

**REVISED STATUTES
OF
NOVA SCOTIA
2023**

BEING A
CONSOLIDATION AND REVISION OF
THE PUBLIC GENERAL STATUTES OF THE PROVINCE
PRINTED AND PUBLISHED PURSUANT TO
CHAPTER 443 OF THE REVISED STATUTES, 1989,
THE STATUTE REVISION ACT, AND
REPRESENTING THE LAW AS OF DECEMBER 31, 2023, AND
IN FORCE ON A DAY TO BE FIXED BY
THE GOVERNOR IN COUNCIL BY PROCLAMATION

VOLUME E



© 2024 His Majesty the King in right of the Province of Nova Scotia
Published by Authority of the Speaker of the House of Assembly
Halifax

VOLUME E
Revised Statutes of Nova Scotia
2023

Chapter		Page
E-1	Early Learning and Child Care Act.....	2127
E-2	Economic Council Act	2134
E-3	Education Act.....	2136
E-4	Education (CSAP) Act	2177
E-5	Elections Act	2249
E-6	Electrical Installation and Inspection Act	2418
E-7	Electricity Act	2423
E-8	Electronic Commerce Act	2445
E-9	Elevators and Lifts Act.....	2455
E-10	Emancipation Day Act	2463
E-11	Embalmers and Funeral Directors Act.....	2465
E-12	Emergency “911” Act	2479
E-13	Emergency Department Accountability Act	2485
E-14	Emergency Health Services Act.....	2487
E-15	Emergency Management Act.....	2492
E-16	Employment Support and Income Assistance Act	2503
E-17	Endangered Species Act.....	2512
E-18	Endometriosis Awareness Month Act	2526
E-19	Energy Resources Conservation Act.....	2527
E-20	Energy-efficient Appliances Act	2532
E-21	Enforcement of Canadian Judgments and Decrees Act	2535
E-22	Enforcement of Payment of Fines Act	2541
E-23	Engineering Profession Act.....	2544
E-24	Environment Act	2569
E-25	Environmental Goals and Climate Change Reduction Act.....	2677
E-26	Equity Tax Credit Act	2685
E-27	Escheats Act.....	2705
E-28	Essential Health and Community Services Act	2712
E-29	Estate Actions Act	2726
E-30	Evidence Act	2728
E-31	Executive Council Act	2751
E-32	Expropriation Act.....	2756

CHAPTER E-1

An Act Respecting Early Learning and Child Care

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Director	3
Licence required.....	4
Licence to operate facility.....	5
Cancellation, suspension or refusal.....	6
Deemed cancellation.....	7
Duties of agency.....	8
Duties of care provider.....	9
Right of entry	10
Identification of Director	11
Records, returns and reports.....	12
Alteration of facility.....	13
Condition for holding out.....	14
Municipal facility.....	15
Penalty.....	16
Separate offence.....	17
Regulations.....	18
Facility under former Acts	19

Short title

1 This Act may be cited as the *Early Learning and Child Care Act*. R.S., c. 120, s. 1; 2018, c. 33, s. 2.

Interpretation

2 In this Act,

“agency” means a person licensed by the Minister to manage family child-care homes;

“care provider” means a person approved by an agency to provide a family home child-care program in the care provider’s home;

“child care” means services providing children with care, guidance and supervision that support the child’s development and learning and that are provided by an individual other than the child’s parent, except those services exempted by the regulations;

“Director” means the Director appointed pursuant to this Act;

“facility” means a building or part of a building where child care is provided, but does not include a place such as a hospital or a school that is subject to other statutory regulation;

“family child-care home” means a care provider’s home where a family home child-care program is provided;

“family home child-care program” means a child-care program provided by a care provider in the care provider’s home;

“licence” means a licence issued or renewed pursuant to this Act;

“licensee” means the person or agency in whose name a licence has been issued;

“Minister” means the Minister of Education and Early Childhood Development;

“parent” means a parent, guardian, foster parent or any other person having the care and custody of a child. 2018, c. 33, s. 3.

Director

3 For the purpose of this Act, a Director may be appointed in accordance with the *Civil Service Act*. R.S., c. 120, s. 3.

Licence required

4 No person shall conduct, maintain, operate or manage a facility or hold out that a facility is being operated unless there is a valid licence to operate the facility. R.S., c. 120, s. 4; 2018, c. 33, s. 4.

Licence to operate facility

5 (1) A person may make application in the form and manner prescribed by the regulations for a licence or the renewal of a licence to operate a facility.

(2) An agency may make an application in the form and manner prescribed by the regulations for a licence or the renewal of a licence to operate as an agency.

(3) The Minister may issue or renew a licence if satisfied that

- (a)** the applicant, the facility and the agency comply with this Act and the regulations; and
- (b)** the fee prescribed by the regulations is paid.

(4) The Minister may from time to time attach to any licence such terms and conditions or restrictions as the Minister considers advisable.

(5) A licence must be in the form prescribed by the regulations and expires one year from the date on which it was issued or at such other time as the Minister may prescribe in the licence. R.S., c. 120, s. 5; 2018, c. 33, s. 5.

Cancellation, suspension or refusal

6 (1) The Minister may cancel, suspend, refuse to issue or refuse to renew a licence if the Minister is satisfied that the holder of the licence or an agent or employee of the holder of the licence has violated any provision of this Act or the regulations or has not complied with any term, condition or restriction attached to the licence.

(2) The Minister shall provide written reasons for the cancellation, suspension or refusal.

(3) A person affected by the Minister's action taken pursuant to subsection (1) may request the Minister to review the action. R.S., c. 120, s. 6; 2018, c. 33, s. 6.

Deemed cancellation

7 A licence is deemed cancelled when

- (a) a person to whom it was issued ceases to operate or own a facility; or
- (b) an agency ceases to manage family child-care homes. 2018, c. 33, s. 7.

Duties of agency

8 An agency shall

- (a) recruit and approve persons meeting the qualifications set out in the regulations as care providers;
- (b) approve family child-care homes that meet the requirements set out in the regulations as places where family home child-care programs may be provided;
- (c) enter into agreements with care providers as required;
- (d) manage and monitor care providers to ensure compliance with the requirements set out in the regulations for care providers;
- (e) monitor family child-care homes to ensure compliance with the requirements set out in the regulations for family child-care homes;
- (f) revoke approvals given pursuant to this Section to a care provider or a family child-care home if there is a failure by the care provider or family child-care home to comply with the requirements set out in the regulations;
- (g) hire a family home consultant who has the qualifications prescribed by the regulations;
- (h) ensure the family home consultant provides services and support to care providers and to family child-care homes managed by the agency in accordance with the regulations; and
- (i) perform any other duties assigned by the Director or prescribed by the regulations. 2018, c. 33, s. 8.

Duties of care provider

9 Every care provider shall

- (a) provide a family home child-care program in accordance with the program standards and requirements set out in the regulations; and
- (b) have responsibility for the health and safety of the children in the family child-care home enrolled in the family home child-care program as required by the regulations. 2018, c. 33, s. 8.

Right of entry

10 (1) The Director, or a person acting on the Director's behalf, may at any reasonable time enter

(a) a facility, or any place that the Director has reasonable grounds to believe is a facility; or

(b) an agency,

and may examine the premises, equipment, facilities, books and records located in the facility or agency.

(2) With the consent of the care provider, the Director, or a person acting on the Director's behalf, may attend and inspect a family child-care home to ensure compliance by the agency with the regulations.

(3) The licensee or person in charge of a facility shall

(a) permit the Director, or a person acting on the Director's behalf, at all reasonable times to enter and inspect the facility and the agency and examine the premises, equipment and facilities;

(b) produce to the Director, or person acting on the Director's behalf, for examination, the accounts, books and records of the facility and the agency; and

(c) permit the Director, or any person acting on the Director's behalf, to assess the program and services of the facility and the agency. R.S., c. 120, s. 8; 2018, c. 33, s. 9.

Identification of Director

11 The Director, or a person acting on the Director's behalf, carrying out an inspection under this Act shall produce, on request, the identification provided to the Director or person for this purpose. 2018, c. 33, s. 10.

Records, returns and reports

12 (1) The person to whom a licence is issued shall forward to the Director such records, returns and reports as the Director requests and in the form and manner and within the time requested by the Director.

(2) Every licensee and care provider shall maintain files, log books, records, returns and other documents as prescribed by the regulations. R.S., c. 120, s. 9; 2018, c. 33, s. 11.

Alteration of facility

13 No person shall permit or cause a facility for which a licence is in force to be altered so as to increase or decrease its capacity or to significantly affect the care of children without first submitting to the Minister plans of the alteration or addition and receiving the approval of the Minister. R.S., c. 120, s. 10; 2018, c. 33, s. 12.

Condition for holding out

14 No person shall advertise or hold out any place to be a facility or assume, use or display in connection with the place, any terms, signs, title or words

that imply or lead the public to believe that the place is a facility, unless there is a valid licence for that facility. R.S., c. 120, s. 11; 2018, c. 33, s. 13.

Municipal facility

15 (1) In this Section “municipal unit” means a county or district municipality, a regional municipality or a town.

(2) With the approval of the Minister, a municipal unit or two or more municipal units that enter an agreement may, directly or through an agent, erect, acquire, purchase, lease, alter, add to, improve, furnish and equip a building or part of a building as a facility and may purchase, lease or otherwise acquire land therefor and may operate and maintain a facility.

(3) A facility provided or operated by a municipal unit is regulated by bylaws made by the council of the municipal unit subject to the approval of the Minister.

(4) A facility provided or operated by two or more municipal units or by an agent of one or more municipal units is regulated in the manner agreed upon by the Minister and the municipal unit or units.

(5) The sums required by a municipal unit for the establishment or operation of a facility must be sums required for the ordinary lawful purposes of the municipal unit and must be raised, levied and collected in the same manner and in all respects as other sums required for the ordinary lawful purposes of the municipal unit are raised, levied and collected. R.S., c. 120, s. 12.

Penalty

16 Every person failing to comply with any of the provisions of this Act or the regulations, or with any term, condition or restriction attached to a licence, is liable on summary conviction to a penalty of not more than \$100 and in default of payment to imprisonment for not more than 50 days. R.S., c. 120, s. 13; 2018, c. 33, s. 14.

Separate offence

17 Every day that a person fails to comply with any of the provisions of this Act or the regulations, or fails to comply with any term, condition or restriction attached to a licence, constitutes a separate violation and the punishment may be imposed as many times as there are separate offences proved. R.S., c. 120, s. 14; 2018, c. 33, s. 15.

Regulations

- 18 (1)** The Governor in Council may make regulations
- (a) exempting a child-care service from the operation of this Act;
 - (b) prescribing forms and providing for their use;
 - (c) prescribing the procedure to make an application for a licence and a licence renewal;
 - (d) prescribing the fees to be paid for a licence;

- (e) prescribing criteria for revocation or suspension of a licence;
- (f) prescribing the requirements for approval as a care provider;
- (g) prescribing qualifications for care providers;
- (h) prescribing the requirements for approval of a care provider's home as a family child-care home;
- (i) prescribing qualifications for a family home consultant;
- (j) prescribing the role, powers and duties of an agency;
- (k) prescribing the standards and requirements for a family home child-care program;
- (l) establishing policies, procedures and requirements for the health and safety of children in a facility, family child-care home and an agency play space;
- (m) prescribing the manner in which a licence is to be viewable by the public;
- (n) respecting a review by the Minister of action taken pursuant to this Act;
- (o) respecting files, log books, records and other documents maintained for the purpose of this Act;
- (p) prescribing the procedures for responding to the Director's request to provide information;
- (q) respecting the conditions, including the maximum number of children in a facility or family child-care home and child-staff ratios for which the facility or agency is licensed;
- (r) respecting fees, subsidization, capital and operating costs;
- (s) requiring and prescribing standards of programs, services, health, space, fire protection and safety in or for a facility, family child-care home and an agency play space;
- (t) respecting a child-care advisory committee to advise the Minister;
- (u) respecting the establishment of facilities and agencies;
- (v) defining any word or expression used but not defined in this Act;
- (w) further defining any word or expression defined in this Act;
- (x) respecting any manner 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. 33, s. 16.

