditions to an authorization given pursuant to subsection (1). 1995-96, c. 3, s. 7.

### Right to deduct compensation

8 A bank, trust or loan company, credit union or other financial institution prescribed by the regulations or a person referred to in subsection 9(4), that receives a payment of fees, taxes, interest, penalties or other charges under this Act or a designated enactment on behalf of a member of the Executive Council by the debit card, credit card or pre-authorized charge of the institution or person or by such other method of payment acceptable to the Minister of Finance and Treasury Board, may deduct from the payment the amount of compensation that the Minister of Finance and Treasury Board and the institution or person agree may be deducted. 1995-96, c. 3, s. 8.



**Provision of service**

**9 (1)** The Governor in Council may establish an organization in any department or an agency or a corporation to provide any service under this Act or a designated enactment and provide for all matters necessary to fund, staff and operate the organization, agency or corporation.

**(2)** Where the Governor in Council has made a regulation pursuant to Section 5 unifying procedures for businesses to apply for licences and permits under designated enactments, the Governor in Council may establish a business registration access service to receive the applications and to issue the licences and permits.

**(3)** The Governor in Council may enter into agreements with a municipality, province of Canada or government to

(a) provide a service under this Act or a designated enactment in co-operation with that municipality, province or government, either directly or through another person;

(b) operate a business regulation service on behalf of that municipality, province or government for the purpose of this Act.

**(4)** The Minister may appoint an officer of the Crown or enter into an agreement with any other person to perform any function or service under a designated enactment for the purpose of this Act.

**(5)** A person who, pursuant to subsection (4), is appointed or required by an agreement to perform a function or service has the power to perform the function or service mentioned in the appointment or the agreement, as the case may be.

**(6)** A person who, pursuant to an agreement referred to in subsection (4), is required to perform a function or service is deemed not to be an officer of the Crown for the purpose of the function or service. 1995-96, c. 3, s. 9.

**Business identifiers**

**10 (1)** The Governor in Council may establish a system of business identifiers and provide for the manner in which business identifiers are assigned to a business or a class of businesses.

**(2)** The Governor in Council may make regulations providing for the use that businesses are required to make of the system of business identifiers.

**(3)** The Minister may enter into agreements providing for the integration of a system of business identifiers established pursuant to this Section with any system of business identification established by a municipality, province or government. 1995-96, c. 3, s. 10.

**Unified database**

**11 (1)** The Governor in Council may establish a unified database for information required to be maintained under designated enactments and provide for the creation of, maintenance of, access to and use of the database.

(2) The Governor in Council may enter into agreements with a municipality, province of Canada or government to adopt common forms, reporting and filing processes with that municipality, province or government or to share databases with the municipality, province or government.

(3) The Minister is responsible for the supervision of a database established pursuant to this Section.

(4) Where the Minister receives information pursuant to this Act or a designated enactment, the Minister may disclose the information

(a) to a member of the Executive Council for the purpose of the administration of a designated enactment, including the updating of a record or database;

(b) to a municipality, province of Canada or government in accordance with an agreement between the municipality, province or government and the Crown;

(c) to a person,

(i) whom the Minister has authorized to access the information in the prescribed manner, or

(ii) with whom the Minister has entered into an agreement regarding the use of the information; or

(d) pursuant to Section 33 of the *Freedom of Information and Protection of Privacy Act*. 1995-96, c. 3, s. 11; 1998, c. 8, s. 2.

#### **Prescribing standards**

12 The Governor in Council may prescribe standards that persons are required to comply with for the purpose of this Act in the definition, collection, transmission and presentation of information under this Act or in the provision of services under a designated enactment, or adopt such standards by reference, including reference to standards as amended from time to time. 1995-96, c. 3, s. 12.

#### **Electronic format of information**

13 (1) Information filed pursuant to this Act or a designated enactment may be in such electronic format as may be prescribed by regulations made pursuant to a designated enactment.