Facility under former Acts

19 Any day nursery or day care centre licensed or registered under the former *Day Nurseries Act* or the former *Day Care Services Act* immediately before January 1, 1980, is deemed to be a facility and subject to this Act. R.S., c. 120, s. 16.

CHAPTER E-2

An Act to Provide for an Economic Council in Nova Scotia

Table of Contents

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

	Section
Short title.....	1
Economic Council.....	2
Appointment of officials.....	3
Remuneration.....	4
Powers, duties and functions.....	5
Further duty.....	6
Powers, privileges, immunities.....	7
Reports.....	8

Short title

1 This Act may be cited as the *Economic Council Act*. R.S., c. 135, s. 1.

Economic Council

2 (1) The Governor in Council may appoint a Nova Scotia Economic Council, hereinafter referred to as the “Council”, to consist of not more than 15 members and shall designate one of the members so appointed to be the Chair of the Council.

(2) A majority of the members of the Council constitute a quorum. R.S., c. 135, s. 2.

Appointment of officials

3 The Governor in Council may appoint a secretary to the Council and such other officials as may be considered necessary for carrying out the duties of the Council. R.S., c. 135, s. 3.

Remuneration

4 The remuneration of the Chair and of the other members of the Council is determined by the Governor in Council, who shall likewise fix the salaries to be paid to the Secretary and other officials of the Council. R.S., c. 135, s. 4.

Powers, duties and functions

5 The powers, duties and functions of the Council are to

(a) advise the Governor in Council on all matters relating to the promotion and development of the industry and trade of the Province;

(b) provide for industrial research and coordinate as far as possible all industrial and scientific investigation;

(c) furnish advice with regard to the best methods of utilizing the natural resources of the Province;

(d) collect and arrange facts and statistics relating to the agricultural, industrial and other interests and resources of the Province, and adopt such measures for circulating and disseminating the same as may be found to be best adapted to promote the progress of the Province;

(e) co-operate with any council, board, bureau or agency established or to be established for like purposes or for purposes allied to those of the Council; and

(f) generally, make investigation of the possibilities of economic and industrial development in the Province with a view to making recommendations as to market extension, industrial expansion and increase of employment, and for any other purpose calculated to promote the social and economic development of the Province. R.S., c. 135, s. 5.

Further duty

6 The Council shall make such other investigations and conduct such other inquiries for the purpose of this Act in such manner as the Governor in Council may require and direct. R.S., c. 135, s. 6.

Powers, privileges, immunities

7 For the purpose of any investigation held pursuant to this Act, the Council has in respect of the investigation all powers, privileges and immunities conferred upon a commissioner appointed under the *Public Inquiries Act*. R.S., c. 135, s. 7.

Reports

8 The Council shall make to the Governor in Council an annual report of its transactions and such other report or reports as the Governor in Council may require or direct. R.S., c. 135, s. 8.

CHAPTER E-3

An Act Respecting Education

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Supervision of Act and education system	4
Public Schools	
Free schools.....	5
Right to attend school	6
International students	7
School year and fiscal year	8
Minister	
Role of Minister	9
Powers of Minister.....	10
Provincial Advisory Council on Education	
Establishment of and composition	11
Term of office.....	12
Presiding member	13
Terms of reference	14
Duty to advise Minister.....	15
Remuneration.....	16
Mi'kmaq Education	
Council on Mi'kmaq Education.....	17
Minister's duties.....	18
African-Canadian Education	
Council on African-Canadian Education	19
Minister's duties.....	20
School Advisory Councils and Regional School Advisory Councils	
Establishment and composition	21
Duties	22
Parents	
Duties, parent of child with special needs.....	23
Custody	24
Students	
Duties and rights	25
Requiring student to leave class.....	26
Suspension or other action	27
Review of suspension.....	28
Extended suspension.....	29
Appeal of suspension	30

Alternative arrangements for education during suspension.....	31
Suspension of school bus rights.....	32
Requirement to attend school	33
No employment during school hours.....	34
Certificate of exemption, authorizing employment	35
Attendance committee	36
Child not attending school	37
Prima facie proof	38
Principals and Vice-principals	
Duties.....	39
Evaluation	40
May perform duties of teacher.....	41
Teachers	
Duties.....	42
Authority.....	43
Teacher's certificate or permit	44
Student teachers	45
Classification decisions remain valid	46
Written contract required	47
Notice of termination.....	48
Suspension of a teacher	49
Discharge for just cause	50
Teacher may lawfully terminate contract.....	51
Support Staff	
Duties.....	52
Volunteers	
Permitted to assist, policies.....	53
Regional Centres for Education	
Corporation sole.....	54
Establishment, geographic boundaries	55
Rights of natural person.....	56
Crown agent.....	57
Proceedings against the Crown Act	58
Exemption from taxation	59
Property vested in Crown	60
Duties.....	61
Powers.....	62
Support of operations.....	63
Duties of Deputy Minister	64
Regional Executive Directors of Education	
Appointment	65
Duties.....	66
Funding	
Financial assistance and municipal contributions.....	67
Statement for municipality	68
Statement of estimated revenues and expenditures	69
Payments by municipality to regional centre.....	70
Borrowing	71
School Facilities	
School closing.....	72
Deemed closed.....	73

c. E-3 **education** **3**

Building unfit for public school purposes	74
Lease or rental	75
Consequence of declaring building unfit.....	76
Control and management.....	77
Distribution of proceeds from sale or destruction	78
Community Facilities	
Agreement re costs	79
Powers to comply with agreement	80
Agreement re alteration, addition or improvement	81
Ministerial approval required	82
Home Education	
Requirements.....	83
May not be provided or continued	84
Private Schools	
Permitted	85
Requirements.....	86
High school leaving certificate.....	87
Nova Scotia Education Common Services Bureau	
Corporation sole	88
Objects.....	89
Powers	90
Records.....	91
General	
Auditor General	92
Collection and use of personal information by Minister.....	93
Collection and use of personal information by regional centre.....	94
Limits on collection and use of personal information	95
Offence and penalty.....	96
Ministerial regulations.....	97
Governor in Council regulations	98
Transitional	
Transitional.....	99

Short title

1 This Act may be cited as the *Education Act*. 2018, c. 1, Sch. A, s. 1.

Purpose of Act

2 The purpose of this Act is to provide for a publicly funded school system whose primary mandate is to provide education programs and services for students to enable them to develop their potential and acquire the knowledge, skills and attitudes needed to contribute to a healthy society and a prosperous and sustainable economy. 2018, c. 1, Sch. A, s. 2.

Interpretation

3 In this Act,

“African-Canadian education” means programs, resources and learning materials that provide information about and promote understanding of African people and their history, heritage, culture, traditions and contributions to society, recognizing their origins as Africans;

“bullying” means behaviour, typically repeated, that is intended to cause or should be known to cause, whether directly or indirectly, fear, intimidation, humiliation, exclusion, distress or other harm to another person’s body, emotional well-being, self-esteem, reputation or property, and includes assisting or encouraging such behaviour in any way;

“Bureau” means the Nova Scotia Education Common Services Bureau;

“cyberbullying” means any electronic communication through the use of technology, including, without limiting the generality of the foregoing, computers, other electronic devices, social networks, text messaging, instant messaging, websites and electronic mail, typically repeated or with continuing effect, that is intended to cause or should be known to cause fear, intimidation, humiliation, exclusion, distress or other harm to another person’s health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way;

“Department” means the Department of Education and Early Childhood Development;

“department” means a department, office or government agency created by or under the *Public Service Act*;

“education entity” means a regional centre or the Conseil scolaire acadien provincial;

“electronic means” means the use of internet, intranet or any form of electronic communication;

“former Act” means Chapter 1 of the Acts of 1995-96 or any predecessor to that Act;

“home education program” means a course of study provided to a student under the direction of the student’s parent and centred in the student’s home;

“Mi’kmaq” means all first-nations people, whether living on or off a reserve;

“Mi’kmaq education” means programs, resources and learning materials that provide information about and promote understanding of the Mi’kmaq and their history, heritage, language, culture, traditions and contributions to society and that recognize their origins as first-nations people;

“minimum municipal contribution” means the amount that would be raised in a municipality if tax was levied at the tax rate, determined by the regulations, on the uniform assessment of the municipality determined in accordance with the *Municipal Grants Act*, or such lesser amount as determined by the regulations;

“Minister” means the Minister of Education and Early Childhood Development;

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

“PACE” means the Provincial Advisory Council on Education established by this Act;

“parent” includes a guardian and a person acting *in loco parentis* to a child;

“permanent contract” means a written contract between an education entity and a teacher in a form approved by the Minister that has been entered into after the teacher has

(a) served under a probationary contract; or

(b) been employed by the education entity for two or more years immediately preceding the year in which the education entity entered into probationary and permanent contracts with the teacher for the first time;

“person in charge” of a child means a person over the age of 19 years with whom a child lives or who controls, is in a position to control or has the apparent charge of a child;

“principal” means the principal of a public school under the jurisdiction of a regional centre;

“private school” means a school, other than a public school, that serves school-age students and has a curriculum comparable to that provided by public schools but does not include a home education program;

“probationary contract” means a written contract between an education entity and a teacher in a form approved by the Minister whereby the teacher is employed on a probationary basis;

“public school” means a public school maintained and managed by an education entity;

“public school program” means the public school program of education set out in the regulations;

“ratepayer” means a person liable to taxation under the *Assessment Act*;

“regional centre” means a regional centre for education constituted under this Act;

“regional education officer” means a regional education officer appointed under this Act;

“regional executive director” means the regional executive director of education for a regional centre;

“regional school board” means a regional school board established under the former Act;

“school region” means an area established as a school region in accordance with this Act and the regulations over which a regional centre exercises jurisdiction;

“support staff” includes persons employed in any capacity to assist a regional centre in providing services for the comfort, assistance, safety and conveyance of students or to provide administrative support to the regional centre and its schools but does not include a teacher;

“teacher” means a person who

(a) holds a teacher’s certificate or a teaching permit issued by the Minister qualifying the person to teach in a public school in the Province, including a vocational teacher’s certificate; and

(b) is employed by an education entity or the Minister in a teaching, supervisory or other professional capacity relating to education;

“unacceptable behaviour” means behaviour that endangers the well-being of others, damages property or significantly disrupts the learning of others, and includes

- (a) bullying;
- (b) cyberbullying;
- (c) discriminatory behaviour;
- (d) illegal activity;
- (e) insubordination;
- (f) misuse of network or online resources;
- (g) physical violence;
- (h) racist behaviour;
- (i) repeated use of tobacco or electronic cigarettes;
- (j) sexual assault;
- (k) sexual harassment;
- (l) sexual misconduct;
- (m) significant disruption to school operations;
- (n) use or possession of
 - (i) alcohol,
 - (ii) cannabis,
 - (iii) drug-related paraphernalia,
 - (iv) illegal drugs, or
 - (v) weapons;
- (o) vandalism; and
- (p) verbal abuse;

“vice-principal” means the vice-principal of a public school under the jurisdiction of a regional centre. 2018, c. 1, Sch. A, s. 3; 2018, c. 3, s. 36.

Supervision of Act and education system

4 The Minister has the general supervision and management of this Act and the general supervision of public schools and education in the Province. 2018, c. 1, Sch. A, s. 4.

PUBLIC SCHOOLS

Free schools

5 All public schools established or managed by a regional centre are free schools. 2018, c. 1, Sch. A, s. 5.

Right to attend school

6 Subject to this Act and the regulations, every person over the age of five years and under the age of 21 years has the right to attend a public school serving the school region in which that person resides, as assigned by a regional centre. 2018, c. 1, Sch. A, s. 6.

International students

7 A regional centre may admit international students in accordance with the regulations and, notwithstanding Section 5, charge fees prescribed by the regulations to such students. 2018, c. 1, Sch. A, s. 7.

School year and fiscal year

8 (1) The school academic year begins on August 1st in each year and ends on July 31st next following.

(2) The school fiscal year begins on April 1st in each year and ends on March 31st next following. 2018, c. 1, Sch. A, s. 8.

MINISTER

Role of Minister

- 9** The role of the Minister is to
- (a) provide leadership for the education system;
 - (b) establish policy, priorities, standards and guidelines for the provision of education, the administration of the education system and fostering student achievement; and
 - (c) ensure accountability for funding and for the measuring and monitoring of education-system performance. 2018, c. 1, Sch. A, s. 9.

Powers of Minister

- 10** The Minister may
- (a) subject to the regulations, direct the expenditure of all funds appropriated by the Legislature for educational purposes within the scope of and incidental to this Act;
 - (b) make grants to education entities;
 - (c) receive in trust, hold and spend sums of money donated, bequeathed or subscribed for the use of public schools, education programs and related services in the Province;
 - (d) acquire, hold, improve and maintain any real or personal property for such consideration and on such conditions as the Minister considers appropriate;

- (e) lease, sell or convey any real or personal property for such consideration and on such conditions as the Minister considers appropriate;
- (f) improve, renovate, alter, add to, repair, extend, provide service, furnish and equip buildings for public school purposes on such terms and conditions as the Minister considers appropriate;
- (g) transfer ownership of real or personal property from an education entity to the Crown in right of the Province or from the Crown in right of the Province to an education entity;
- (h) appoint such advisory groups or committees as the Minister considers appropriate;
- (i) name the diplomas and certificates to be granted to students and prescribe their form and the conditions under which they may be granted;
- (j) subject to the regulations, classify teachers and grant teacher's certificates and permits;
- (k) provide an instructional leadership program for teachers and grant diplomas for the successful completion of the program;
- (l) establish a Provincial school code of conduct policy with respect to promoting school and student safety that includes a Provincial school code of conduct and provisions regarding student conduct and consequences for unacceptable behaviour;
- (m) establish a Provincial public school network-access and network-use policy that includes defined consequences for misuse of the network by students and staff of a school;
- (n) maintain and operate the Nova Scotia School Book Bureau for the purchase, sale and distribution of school books and other learning materials prescribed by the regulations for use in public schools;
- (o) collaborate with public education organizations and other bodies;
- (p) collect, compile and disseminate education statistics and information;
- (q) determine the organizational structure of an education entity and the Bureau;
- (r) enter into agreements with the Government of Canada, a province of Canada, a municipality, a person or any other body for any purpose within the scope of this Act;
- (s) enter into agreements with the Government of Canada or with the Mi'kmaw Kina'matnewey with respect to the costs and terms and conditions of the delivery of educational programs and services to members of a community listed in the Schedule to the *Mi'kmaq Education Act*;
- (t) do such other things as the Minister considers necessary or advisable to effectively carry out the Minister's role and duties under this Act. 2018, c. 1, Sch. A, s. 10.

PROVINCIAL ADVISORY COUNCIL ON EDUCATION

Establishment of and composition

- 11** (1) A Provincial Advisory Council on Education is established.
- (2) PACE is composed of
- (a) the Chair of the Conseil scolaire acadien provincial or such other member of the Conseil as may be designated by its members;
 - (b) the Chair of the Council on Mi'kmaq Education or such other member of the Council as may be designated by its members;
 - (c) the Chair of the Council on African-Canadian Education or such other member of the Council as may be designated by its members; and
 - (d) up to 12 individuals chosen after taking into consideration
 - (i) regional, cultural and gender representation and representation for persons with a disability,
 - (ii) the individual's knowledge and experience, and
 - (iii) the desirability of achieving an equitable representation of the diversity of educational and community interests served by public education in the Province.

(3) The members of PACE referred to in clause (2)(d) are appointed by the Governor in Council on the recommendation of the Minister and serve on such terms and conditions as are prescribed by the regulations. 2018, c. 1, Sch. A, s. 11.

Term of office

12 (1) The term of office for a member of PACE appointed by the Governor in Council is two years and a member is eligible for reappointment upon the expiry of the member's term for a subsequent term of two years.

(2) A member of PACE appointed by the Governor in Council may not serve more than two consecutive terms. 2018, c. 1, Sch. A, s. 12.

Presiding member

13 Meetings of PACE must be presided over by a member of PACE chosen by the Minister. 2018, c. 1, Sch. A, s. 13.

Terms of reference

14 The Minister may establish terms of reference for PACE. 2018, c. 1, Sch. A, s. 14.

Duty to advise Minister

15 PACE shall advise the Minister on matters relating to education and, in particular,

- (a) those matters referred to PACE by the Minister;
- (b) regional or local matters that affect education; and
- (c) such other educational matters as PACE wishes to bring to the attention of the Minister. 2018, c. 1, Sch. A, s. 15.

Remuneration

16 A member of PACE is entitled to such remuneration and to be reimbursed for such reasonable expenses as are necessarily incurred in carrying out the member's duties and are prescribed by the regulations. 2018, c. 1, Sch. A, s. 16.

MI'KMAQ EDUCATION**Council on Mi'kmaq Education**

- 17** (1) The Council on Mi'kmaq Education is continued.
- (2) The Council on Mi'kmaq Education shall
- (a) promote the rights and interests of the Mi'kmaq by providing recommendations to the Minister on programs and services in public schools and to the Minister of Advanced Education on post-secondary and adult education;
 - (b) meet annually with the Minister to discuss the development of Mi'kmaq education; and
 - (c) perform such other duties as prescribed by the regulations.
- (3) The Minister shall appoint the members of the Council on Mi'kmaq Education for such terms and upon such conditions as prescribed by the regulations.
- (4) The Council on Mi'kmaq Education shall meet at least four times each year.
- (5) Meetings of the Council on Mi'kmaq Education must be presided over by a member of the Council chosen by the Council.
- (6) A member of the Council on Mi'kmaq Education is entitled to such remuneration and to be reimbursed for such reasonable expenses as are necessarily incurred in carrying out the member's duties and are prescribed by the regulations. 2018, c. 1, Sch. A, s. 17.

Minister's duties

- 18** The Minister shall
- (a) provide and implement programs and policies promoting the development of Mi'kmaq education; and
 - (b) include in learning materials information respecting the history, language, heritage, culture, traditions and contribution to society of the Mi'kmaq. 2018, c. 1, Sch. A, s. 18.

AFRICAN-CANADIAN EDUCATION

Council on African-Canadian Education

- 19** (1) The Council on African-Canadian Education is continued.
- (2) The Council on African-Canadian Education shall
- (a) promote the rights and interests of African-Nova Scotians by providing recommendations to the Minister on programs and services in public schools and to the Minister of Advanced Education on post-secondary and adult education;
 - (b) meet annually with the Minister to discuss the development of African-Canadian education; and
 - (c) perform such other duties as prescribed by the regulations.
- (3) The Minister shall appoint the members of the Council on African-Canadian Education for such terms and upon such conditions as prescribed by the regulations.
- (4) The Council on African-Canadian Education shall meet at least four times each year.
- (5) Meetings of the Council on African-Canadian Education must be presided over by a member of the Council chosen by the Council.
- (6) A member of the Council on African-Canadian Education is entitled to such remuneration and to be reimbursed for such reasonable expenses as are necessarily incurred in carrying out the member's duties and are prescribed by the regulations. 2018, c. 1, Sch. A, s. 19.

Minister's duties

- 20** The Minister shall
- (a) provide and implement programs and policies promoting the development of African-Canadian education; and
 - (b) include in learning materials information respecting the history, heritage, culture, traditions and contribution to society of African people. 2018, c. 1, Sch. A, s. 20.

SCHOOL ADVISORY COUNCILS AND
REGIONAL SCHOOL ADVISORY COUNCILS**Establishment and composition**

- 21** (1) A school advisory council may be established in accordance with the regulations for a public school or a group of schools.
- (2) A regional school advisory council may be established in accordance with the regulations to represent two or more groups of schools within a school region or across school regions.

(3) The composition and powers and duties of a school advisory council or regional school advisory council, and the terms and conditions upon which its members serve, are as prescribed by the regulations. 2018, c. 1, Sch. A, s. 21.

Duties

- 22** A school advisory council or regional school advisory council shall
- (a) assist a regional centre to ensure that the regional centre's public schools and related services are meeting the needs of the communities and regions they serve; and
 - (b) perform such other functions as are prescribed by the regulations and as assigned by the Minister or the regional centre. 2018, c. 1, Sch. A, s. 22.

PARENTS

Duties, parent of child with special needs

23 (1) It is the duty of every parent of a child enrolled in a public school under the jurisdiction of a regional centre to

- (a) support the child in achieving learning success;
- (b) cause the child to attend school as required by the regulations;
- (c) communicate regularly with the child's school;
- (d) ensure the basic needs of the child are met, including that the child is well-nourished and well-rested when the child goes to school; and
- (e) support the child's teachers in their efforts to provide an education for the child.

(2) A parent of a child with special needs must be afforded the opportunity to participate in the development of an individualized program for the child.

(3) Where a parent of a child with special needs does not agree with a decision of a regional centre respecting an individualized program plan for that child, the parent may appeal the decision in accordance with the regulations. 2018, c. 1, Sch. A, s. 23.

Custody

24 While a child lives with or is under the care or in the custody of a person other than a parent, the person is subject to the duties imposed by this Act on a parent, but the duty and liability of a parent is not thereby affected or diminished. 2018, c. 1, Sch. A, s. 24.

STUDENTS

Duties and rights

25 (1) It is the duty of every student enrolled in a public school under the jurisdiction of a regional centre to

- (a) participate fully in learning opportunities;
- (b) attend school regularly and punctually;
- (c) contribute to an orderly and safe learning environment;
- (d) respect the rights of others; and
- (e) comply with the discipline policies of the school and the regional centre.

(2) A student is accountable to the student's teacher for the student's conduct while under the teacher's supervision.

(3) A student may participate in decisions that affect the student's school through representation on councils or committees in accordance with the regional centre's policy or the regulations.

(4) It is the right of a student to be informed of the student's educational progress on a regular basis.

(5) A student of the age of majority may exercise any right that under subsection 23(2) or (3) may be exercised by a parent of the student. 2018, c. 1, Sch. A, s. 25.

Requiring student to leave class

26 Where a student in a class engages in unacceptable behaviour, the teacher of the class may require the student to leave the class and shall refer the student to the principal. 2018, c. 1, Sch. A, s. 26.

Suspension or other action

27 Where a student enrolled in a public school under the jurisdiction of a regional centre engages in unacceptable behaviour

- (a) on school grounds, on property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop or on a school bus; or
- (b) at a location, activity, function or program that is off school grounds and is not school-sponsored or school-related, if the behaviour significantly disrupts the learning climate of the school,

the principal or the person in charge of the school may take appropriate action as specified in the Provincial school code of conduct policy, including suspending the student for a period of not more than 10 school days. 2018, c. 1, Sch. A, s. 27.

Review of suspension

28 (1) Where a student is suspended under Section 27, the principal or other person in charge of the school shall immediately notify, in writing or by electronic means, the student, the student's parents, the student's teachers and the regional centre of the reasons for the suspension.

(2) The student or the student's parents may request a review of the suspension by the regional centre within five school days of receiving the notice under subsection (1).

(3) The regional centre shall either

(a) confirm the suspension; or

(b) order that the suspension be revoked and that the suspension be removed from the record of the student.

(4) The decision to be made under subsection (3) must be made by

(a) a committee established by the regional centre consisting of one or more persons but not including the regional executive director; or

(b) where so directed by the regional centre, the school advisory council for the school or a committee of the school advisory council. 2018, c. 1, Sch. A, s. 28.

Extended suspension

29 (1) Where a student is suspended under Section 27 and the principal is of the view that the student should be suspended for a period greater than 10 school days, the principal may, in writing, make a recommendation with reasons to the regional centre that the student be suspended for a period greater than 10 school days.

(2) When a recommendation is made under subsection (1), the regional centre shall immediately notify, in writing or by electronic means, the student and the student's parents of the principal's recommendation and reasons.

(3) Within seven days of having received the recommendation of the principal under subsection (1), the regional centre shall

(a) dismiss the principal's recommendation; or

(b) extend the suspension of the student for a period of greater than 10 school days.

(4) Where the suspension of a student begins within two months of the end of the school academic year, the period for which a regional centre may extend the suspension may include a portion of the next academic year.