(2) Information may be filed in an electronic format if it is recorded on a system of electronic data storage that, in the opinion of the person who is responsible for the maintenance of the information filed, is capable of being read by the computer or other equipment used in the information filing system.

(3) Where a designated enactment provides that a certified copy of a document filed pursuant to that enactment be made available and the information is filed in an electronic format, a document that is a certified copy of the information filed may be provided.

(4) A document that is a certified copy of information filed in an electronic format has the same evidentiary value and may be used in like manner as a certified copy of a document made available under a designated enactment. 1995-96, c. 3, s. 13.

**Entitlement to compensation**

**14 (1)** Subject to subsection (5) and the regulations made pursuant to this Act, a person is entitled to compensation from the Crown for any monetary loss that the person suffers that is directly attributable to an error or omission of an officer of the Crown who performs a duty or provides a service under this Act or a designated enactment for the purpose of this Act.

**(2)** No action or other proceedings for damages may be instituted against the Crown for any monetary loss that a person suffers as a result of

(a) an error or omission of a person who is not an officer of the Crown and who performs a duty or provides a service under this Act or a designated enactment for the purpose of this Act; or

(b) any inaccuracy or incompleteness in a record maintained under this Act or a designated enactment for the purpose of this Act.

**(3)** No action or other proceeding for damages may be instituted against an officer of the Crown for an act done in good faith in the execution or intended execution of a duty or service under this Act or a designated enactment for the purpose of this Act or for an alleged neglect or default in the execution in good faith of the duty or service.

**(4)** Notwithstanding the *Proceedings against the Crown Act*, subsection (3) does not relieve the Crown of liability in respect of a tort committed by an officer of the Crown to which it would otherwise be subject.

**(5)** Subsections (1) to (4) do not apply to a claim for compensation that relates to the administration of a designated enactment if the designated enactment contains provisions on the right to compensation and the amount of compensation that is payable to a person who suffers a monetary loss.

**(6)** The Governor in Council may make regulations

(a) attaching conditions to the right to receive compensation pursuant to this Section, including specifying cases in which no compensation is payable;

(b) establishing a compensation fund for the purpose of subsection (1) or a designated enactment;

(c) governing the right to receive compensation out of the fund and the amount of compensation payable out of the fund for a claim or a class of claims;

(d) governing procedures for making claims against the fund;

(e) providing for the appointment of persons to hear claims against the fund and governing the conditions for hearings.

**(7)** Where a compensation fund is established pursuant to this Section, a claim for compensation under this Act or a designated enactment must be made to the fund.

(8) No action or other proceeding for damages may be instituted against the Crown with respect to any matter in relation to which a claim against a compensation fund established pursuant to this Section may be filed.

(9) Notwithstanding clause (2)(a) or any provision in a designated enactment, the Minister may enter into agreements with a municipality, province of Canada or government to pay compensation where records are maintained or duties are performed in co-operation with that municipality, province or government.

(10) Where the Minister is required to pay compensation pursuant to an agreement referred to in subsection (9) and the regulations made pursuant to this Section have established a compensation fund, the payment may be made from the compensation fund. 1995-96, c. 3, s. 14.

#### **Effect of conflict**

15 Where there is a conflict between this Act or the regulations made pursuant to this Act and a designated enactment or regulations made pursuant to a designated enactment, this Act or regulations made pursuant to this Act prevail. 1995-96, c. 3, s. 15.

#### **Regulations**

16 The Governor in Council may make regulations

- (a) prescribing anything that is required to be prescribed pursuant to this Act;
- (b) defining any word or expression used but not defined in this Act;
- (c) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act. 1995-96, c. 3, s. 16.

#### **Regulations Act**

17 The exercise by the Governor in Council of the authority contained in Section 4, subsection 5(1), 6(4) or 10(2), Section 12, subsection 14(6) or Section 16 is a regulation within the meaning of the *Regulations Act*. 1995-96, c. 3, s. 17.

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