(5) The regional centre shall notify the student, the student's parents, the student's teachers and the principal or the person in charge of the school of its decision under subsection (3) within three days of the decision being made.

(6) Where the regional centre decides to extend the suspension of the student, the regional centre shall include in its notice under subsection (5)

(a) the period for which the student is to remain suspended;

(b) the reasons for the decision to extend the suspension of the student; and

(c) the right of the student and of the student's parents to appeal the decision.

(7) The decision to be made under subsection (3) must be made by a committee established by the regional centre consisting of one or more persons but not including the regional executive director. 2018, c. 1, Sch. A, s. 29.

Appeal of suspension

30 (1) Where a student or a parent of a student has been notified of a decision made under subsection 29(3), the student or the parent may, within seven days of receiving such notice, appeal the decision to the regional executive director.

(2) The regional executive director shall, upon receipt of a notice of appeal,

(a) immediately notify the student and the student's parents of the time and place of the hearing of the appeal and the right of the student or parent, or both, to appear in person with or without counsel; and

(b) within 10 days of receipt of the notice of appeal, hold a hearing and confirm, revoke or vary the decision of the regional centre.

(3) Within three days of the hearing, the regional centre shall notify the student, the student's parents, the student's counsel, the student's teachers and the principal or person in charge of the school of its decision, which decision is final and binding.

(4) The regional executive director may, with the approval of the Minister, delegate the powers and duties under subsections (1) to (3) to a committee of one or more persons designated by office or name, which committee may include the regional executive director. 2018, c. 1, Sch. A, s. 30.

Alternative arrangements for education during suspension

31 Where a student is suspended for more than 10 school days, the regional centre, in consultation with the student's parents, shall make every reasonable effort to provide alternative arrangements for the education of the student. 2018, c. 1, Sch. A, s. 31.

Suspension of school bus rights

32 (1) The principal, or such other supervisory person as may be designated by the regional centre, may suspend a student's right to use a school bus if, in that person's judgement,

(a) the student has refused to comply with reasonable rules of the regional centre or directions given by the bus driver; or

(b) the behaviour of the student while on the bus endangers the safety of others using the bus.

(2) A person who suspends a student's right to use the school bus shall promptly notify the student's parents and the regional centre of the suspension.

(3) Where the student's right to use the school bus has been suspended for a period of more than two days, the student and the student's parents must be notified in writing or by electronic means of the reason for the suspension and, where the suspension is for a period of more than five school days, of the right of appeal under subsection (4).

(4) Where a student's right to use the school bus is suspended for a period of more than five school days, a parent of the student or, where the student is of the age of majority, the student may, within seven days of receiving notice of the suspension, appeal the decision to suspend to the regional centre.

(5) Where a notice of appeal has been received by the regional centre, the balance of the suspension is stayed until the regional centre confirms, revokes or varies the suspension.

(6) Upon receipt of a notice of appeal, the regional centre shall

(a) notify by registered mail or electronic means the parent of the student or, where the student is of the age of majority, the student of the time and place of the hearing of the appeal; and

(b) within 10 days of receipt of the notice of appeal, hold a hearing respecting the suspension and within three school days following that hearing confirm, revoke or vary the decision to suspend.

(7) No parent or other person in charge of any student, having received from the regional centre by registered mail or electronic means, a notice of suspension of the student's right to use the school bus, shall cause, encourage or permit the student to use the bus during the period of time during which the suspension is in effect. 2018, c. 1, Sch. A, s. 32.

Requirement to attend school

33 (1) Subject to subsection (2), every resident of the Province over the age of five years and under the age of 16 years must be enrolled in and attend public school.

(2) A child is not required to attend a public school if the child

(a) is being provided with a home education program in accordance with the regulations;

(b) is enrolled in and in attendance at a private school operating in compliance with this Act;

(c) holds a certificate of exemption from attendance at school; or

(d) is otherwise exempted under the regulations. 2018, c. 1, Sch. A, s. 33.

No employment during school hours

34 No person may employ in any work during school hours a child who has not attained the age up to which attendance at school is required by the regulations unless the person holds a certificate authorizing employment of the child. 2018, c. 1, Sch. A, s. 34.

Certificate of exemption, authorizing employment

- 35** (1) A regional centre may, in accordance with the regulations,
- (a) issue to a child a certificate of exemption from attendance at school; and
 - (b) issue to a person a certificate authorizing employment of a child during school hours.

(2) A certificate remains in effect for such period as the regional centre may determine. 2018, c. 1, Sch. A, s. 35.

Attendance committee

- 36** (1) A regional centre may establish an attendance committee.
- (2) An attendance committee shall, in accordance with provincial policy,
- (a) monitor the attendance of students in schools in the school region;
 - (b) take steps to reduce the absenteeism of students from schools in the school region; and
 - (c) make recommendations for remedial steps with respect to those students who have been reported to the regional centre by the principal as being habitually absent from school without acceptable excuse. 2018, c. 1, Sch. A, s. 36.

Child not attending school

37 A parent or person in charge of a child not attending school shall, within five days after having been served with a notice by the regional centre naming the child, cause the child to attend school and continue in regular attendance at school, unless the child is excused from attendance under this Act or the regulations or unless that person satisfies the regional centre that the person is unable to induce the child to attend public school. 2018, c. 1, Sch. A, s. 37.

Prima facie proof

38 Upon filing with a court, each of the following documents is prima facie proof of its content:

- (a) an affidavit of a person designated by a regional centre that a notice under Section 37 was served on a parent or person in charge of a child;
- (b) a certificate purporting to be signed by a teacher, without proof of the teacher's appointment or signature, that a child was absent from school for a period of five or more school days, not necessarily consecutive, following the receipt of the warning notice by a parent or person in charge of the child. 2018, c. 1, Sch. A, s. 38.

PRINCIPALS AND VICE-PRINCIPALS

Duties

39 (1) The principal of a public school under the jurisdiction of a regional centre is the educational leader of the school and has management responsibility for the school, including supervision of teachers and other staff.

- (2)** It is the duty of every principal to
- (a) ensure that the public school program and curricula are implemented;
 - (b) keep attendance records respecting every student enrolled at the school and report thereon to the regional executive director as required by the regional executive director;
 - (c) in accordance with policies established by the Minister, take all reasonable steps to secure full and regular attendance at school by the students enrolled in the school;
 - (d) communicate regularly with the parents of students;
 - (e) ensure that reasonable steps are taken to create and maintain a safe, orderly, positive and effective learning environment;
 - (f) investigate and respond to reports of unacceptable behaviour of students, and, where the principal believes the well-being of a student has been endangered as a result of the unacceptable behaviour of any other student, notify the parents of the students;
 - (g) ensure that Provincial and regional centre policies are followed;
 - (h) identify the staffing needs of the school;
 - (i) assist the regional executive director with the selection and hiring of staff for the school in accordance with policies established by the regional centre;
 - (j) evaluate the performance of teachers and other staff of the school;
 - (k) discipline teachers and other staff of the school in accordance with policies established by the regional centre;
 - (l) assist the regional centre in the development and implementation of professional-development programs;
 - (m) encourage teachers and other staff of the school, students and parents to participate in school decision-making through school advisory councils and committees;
 - (n) participate in the establishment and operation of a school advisory council;
 - (o) assist in the development of school improvement plans and, upon approval by the regional centre, coordinate their implementation;
 - (p) account to the regional executive director for money received from the regional centre or any other source;

- (q) account to the Minister, through the regional executive director, for the performance of the school;
- (r) co-operate with the staff of other departments to better meet the needs of the students in the school; and
- (s) perform such other duties as are prescribed by this Act or the regulations or assigned by the regional executive director.

(3) A vice-principal may perform any duty of a principal assigned to the vice-principal by the principal, regional executive director or other senior staff of a regional centre, and any other duties prescribed by the regulations. 2018, c. 1, Sch. A, s. 39.

Evaluation

40 The regional executive director, or such other senior staff member of the regional centre as the regional executive director may designate, is responsible for the evaluation of principals and vice-principals employed by the regional centre with respect to their duties, including any teaching duties. 2018, c. 1, Sch. A, s. 40.

May perform duties of teacher

41 (1) Subject to subsection (2), a principal or vice-principal may perform the duties of a teacher.

(2) A principal or vice-principal may not spend more than half of the principal's or vice-principal's working hours during a school year performing the duties of a teacher. 2018, c. 1, Sch. A, s. 41.

TEACHERS

Duties

42 (1) It is the duty of every teacher in a public school under the jurisdiction of a regional centre to

- (a) respect the rights of students;
- (b) teach diligently the subjects and courses of study prescribed by the regulations that are assigned to the teacher by the regional centre;
- (c) implement teaching strategies that foster a positive learning environment aimed at helping students achieve learning outcomes;
- (d) encourage students in the pursuit of learning;
- (e) monitor the effectiveness of the teaching strategies by analyzing outcomes achieved;
- (f) acknowledge and, to the extent reasonable, accommodate differences in learning styles;
- (g) participate in individual-program planning and implement individual program plans, as required, for students with special needs;

- (h) review regularly with students their learning expectations and progress;
- (i) conduct such assessments and evaluations as are necessary to document student progress;
- (j) administer such evaluation and assessment instruments as required by the regional centre or by the Minister;
- (k) take all reasonable steps necessary to create and maintain an orderly and safe learning environment;
- (l) maintain appropriate order and discipline in the school, room or grounds in the teacher's charge and report to the principal or other person in charge of the school the conduct of any student who engages in unacceptable behaviour;
- (m) maintain an attitude of concern for the dignity and welfare of each student and encourage in each student an attitude of concern for the dignity and welfare of others and a respect for religion, morality, truth, justice, love of country, humanity, equality, industry, temperance and all other virtues;
- (n) attend to the health, comfort and safety of the students;
- (o) report immediately to the principal the existence of any infectious or contagious disease in the school or the existence of any unsanitary condition in the school buildings or surroundings, and perform such duties as are prescribed by or under the *Health Protection Act*;
- (p) take all reasonable steps to secure full and regular attendance at school of the students under the teacher's supervision;
- (q) keep accurate attendance records and report absent students to the principal;
- (r) communicate regularly with parents in accordance with policies established by the regional centre;
- (s) keep such records as are required by the regional centre or the Minister and permit the inspection of those records by the regional centre, the regional executive director or regional executive director's representative, the principal, the supervisor and the Minister or Minister's representative or, upon their request, provide the records to any of them;
- (t) assist in the development and implementation of a school improvement plan;
- (u) maintain the teacher's professional competence;
- (v) serve, to the extent reasonable, on committees established within the school to improve student achievement and success;
- (w) implement programs and courses as prescribed by the public school program; and
- (x) perform such other duties as are prescribed by this Act or the regulations.

(2) A teacher is accountable to the regional centre through the principal of the teacher's assigned school with respect to the performance of the teacher's responsibilities. 2018, c. 1, Sch. A, s. 42.

Authority

43 A teacher has general oversight and supervision over school premises during school hours and, subject to the authority of the regional centre and the principal, may exclude from those premises any person who is not a student enrolled in the school and disturbs the learning environment. 2018, c. 1, Sch. A, s. 43.

Teacher's certificate or permit

44 Except as provided in this Act or the regulations, a regional centre may not engage as a teacher or permit to teach in a public school a person who does not hold a teacher's certificate or permit under this Act. 2018, c. 1, Sch. A, s. 44.

Student teachers

45 Every regional centre and every teacher employed by a regional centre shall admit to classrooms under the jurisdiction of the regional centre students who are enrolled in a teacher training course approved by the Minister and the instructors of those students for the purpose of observation and teaching practice, and shall give them any assistance requested by the instructors. 2018, c. 1, Sch. A, s. 45.

Classification decisions remain valid

46 (1) A determination under this Act or the former Act of the classification, reclassification, certificate or permit of a teacher, whether made before, on or after April 1, 2018, is final and binding.

(2) No determination under this Act or the former Act of the classification, reclassification, certificate or permit of a teacher, whether made before, on or after April 1, 2018, gives rise to any cause of action for damages, retroactive remuneration or other loss or damage of any kind.

(3) Notwithstanding subsection (2), retroactive remuneration may be paid to a teacher as the result of a reclassification in accordance with the terms of a professional agreement between the Minister and the Nova Scotia Teachers' Union setting out conditions with respect to the effective date of reclassification for salary purposes. 2018, c. 1, Sch. A, s. 46.

Written contract required

47 Where a regional centre that has authority to engage a teacher engages a teacher other than a substitute teacher, the regional centre shall enter into a written contract with the teacher in such form as may be approved by the Minister. 2018, c. 1, Sch. A, s. 47.

Notice of termination

48 Notwithstanding any other provision of this Act, or any contract or agreement between or governing a regional centre and a teacher,

(a) the date for a teacher giving notice of termination of the teacher's contract is deemed to be April 15th in the year in which the contract is to be terminated at the end of the school year; and

(b) the date for a regional centre giving notice of termination of a teacher's contract is deemed to be May 15th in the year in which the contract is to be terminated at the end of the school year. 2018, c. 1, Sch. A, s. 48.

Suspension of a teacher

49 A regional centre may suspend, for just cause, with or without loss of salary but without loss of other benefits, any teacher in its employ at any time for a reasonable period, and a written report stating the reason for the suspension must be furnished to the teacher within seven days of the date of suspension. 2018, c. 1, Sch. A, s. 49.

Discharge for just cause

50 (1) A regional centre may, at any time, for just cause, by notice in writing, discharge any teacher in its employ.

(2) Where a regional centre terminates a probationary contract, the termination is not subject to any grievance procedure provided in a contract relating to the employment of the teacher or to any appeal. 2018, c. 1, Sch. A, s. 50.

Teacher may lawfully terminate contract

51 Nothing in this Act prevents a teacher from terminating a contract in accordance with the terms and conditions of the contract or in accordance with any method permitted by law. 2018, c. 1, Sch. A, s. 51.

SUPPORT STAFF

Duties

52 (1) It is the duty of every support staff member of a regional centre to

- (a) support students in their participation in school activities;
- (b) maintain an attitude of concern for the dignity and welfare of each student;
- (c) co-operate with the regional centre, regional executive director, principal, teachers, students and other staff members to maintain an orderly, safe and supportive learning environment;
- (d) report to the principal or other person in charge of a school the conduct of any student who engages in unacceptable behaviour;
- (e) respect the rights of students;
- (f) participate in staff-development opportunities identified by the person to whom the staff member reports, if requested to do so; and
- (g) subject to any applicable collective agreement in effect on April 1, 2018, perform such other duties as are assigned by the regional centre, the regional executive director or the principal.

(2) Every support staff member employed in a school is accountable to the principal or other person designated by the regional centre. 2018, c. 1, Sch. A, s. 52.

VOLUNTEERS

Permitted to assist, policies

53 (1) A regional centre may permit volunteers to assist in its schools in accordance with applicable policies.

(2) Where a regional centre permits volunteers to assist in its schools, it shall establish policies respecting the role of the volunteers consistent with any provincial volunteer policy established by the Minister. 2018, c. 1, Sch. A, s. 53.

REGIONAL CENTRES FOR EDUCATION

Corporation sole

54 The Minister is constituted a corporation sole as a regional centre with respect to each of the former regional school boards dissolved by this Act. 2018, c. 1, Sch. A, s. 54.

Establishment, geographic boundaries

55 (1) The Governor in Council, on the recommendation of the Minister, may

- (a) establish or dissolve a regional centre or amalgamate a regional centre with another regional centre;
- (b) designate a geographic area of the Province as a school region to be served by a regional centre;
- (c) alter the boundaries of a school region;
- (d) annex the whole or any part of a school region to another school region; and
- (e) determine the name of a regional centre or a school region.

(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. 1, Sch. A, s. 55.

Rights of natural person

56 A regional centre has the capacity and, subject to this Act and the regulations, the rights, powers and privileges of a natural person. 2018, c. 1, Sch. A, s. 56.

Crown agent

57 For the purpose of this Act and in the exercise of the powers and the performance of the duties of a regional centre, the Minister is an agent of the Crown in right of the Province. 2018, c. 1, Sch. A, s. 57.

Proceedings against the Crown Act

58 Actions, suits or other legal proceedings with respect to any right or obligation acquired or incurred by a regional centre may be brought or taken by or against the regional centre in the name of the regional centre in the manner provided by the *Proceedings against the Crown Act* for an action against the Crown in right of the Province. 2018, c. 1, Sch. A, s. 58.

Exemption from taxation

59 A regional centre, its property and assets are not subject to taxation. 2018, c. 1, Sch. A, s. 59.

Property vested in Crown

60 For the purpose of Sections 116 and 117 of the *Municipal Government Act* and Sections 138 and 139 of the *Halifax Regional Municipality Charter*, property vested in a regional centre is considered to be the property of the Crown in right of the Province. 2018, c. 1, Sch. A, s. 60.

Duties

61 A regional centre shall, in accordance with this Act and the regulations,

(a) promote excellence in education and the achievement of all students enrolled in its schools and programs;

(b) develop and implement educational programs for students with special needs within regular instructional settings with their peers in age, in accordance with the regulations and the Minister's policies and guidelines;

(c) manage and control its public schools, programs and related services in the school region under its jurisdiction;

(d) provide for the education and instruction of all students enrolled in its schools and programs in accordance with this Act and the regulations;

(e) facilitate vibrant community involvement in the effective delivery of education, including engagement and consultation with school advisory councils on issues within the prescribed mandate of the school advisory councils; and

(f) represent regional perspectives in the development of provincial and local policies and programs. 2018, c. 1, Sch. A, s. 61.

Powers

62 A regional centre may, in the performance of its duties,

(a) work with and share services with another regional centre, the Conseil scolaire acadien provincial, the Bureau or a department;

(b) hire, pay, promote, demote, reassign, discipline and dismiss staff of the regional centre;

(c) acquire, hold and dispose of personal and real property;

(d) enter into agreements with any persons, municipalities, organizations or governments to advance the purpose of this Act, administer programs or provide for services;

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

(f) subject to the direction of the Minister, do such things as may be necessary for or incidental to the exercise of its powers and the performance of its duties. 2018, c. 1, Sch. A, s. 62.

Support of operations

63 The operations of a regional centre are to be supported by the Department and may be supported by the Bureau as and in the manner prescribed by the Minister. 2018, c. 1, Sch. A, s. 63.

Duties of Deputy Minister

64 Under the direction of the Minister, the Deputy Minister of the Department shall

(a) supervise the administration and management of the regional centres; and

(b) perform such duties as the Minister or the Governor in Council assigns to the Deputy Minister. 2018, c. 1, Sch. A, s. 64.

REGIONAL EXECUTIVE DIRECTORS OF EDUCATION

Appointment

65 (1) The Minister shall appoint a regional executive director of education for a regional centre.

(2) A regional executive director is an employee of the Department. 2018, c. 1, Sch. A, s. 65.

Duties

66 (1) A regional executive director is accountable to the Deputy Minister of the Department and, subject to this Act, the regulations and the direction of the Minister, has overall responsibility for

(a) the efficient operation of the regional centre office and public schools and services in the school region;

(b) the supervision of all employees of the regional centre; and

(c) the educational performance of the students and schools in the school region.

(2) It is the duty of every regional executive director to

(a) administer and evaluate the programs offered by the regional centre;

- (b) oversee the carrying out of Provincial policies and the regional centre's policies;
- (c) ensure that schools in the school region adhere to the public school program;
- (d) maintain a safe, orderly and supportive learning environment in all schools in the school region;
- (e) provide leadership in the school region and work closely with principals and staff in promoting quality education, enhanced community involvement and the efficient delivery of the public school program and related services;
- (f) establish performance standards and a process for the supervision and evaluation of staff;
- (g) co-operate with other education entities, the Department and other departments to ensure the effective and efficient carrying out of this Act and the regulations;
- (h) report annually on the performance of the students and schools in the school region and upon such other matters as the Minister may direct; and
- (i) perform such other duties as are prescribed by this Act or the regulations or assigned by the Minister. 2018, c. 1, Sch. A, s. 66.

FUNDING

Financial assistance and municipal contributions

67 The Minister shall, in each fiscal year, provide to a regional centre and each municipality, that in accordance with this Act is to make payments to the regional centre, a statement for the immediately following fiscal year of

- (a) the amount of financial assistance to be paid by the Minister to the regional centre;
- (b) the total of the minimum municipal contributions to be paid by the municipalities to the regional centre; and
- (c) the rate, as determined by the regulations, to be used in determining the minimum municipal contributions. 2018, c. 1, Sch. A, s. 67.

Statement for municipality

68 Within 30 days of receipt from the Minister of a statement under Section 67, a regional centre shall submit to each municipality in the school region, a statement setting out, for the fiscal year with respect to which the Minister's statement is made,

- (a) the amount of the minimum municipal contribution that the municipality is required to pay under clause 70(1)(a); and
- (b) any additional amount that the municipality is requested to pay under clause 70(1)(b). 2018, c. 1, Sch. A, s. 68.

Statement of estimated revenues and expenditures

69 Within 90 days of receipt of the Minister's statement under Section 67, a regional centre shall prepare, in the form prescribed by the Minister, a statement of all estimated revenues and expenditures for the education program and services proposed by the regional centre. 2018, c. 1, Sch. A, s. 69.

Payments by municipality to regional centre

70 (1) Unless an agreement made between a municipality and regional centre under subsection (2) otherwise provides, a municipality shall pay to the regional centre

(a) the minimum municipal contribution that is required to be paid by the municipality to the regional centre; and

(b) to the extent that the amount has been approved by the municipality, the municipality's proportion of the amount that is requested by the regional centre to provide for the estimated expenditures of the regional centre, after deducting

(i) the amount of the Minister's contribution as set out in the Minister's statement under Section 67, and

(ii) the sum of the minimum municipal contributions to be made by the participating municipalities under clause (a).

(2) Notwithstanding subsection (1), a regional centre may, with the consent of the Minister and by agreement with all the municipalities within the school region, vary the minimum municipal contribution of each of the municipalities within the school region if the combined minimum municipal contributions made under the agreement equal the total minimum municipal contributions due to the regional centre under subsection (1).

(3) The amount required to be paid to a regional centre by a municipality under subsection (1) must be paid in 12 equal monthly instalments in each fiscal year unless the regional centre and the municipality agree otherwise. 2018, c. 1, Sch. A, s. 70.

Borrowing

71 Where the council of a municipality refuses or neglects to make provision for or to pay to the regional centre the amounts payable to the regional centre under Section 70, the regional centre may borrow the amount, or so much thereof as is so refused or withheld, from any bank or person who will advance the same, and the amount so advanced, together with interest and all other borrowing and recovery expenses, may be recovered in an action against the municipality. 2018, c. 1, Sch. A, s. 71.

SCHOOL FACILITIES**School closing**

72 A regional centre may close a school in accordance with a process approved by the Minister. 2018, c. 1, Sch. A, s. 72.

Deemed closed

- 73 A public school is deemed to be permanently closed if
- (a) all of the school buildings have been vacant for at least one school year prior to April 1, 2018;
 - (b) the buildings are not being renovated; and
 - (c) no students are attending the school. 2018, c. 1, Sch. A, s. 73.

Building unfit for public school purposes

74 A regional centre may declare any building used for public school purposes or any part of a building used for public school purposes, or the appurtenances or grounds thereof, to be unfit for public school purposes. 2018, c. 1, Sch. A, s. 74.

Lease or rental

- 75 (1) A regional centre may enter into and carry out a lease or agreement for the renting of premises for public school purposes.
- (2) No lease or agreement may be entered into under subsection (1) that
- (a) fails to place the rental premises completely under the control of the regional centre; or
 - (b) contains any undertaking or agreement that abridges or modifies any power or duty of the regional centre. 2018, c. 1, Sch. A, s. 75.

Consequence of declaring building unfit

76 When a regional centre declares that a schoolhouse or building used for public school purposes or a part of a schoolhouse or such a building or the appurtenances or grounds thereof are unfit for public school purposes, the regional centre shall notify the municipality in which the schoolhouse or building is located and, unless otherwise provided by the regional centre, the declaration takes effect at the commencement of the next academic school year, and the schoolhouse or building or part thereof or grounds or appurtenances may not thereafter be used for school purposes without the approval of the regional centre. 2018, c. 1, Sch. A, s. 76.

Control and management

- 77 (1) A building owned by a municipality and used for school purposes by a regional centre is under the exclusive control and management of the regional centre and the regional centre is responsible for providing adequate maintenance and repairs and shall insure the building in an amount agreed upon by the municipality and the regional centre.
- (2) The regional centre shall notify the municipality if land and buildings owned by the municipality are no longer required for the purposes of the regional centre. 2018, c. 1, Sch. A, s. 77.

Distribution of proceeds from sale or destruction

78 (1) Where alterations, additions or improvements are made to public school property owned by a municipality, the municipality holds such property upon trust that the regional centre is entitled to receive

- (a) in the event of the sale of such property; or
- (b) in the event of partial or complete destruction of the property,

the proportion of the proceeds from the sale, or any insurance recovery, less any amount required to be paid to the Crown in right of the Province under subsection (3), that the value of alterations, additions or improvements made by or on behalf of the regional centre is to the appraised value of the whole property, and such proportion must be paid as directed by the Minister.

(2) Notwithstanding subsection (1), where a building owned by a municipality or the regional centre and used for public school purposes is partially or completely destroyed and the regional centre requires that the building be repaired or replaced, the regional centre is entitled to receive the proceeds from any insurance recovery and shall pay the proceeds as directed by the Minister.

(3) Where a municipality receives the proceeds from an insurance recovery with respect to a building owned by the municipality and used for school purposes and there is debt owed on the school property for which the Crown in right of the Province is responsible, the municipality shall pay the amount of the outstanding debt to the Crown in right of the Province out of the insurance recovery.

2018, c. 1, Sch. A, s. 78.

COMMUNITY FACILITIES**Agreement re costs**

79 (1) A regional centre and a municipality may enter into an agreement whereby the municipality agrees to pay the capital cost of a community facility to be acquired by the regional centre in or in association with a public school and the cost of maintaining and operating the community facility.

(2) For the purpose of this Act, a school property includes a proposed school property.

(3) For the purpose of this Act, the capital cost of a community facility or a school property includes all costs incurred in acquiring the community facility or the school property, including costs of acquiring land and costs of designing, constructing, furnishing and equipping the community facility.

(4) An agreement may not be entered into unless the agreement relates to a community facility that is part of a school property, and a municipality may not pay the capital cost of a community facility that is an alteration, addition or improvement to a school property except under an agreement.

- (5)** An agreement with respect to a community facility must
- (a) describe the community facility and school property to which the agreement relates;

(b) set out the capital cost of the community facility, expressed as either

(i) an amount of money, or

(ii) a proportion of the combined capital cost of the community facility and the school property to which the agreement relates;

(c) set out the respective obligations of the parties to the agreement respecting the operation and maintenance of the community facility;

(d) set out the respective rights of the parties to the agreement with respect to access to and use of the community facility; and

(e) include such provisions as are necessary or conducive to carrying out the intent and purpose of the agreement.

(6) A copy of an agreement with respect to a community facility, executed by both parties thereto, and on which is endorsed the approval of the Minister, must be filed with the Minister, the Minister of Municipal Affairs and Housing and the Minister of Communities, Culture, Tourism and Heritage. 2018, c. 1, Sch. A, s. 79.

Powers to comply with agreement

80 (1) A regional centre and a municipality may

(a) do every act, exercise every power and expend every sum of money necessary or proper for the purpose of implementing in every respect all of its obligations under an agreement with respect to a community facility; and

(b) do and perform the acts, matters and things that the agreement provides be done or performed by them in the manner, with the effect and under the conditions stipulated and provided in the agreement.

(2) All money required for the payment or performance by the municipality of its obligations under an agreement with respect to a community facility is deemed to be money required for the ordinary lawful purposes of the municipality and must be levied, raised and collected in all respects as other money required for the ordinary lawful purposes of the municipality is levied, raised and collected.

(3) For the purpose of raising money to pay or perform its obligations under an agreement with respect to a community facility, the municipality may recover annually, from the area that benefits from the community facility to which the agreement relates, the amount required to pay such amounts by an area rate to be collected in the same manner as municipal rates and taxes with the same rights and remedies in the event of default of payment and, for greater certainty, the amount may be rated without a petition of the ratepayers.

(4) Any money required by the municipality for the purpose of paying the capital cost of a community facility under an agreement may be borrowed, and such borrowing is and is deemed to be for a municipal purpose within the

meaning of the *Municipal Government Act* and the *Halifax Regional Municipality Charter*. 2018, c. 1, Sch. A, s. 80.

Agreement re alteration, addition or improvement

81 (1) Where the community facility to which the agreement relates is an alteration, addition or improvement to a school property owned by a regional centre, the regional centre holds the school property in trust.

- (2)** The municipality is entitled to receive
- (a) in the event of the sale of the property; or
 - (b) in the event of partial or complete destruction of the property,

a share of the proceeds from the sale or any insurance recovery, less any amount required to be paid to the Crown in right of the Province under this Act.

(3) The municipality's share is equal to the proportion that the capital amount paid by the municipality under the agreement bears to the appraised value of the whole property.

(4) Every amount recovered by the municipality under this Section must be paid into the special reserve fund of the municipality.

(5) A regional centre may not sell a school property to which an agreement with respect to a community facility relates without first offering to sell the school property to the municipality. 2018, c. 1, Sch. A, s. 81.

Ministerial approval required

82 Nothing in this Act respecting an agreement with respect to a community facility means or is to be construed to mean that either a municipality or a regional centre is relieved from obtaining a consent or approval of the Minister or the Minister of Municipal Affairs and Housing required by this or another enactment. 2018, c. 1, Sch. A, s. 82.

HOME EDUCATION

Requirements

83 (1) A parent may provide to a child of the parent a home education program centred in the child's home.

(2) A parent providing a home education program to a child shall, as prescribed by the regulations,

- (a) register the child for each school academic year with the Minister; and
- (b) report the child's progress to the Minister.

(3) With the approval of the regional centre, a child in a home education program may attend courses offered by a regional centre, subject to any terms and conditions prescribed by the regional centre.

(4) The Minister may require the parent of a child in a home education program to provide evidence of the child's educational progress by providing one or more of the following as the parent determines:

- (a) results of a standardized test;
- (b) an assessment from a qualified assessor;
- (c) a portfolio of the child's work.

(5) Notwithstanding subsection (4), where, in the Minister's opinion, further evidence of a child's educational progress is required, the Minister may appoint an independent assessor to assess and report to the Minister whether

- (a) the child is making reasonable educational progress;
- (b) the home education program is adequately addressing the child's needs; and
- (c) the available public school program would do more to further the child's educational progress than the home education program.

(6) A parent may request that a child in a home education program be assessed, in accordance with the regulations, through an assessment instrument authorized by the Minister to determine the child's educational progress.

(7) Where, following participation in a home education program, a child enrolls in a public school under the jurisdiction of a regional centre, the regional centre shall determine the child's grade placement. 2018, c. 1, Sch. A, s. 83.

May not be provided or continued

84 (1) A parent may not provide or continue to provide a home education program to a child if, based on the evidence provided and the report made under Section 83, the Minister determines that

- (a) the home education program does not meet the requirements of this Act and the regulations; or
- (b) the child is not making reasonable educational progress as determined by the child's performance.

(2) Before making a determination under subsection (1), the Minister shall

- (a) notify the parent, in writing, by registered mail of the Minister's intent to make the determination; and
- (b) give the parent an opportunity to make representation to the Minister in writing as to why the home education program should be provided or continued. 2018, c. 1, Sch. A, s. 84.

PRIVATE SCHOOLS

Permitted

85 A child may attend a private school. 2018, c. 1, Sch. A, s. 85.

Requirements

- 86** (1) A private school
- (a) must meet local health, safety and building standards;
 - (b) shall give notice of its operation with the Minister in the manner required by the Minister;
 - (c) shall provide statistical information with respect to the school, as required by the Minister; and
 - (d) where requested by the Minister, shall provide evidence that students are making reasonable educational progress appropriate for their age and grade level based upon results of nationally or internationally recognized standardized achievement tests.
- (2) The Minister may appoint or designate a regional education officer to assess a private school, including its teachers, its educational programs and its instructional materials, to inspect its facilities and to perform such other duties with respect to the private school as the Minister may require.

(3) A private school may offer a religious-based curriculum. 2018, c. 1, Sch. A, s. 86.

High school leaving certificate

87 Upon application by a private school to the Minister in accordance with the regulations, the Minister may recognize the school's program of studies as meeting the requirements for a high school leaving certificate. 2018, c. 1, Sch. A, s. 87.

NOVA SCOTIA EDUCATION COMMON SERVICES BUREAU

Corporation sole

88 The Minister is constituted a corporation sole under the name of the Nova Scotia Education Common Services Bureau. 2018, c. 1, Sch. A, s. 88.

Objects

- 89** The objects of the Bureau are
- (a) to provide services to support the efficient administration and operation of the education system;
 - (b) to provide and administer services for the benefit of individuals or groups related to the education system, including the administration of pensions and benefits to designated individuals employed by education entities; and
 - (c) such other things as in the Minister's discretion may be desirable. 2018, c. 1, Sch. A, s. 89.

Powers

90 Subject to the direction of the Minister, the Bureau may do all things necessary or desirable for the attainment of its objects or incidental thereto, including, without limiting the generality of the foregoing,

- (a) provide the services it is required to provide under the regulations;
- (b) hire, pay, promote, demote, reassign, discipline and dismiss staff of the Bureau;
- (c) purchase, acquire, lease and hold real and personal property and sell, convey and lease, mortgage or transfer the same;
- (d) borrow money from any person or corporation and give security for any money so borrowed on any of the real and personal property of the Bureau by way of mortgage or otherwise;
- (e) accept and administer all gifts, legacies or bequests that may be given to the Bureau, a regional centre or the Department;
- (f) expend any money of the Bureau; and
- (g) charge the fees set under the regulations. 2018, c. 1, Sch. A, s. 90.

Records

91 (1) In this Section, “records” means records as defined in the *Freedom of Information and Protection of Privacy Act*.

(2) Records collected or used by the Bureau for the purpose of providing shared services to an education entity, department or public sector entity may be deemed by the regulations to be in the custody or under the control of the Bureau or an education entity, department or public sector entity for the purpose of the *Freedom of Information and Protection of Privacy Act*. 2018, c. 1, Sch. A, s. 91.

GENERAL

Auditor General

92 (1) The payments made by the Minister or a regional centre for all or a portion of the cost of any policy of insurance or any other benefits plan provided to teachers, including, without limiting the generality of the foregoing, life insurance, accidental death and dismemberment insurance or medical and dental plans are financial assistance for the purpose of the *Auditor General Act* and subject to audit by the Auditor General.

(2) The Auditor General is entitled to free access at all times to the records, documents, books, accounts and vouchers of a regional centre and to receive from the officers and employees of the regional centre such information and explanations that, in the opinion of the Auditor General, are necessary for the performance of the Auditor General’s duty.

(3) Every official and employee of a regional centre shall promptly provide to the Auditor the access, information and explanations to which the Auditor General is entitled. 2018, c. 1, Sch. A, s. 92.

Collection and use of personal information by Minister

93 The Minister may collect, directly and indirectly, and use personal information for

- (a) administering this Act and the regulations and implementing the policies, guidelines and directives made under this Act;
- (b) ensuring compliance with this Act, the regulations and the policies, guidelines and directives made under this Act;
- (c) planning or delivering programs or services that the Minister provides or funds, in whole or in part, allocating resources to any of them and evaluating or monitoring any of them; and
- (d) research and statistical activities that relate to education and are conducted by or on behalf of the Government. 2018, c. 1, Sch. A, s. 93.

Collection and use of personal information by regional centre

94 A regional centre may collect, use and disclose to the Minister personal information for the purpose of

- (a) planning and management of public schools and programs and services under its jurisdiction;
- (b) research and statistical activities that relate to education and are conducted by or on behalf of the regional centre or the Minister; and
- (c) such other necessary purpose determined by the Minister. 2018, c. 1, Sch. A, s. 94.

Limits on collection and use of personal information

95 (1) The Minister may not collect or use personal information if other information would serve the purpose of the collection or use.

(2) The Minister may not collect or use more personal information than is reasonably necessary to meet the purpose of the collection or use. 2018, c. 1, Sch. A, s. 95.

Offence and penalty

96 (1) No person shall, in or upon any public school premises or school bus and in the presence of any student attending that school, use profane, threatening, abusive or improper language towards a teacher, other staff of the education entity or the bus driver, or speak or act in such a way as to impair the maintenance of discipline by the teacher in the school or the bus driver on the school bus.

(2) No person shall wilfully interrupt or disturb the proceedings of a school meeting or a public school by acting in a disorderly manner or by making a noise either within the place where the meeting is held or the school is conducted or so near thereto as to interfere with the proceedings of the meeting or the conduct of the school.

(3) Every person who contravenes this Section is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for six months, or to both. 2018, c. 1, Sch. A, s. 96.

Ministerial regulations

97 (1) The Minister may make regulations

- (a) prescribing the public school program of education to be provided and administered by education entities;
- (b) prescribing the time in session, holidays and vacations of all public schools;
- (c) prescribing the minimum number of hours of instruction to which students in public schools are entitled;
- (d) prescribing courses of study and authorizing learning materials for use in public schools;
- (e) respecting the administration of the Nova Scotia School Book Bureau;
- (f) respecting the composition of and terms and conditions for membership on PACE;
- (g) after consultation with the Council on Mi'kmaq Education, respecting the Council on Mi'kmaq Education;
- (h) after consultation with the Council on African-Canadian Education, respecting the Council on African-Canadian Education;
- (i) respecting school advisory councils and regional school advisory councils, including their establishment, composition, powers, duties and other functions and the terms and conditions upon which their members serve;
- (j) establishing a provincial policy respecting special-education programming and services;
- (k) prescribing an appeal process in the case of a disagreement between a regional centre and a parent of a child with special needs respecting an individualized program plan for that child;
- (l) respecting students who have been suspended;
- (m) defining "senior staff";
- (n) respecting an administrative structure for senior staff and regional executive directors, where senior staff is not defined to include them;
- (o) for the support, conduct, operation and management of public schools and services;
- (p) respecting the circumstances under which a school may be permanently closed;
- (q) prescribing reporting systems and forms for the administration and effective carrying out of this Act;
- (r) respecting the objects, duties and powers of the Bureau;
- (s) respecting services to be provided by the Bureau;
- (t) any other matter the Minister considers desirable to effectively carry out the objects of the Bureau.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2018, c. 1, Sch. A, s. 97.

Governor in Council regulations

- 98 (1) The Governor in Council may make regulations
- (a) prescribing the legal age limit for students and the conditions of satisfactory attendance for public schools;
 - (b) respecting mandatory attendance at school for residents between the ages of five and 16 years;
 - (c) prescribing the terms and conditions for the admittance of international students;
 - (d) respecting the fees to be paid by international students;
 - (e) prescribing the fees to be paid to the Minister for services rendered by the Department;
 - (f) respecting the remuneration of and reimbursement for expenses incurred by members of PACE;
 - (g) respecting the remuneration of and reimbursement for expenses incurred by members of the Council on Mi'kmaq Education;
 - (h) respecting the remuneration of and reimbursement for expenses incurred by members of the Council on African-Canadian Education;
 - (i) respecting students with special needs attending approved special education private schools, including
 - (i) defining special needs,
 - (ii) determining eligibility requirements of students,
 - (iii) approving special education private schools,
 - (iv) respecting the monitoring of approved special education private schools,
 - (v) respecting the funding with respect to students with special needs attending approved special education private schools, including grants or funding based on income,
 - (vi) prescribing fees,
 - (vii) providing for the appointment and remuneration of a person to approve applications for funding referred to in subclause (v),
 - (viii) respecting appeals, and
 - (ix) authorizing the Minister to perform the functions referred to in subclauses (i) to (viii);
 - (j) respecting certificates of exemption from attendance at school and certificates authorizing employment of a child during school hours;

- (k) respecting the classification of teachers and the granting, cancellation and suspension of teacher's certificates and permits, and requiring the collection and payment of fees respecting initial certificates, duplicate certificates and renewal certificates and higher classes of certificates and statements of professional standing;
- (l) prescribing restrictions or conditions on a teacher's certificate or a teaching permit;
- (m) authorizing the holder of a teacher's certificate or a teaching permit to surrender the certificate or teaching permit;
- (n) respecting the reporting of the suspension or cancellation of, or restrictions or conditions on, a teacher's certificate or a teaching permit to education entities in the Province and teacher certification authorities within or outside of Canada;
- (o) requiring teachers and any other class or classes of employees of education entities or of persons providing services for education entities to undergo medical examinations, prescribing the nature of those examinations and the conditions under which they must be given and, subject to the *Health Protection Act*, prescribing the conditions under which such teachers and employees may continue teaching or in employment in or in connection with public schools;
- (p) prescribing terms and conditions relating to cancellation, suspension or modification of contracts between teachers and education entities as a result of medical examinations made under the regulations;
- (q) respecting the constitution of regional centres, including, without limiting the generality of the foregoing,
 - (i) respecting the establishment or dissolution of a regional centre and the amalgamation of regional centres,
 - (ii) designating a geographical area of the Province as a school region to be served by a regional centre,
 - (iii) altering the boundaries of a school region,
 - (iv) respecting the annexation of a school region to another school region, and
 - (v) determining the name of a school region;
- (r) respecting regional centres and their role in
 - (i) the education and instruction of students, and
 - (ii) the control and management of public schools within their respective jurisdictions;
- (s) prescribing duties of the regional executive director, senior staff of a regional centre, principals, vice-principals and teachers;
- (t) respecting the expenditure, by way of grants, of money appropriated by the Legislature for grants for educational purposes and prescribing the terms and conditions upon which such grants must be paid;

- (u) subject to subsection (2), determining the rate to be used in determining the minimum municipal contribution;
- (v) respecting the construction, location and control of public school buildings;
- (w) respecting the use of shared services by education entities;
- (x) respecting home education programs, including, without limiting the generality of the foregoing,
 - (i) defining “standardized test”, “qualified assessor”, “portfolio of the child’s work” and “independent assessor”,
 - (ii) respecting the appointment of independent assessors, and
 - (iii) respecting the assessment of a child in a home education program through an assessment instrument;
- (y) respecting private schools;
- (z) respecting fees that may be charged for services of the Bureau;
- (aa) deeming records to be or not be in the custody or control of the Bureau or an education entity, department or public sector entity for the purpose of Section 91;
- (ab) respecting confidentiality of information held by an education entity or a school with respect to students and the release of such information;
- (ac) defining any word or expression used but not defined in this Act;
- (ad) 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 rate determined under clause (1)(u) must be no greater than a rate that would increase the total of the minimum municipal contributions from the total minimum municipal contributions in the immediately preceding fiscal year by the annual average percentage increase in the Consumer Price Index for the Province for the preceding calendar year.

(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*, 2018, c. 1, Sch. A, s. 98.

TRANSITIONAL

Transitional

- 99 (1) In this Section,
- “benefits” means, with respect to an employee, benefits to which the employee is entitled under a collective agreement or contract of employment;

“predecessor entity” means a regional school board or the Nova Scotia School Boards Association;

“successor entity” means,

(a) with respect to a predecessor entity that is a regional school board, the regional centre that succeeds the regional school board; and

(b) with respect to the Nova Scotia School Boards Association, the Bureau.

(2) Subject to subsection (3), effective April 1, 2018,

(a) the predecessor entities are dissolved;

(b) the assets and liabilities of each predecessor entity become the assets and liabilities of its successor entity;

(c) the vesting of any asset of a predecessor entity in its successor entity does not void any policy of insurance with respect to the asset, including any public liability insurance, and the successor entity is deemed to be the insured party for the purpose of any such policy;

(d) every successor entity is substituted for its predecessor entity with respect to any agreement to which the predecessor entity was a party;

(e) every employee of a predecessor entity becomes the employee of its successor entity and is deemed to have been employed by the successor entity for the same period of employment that the employee was credited with as an employee of the predecessor entity;

(f) for greater certainty, the continuity of employment of an employee of a predecessor entity is not broken by the effect of clause (e);

(g) every individual who becomes the employee of a successor entity under clause (e) is employed by the successor entity on the same terms and conditions as to salary and benefits as those under which the individual was an employee of its predecessor entity, until lawfully changed;

(h) benefits accumulated by an employee of a predecessor entity are vested in the employee and the employee is entitled to receive those benefits from the successor entity;

(i) for greater certainty, every successor entity assumes the obligations of its predecessor entity with respect to any pension plan applicable to the predecessor entity;

(j) any disciplinary matter with respect to a member of the staff of a regional school board that was commenced and not concluded before April 1, 2018, may be continued with respect to the member as an employee of the regional centre that succeeds the regional school board.

(3) Effective April 1, 2018,

(a) an individual employed by a regional school board as the superintendent of schools becomes an employee of the Department as the regional executive director of the regional centre that succeeds the regional school board and is deemed to have been employed by the Department for the same period of employment that the individual was credited with as an employee of the regional school board;

(b) for greater certainty, the continuity of employment of an individual referred to in clause (a) is not broken by the effect of that clause;

(c) every individual who becomes a regional executive director under clause (a) is employed by the Department on the same terms and conditions as to salary and benefits as those under which the individual was an employee of a regional school board, until lawfully changed;

(d) benefits accumulated by an individual employed as a superintendent of schools are vested in the individual and the individual is entitled to receive those benefits from the Department; and

(e) for greater certainty, the Department assumes the obligations of a regional school board with respect to any pension plan applicable to the superintendent of schools of the regional school board. 2018, c. 1, Sch. A, s. 99.

CHAPTER E-4

An Act Respecting Education

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Application of Act.....	4
Supervision of schools and education.....	5
Public Schools	
Free schools.....	6
Regional School Boards	
School regions and regional school boards.....	7
Consequences of establishing a board	8
Terms of employment	9
Superintendents and directors	10
District School Boards	
Dissolution of Southwest Regional School Board.....	11
Employees, assets and liabilities.....	12
Officials.....	13
Superintendents of successor regional school boards	14
Membership of successor regional school boards.....	15
Application of Sections 11 to 15.....	16
Conseil Scolaire Acadien Provincial	
Establishment of Conseil	17
Entitlement to program	18
Election of Conseil.....	19
Designation of facilities	20
Designation of employees, assets and liabilities.....	21
Cost sharing.....	22
Designation of agreement	23
Language of administration and operation	24
Duties of Conseil.....	25
School Advisory Councils	
Establishment of councils	26
Composition of council	27
Duties of council.....	28
Transfers from school boards to councils	29
Students	
Duties and rights	30
Parents	
Duties and rights	31

Teachers	
Duties	32
Powers of teacher.....	33
Qualifications of teacher.....	34
Effect of determination	35
Written contract	36
Teacher-training students	37
Permanent and probationary contracts.....	38
Suspension of teacher	39
Termination of teacher	40
Revocation of termination at end of 1999-2000	41
Rights of teacher preserved	42
Principals	
Function and duties.....	43
Superintendents	
Function and duties.....	44
Support Staff	
Duties.....	45
School Board Membership	
Election of members	46
Membership	47
African Nova Scotian representative.....	48
Application to determine boundaries.....	49
Powers and duties of Utility and Review Board.....	50
Application of certain legislation.....	51
Qualifications of candidates	52
Restriction on employment of member or former member	53
Disqualification for conviction.....	54
Elections	55
Restriction on number of votes.....	56
Term of office, first meeting and oath of office.....	57
Vacating of seat.....	58
When vacancy to be filled	59
Consequences of absence from meetings	60
Censure of a member by school board	61
Actions by Minister	62
Effect of vacancy	63
Remuneration and reimbursement.....	64
School Board Meetings	
Chair and vice-chair.....	65
Term of office	66
Minimum number of meetings	67
Bylaw making powers and community representatives	68
Meetings	69
Conduct of meetings	70
School Board Officers and Records	
Secretary and treasurer	71
Minutes and other records	72
Bylaws respecting records	73
Duties of School Board Members	
Duties.....	74

General Responsibilities and Powers of School Boards

Duties and powers	75
Commercial activity	76
Unauthorized activity	77
Supervision during lunch break	78
Report on salaries and expenses	79
Power to make certain agreements	80
Certain bylaw-making powers	81
Carrying out of responsibilities	82
Volunteers	83
Prohibitions	84

School Year

Academic and fiscal years	85

School Board Finances and Property

Grants	86
Financial assistance and municipal contribution	87
Statement for municipality	88
Statement of revenues and expenditures	89
Amount of municipal payments to board	90
Power to borrow	91
Payments by Minister	92
Power of Minister to withhold payments	93
Special reserve fund	94
Investment policies	95
Disbursement of funds	96
Financial statements	97
Auditor	98
Audit	99
Audit committee	100
Property and finances	101
Further provisions respecting property	102
School review policy	103
School deemed permanently closed	104
Powers of board respecting buildings	105
Consequences of declaration	106
Control and management of buildings	107
Consequences of declaring property surplus	108

School Attendance

Persons required to attend	109
Responsibility of custodian of child	110
Exemptions	111
Certificates	112
Certain employment prohibited	113
Duties of attendance committee	114
Duties of parent or custodian	115
Prima facie proof	116
Admissibility of certificate	117
Deemed within age limits	118

Student Conduct

Requiring student to leave class	119
Suspension or other action	120
Review of suspension	121
Extended suspension	122
Manner of exercising certain powers and duties	123
Alternative educational arrangements	124
Suspension of school bus rights	125

Home Education	
Provision of home education	126
Termination of right to provide home education	127
Private Schools	
Right to attend private school	128
Duties and rights of private schools	129
Recognition of program	130
Community Facilities	
Agreements respecting community facilities	131
Power to carry out agreement and impose rates	132
Holding and disposition of school property	133
Requirement for consent unaffected	134
Mi'kmaq Education	
Council on Mi'kmaq Education	135
Duties of school boards	136
African-Canadian Education	
Council on African-Canadian Education	137
Duties of school boards	138
General	
Investigation and audit of school board	139
Powers of Minister	140
Restriction on collection or use of personal information	141
Regional education officers	142
Application of legislation to certain payments	143
Power of Governor in Council respecting money	144
Regulations by Minister	145
Regulations by Governor in Council	146
Substituted reference	147
Former Act repealed	148
Existing regulations continued	149

WHEREAS the education system of Nova Scotia is of vital importance to the future of Nova Scotia;

AND WHEREAS meaningful partnerships between and participation by students, parents, teachers, other staff in the public school system, school board members and the public should be encouraged to ensure a high-quality education system;

AND WHEREAS students should have a right and a responsibility to participate fully in learning opportunities, contribute to an orderly and safe learning environment and, in appropriate circumstances, participate in decisions that affect their schools;

AND WHEREAS parents should have a right and a responsibility to support their children in achieving learning success and participate in decisions that affect their children;

AND WHEREAS students, parents, teachers, support staff, principals and school boards share responsibility for implementing a school-wide approach to maintaining a positive and inclusive school climate where everyone has a role to play in the awareness and prevention of unacceptable behaviour—including bullying and cyberbullying—and where all students are supported to develop healthy relationships, make good choices, continue their learning and achieve success;

AND WHEREAS an orderly and safe learning environment where all students feel respected and accepted is a necessary condition for student success;

AND WHEREAS students must be held accountable for their actions, and responsibility and accountability can be fostered through preventative, proactive and restorative approaches;

AND WHEREAS the education community, in making decisions, should consider the diverse nature and heritage of society in Nova Scotia within the context of its values and beliefs;

AND WHEREAS the education system should be committed to fair and equitable participation and benefit by all people in Nova Scotia:

Preamble amended 2012, c. 14, s. 2; 2015, c. 16, s. 1.

Short title

1 This Act may be cited as the *Education (CSAP) Act*. 1995-96, c. 1, s. 1; 2018, c. 1, Sch. A, s. 105.

Purpose of Act

2 The purpose of this Act is to provide for a publicly funded school system whose primary mandate is to provide education programs and services for students to enable them to develop their potential and acquire the knowledge, skills and attitudes needed to contribute to a healthy society and a prosperous and sustainable economy. 1995-96, c. 1, s. 2.

Interpretation

3 (1) In this Act,

“African-Canadian education” means the development of programs, resources and learning materials that provide information about and promote understanding of African people and their history, heritage, culture, traditions and contributions to society, recognizing their origins as Africans;

“bullying” means behaviour, typically repeated, that is intended to cause or should be known to cause, whether directly or indirectly, fear, intimidation, humiliation, exclusion, distress or other harm to another person’s body, feelings, self-esteem, reputation or property, and includes assisting or encouraging such behaviour in any way;

“Conseil acadien” means the *Conseil scolaire acadien provincial* established by this Act;

“conseil d’école” means a *conseil d’école* established pursuant to Chapter 6 of the Acts of 1991, the *School Boards Act*;

“cyberbullying” means any electronic communication through the use of technology, including, computers, other electronic devices, social networks, text messaging, instant messaging, websites and electronic mail, typically repeated or with continuing effect, that is intended to cause or ought to reasonably be expected to cause fear, intimidation, humiliation, distress or other damage or harm to another person’s health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way;

“district school board” means a district school board established by or pursuant to this Act;

“educational facility” means a school house, building or classroom, and includes a mobile classroom;

“electoral district” means a district for the election of a member of a school board;

“entitled parent” means a parent who is a citizen of Canada and

(a) whose first language learned and still understood is French;

(b) who received primary school instruction in Canada in a French-first-language program; or

(c) of whom any child has received or is receiving primary or secondary school instruction in Canada in a French-first-language program;

“entitled person” means an entitled parent or a person who, not being an entitled parent, would be an entitled parent if the person were a parent;

“former Act” means Chapter 136 of the Revised Statutes, 1989, the *Education Act*, or any predecessor to that Act;

“French-first-language program” means a school program in which the first language of instruction is French and in which the English language is taught, but does not include a French-immersion program;

“home education program” means a course of study provided to a student under the direction of the student’s parent and centered in the student’s home;

“local amalgamation committee” means a local amalgamation committee appointed pursuant to this Act;

“minimum municipal contribution” means the amount that would be raised in a municipality if tax was levied at the tax rate, determined by the regulations, on the uniform assessment of the municipality determined pursuant to the *Municipal Grants Act*, or such lesser amount as determined by the regulations;

“Minister” means the Minister of Education and Early Childhood Development;

“Mi’kmaq” means all first-nations people, whether living on or off a reserve;

“Mi’kmaq education” means the development of programs, resources and learning materials that provide information about and promote understanding of the Mi’kmaq and their history, heritage, language, culture, traditions and contributions to society and that recognize their origins as first-nations people;

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

“parent” includes, except in the definition of entitled parent, a guardian and a person acting *in loco parentis* to a child;

“permanent contract” means a written contract between a school board and a teacher in a form approved by the Minister that has been entered into after the teacher has served under a probationary contract, or has been employed by the school board for two or more years immediately preceding the year in which the school board entered into probationary and permanent contracts with the teacher for the first time;

“person in charge” of a child means a person over the age of 19 years with whom a child lives or who controls or is in a position to control or has the apparent charge of a child;

“principal” means the principal of a public school, appointed by the school board pursuant to this Act;

“private school” means a school, other than a public school, that serves school-age children and has a curriculum comparable to that provided by the public schools, but does not include a home-education program;

“probationary contract” means a written contract between a school board and a teacher in a form approved by the Minister whereby the teacher is employed on a probationary basis;

“public school” means a public school maintained and conducted under this Act;

“ratepayer” means a person liable to taxation pursuant to the *Assessment Act*;

“regional education officer” means a regional education officer appointed pursuant to this Act;

“regional school board” means a regional school board established pursuant to this Act;

“school board” means a district school board, a regional school board or the Conseil acadien;

“school district” means the area over which a district school board has jurisdiction;

“school program” means the public-school program of education prescribed by the regulations;

“school region” means the area over which a regional school board or the Conseil acadien exercises jurisdiction;

“superintendent” means the superintendent of schools appointed for a school region;

“support staff” includes persons employed in any capacity to assist a school board in providing services for the comfort, assistance, safety and conveyance of students or to provide administrative support to a school board and its schools, but does not include a teacher;

“teacher” means a person who

(a) holds a teacher’s certificate or a teaching permit issued by the Minister qualifying the person to teach in the public schools in the Province, including a vocational teacher’s certificate or a vocational teaching permit issued by the Minister; and

(b) is employed by a school board or the Minister in a teaching, supervisory or other professional capacity relating to education;

“term contract” means a written contract, other than a probationary or permanent contract, between a school board and a teacher in a form approved by the Minister;

“unacceptable behaviour” means behaviour that endangers the well-being of others, damages property or significantly disrupts the learning of others, and includes

- (a) bullying;
- (b) cyberbullying;
- (c) discriminatory behaviour;
- (d) illegal activity;
- (e) insubordination;
- (f) misuse of network or online resources;
- (g) physical violence;
- (h) racist behaviour;
- (i) repeated use of tobacco or electronic cigarettes;
- (j) sexual assault;
- (k) sexual harassment;
- (l) sexual misconduct;
- (m) significant disruption to school operations;
- (n) use or possession of
 - (i) alcohol,
 - (ii) drug-related paraphernalia,
 - (iii) illegal drugs, or
 - (iv) weapons;
- (o) vandalism; and
- (p) verbal abuse;

“Utility and Review Board” means the Nova Scotia Utility and Review Board.

(2) Notwithstanding the definition of “district school board” in subsection (1), in clauses 8(i) and 9(1)(b) and subsections 9(4) and (5), 20(2), 94(4) and 108(1), “district school board” means a district school board established pursuant to the former Act. 1995-96, c. 1, s. 3; 2000, c. 11, s. 1; 2005, c. 16, s. 1; 2010, c. 37, s. 65; 2012, c. 21, s. 1; 2015, c. 16, s. 2.

Application of Act

4 (1) This Act applies only to matters respecting the Conseil acadien.

(2) In the event of a conflict between this Act and the *Education Act*, the *Education Act* prevails. 2018, c. 1, Sch. A, s. 106.

Supervision of schools and education

5 The Minister has the general supervision of public schools and education in the Province. 1995-96, c. 1, s. 4.

PUBLIC SCHOOLS

Free schools

6 (1) All public schools established or conducted pursuant to this Act are free schools.

(2) Subject to this Act and the regulations and notwithstanding the *Age of Majority Act*, every person over the age of five years and under the age of 21 years has the right to attend a public school serving the school district or school region in which that person resides, as assigned by the school board.

(3) A school board may, in accordance with the regulations, admit foreign students and, notwithstanding subsection (1), fees may be charged to such students as prescribed by the regulations. 1995-96, c. 1, s. 5.

REGIONAL SCHOOL BOARDS

School regions and regional school boards

7 (1) The Governor in Council may designate a geographic area of the Province as a school region.

(2) The Governor in Council may establish a regional school board to administer the public schools in a school region.

(3) Each regional school board is a body corporate under the name determined by the Governor in Council.

(4) The Governor in Council may alter the boundaries of a school region.

(5) The Governor in Council may annex the whole or any part of a school district or school region to another school region.

(6) Notwithstanding subsections (1) to (5), there must be at least seven school boards. 1995-96, c. 1, s. 7.

Consequences of establishing a board

8 Upon the establishment of a regional school board for a school region,

(a) existing school boards in the school region, other than the Conseil acadien, are dissolved;

(b) notwithstanding Section 47 and clause 52(2)(f), the members of the dissolved school boards are members of the regional school board pending the next election of school board members;

(c) the assets and liabilities of the dissolved school boards are vested in the regional school board, including all employee benefits and entitlements;

(d) the vesting of any assets of the dissolved school boards in the regional school board does not void any policy of insurance with respect to any of the assets, including any public liability policy, and the regional school board is deemed to be the insured party for the purpose of such policy;

(e) the regional school board is substituted for a dissolved school board with respect to any agreement to which the dissolved school board was a party;

(f) all persons employed by the dissolved school boards become employees of the regional school board, the employment and seniority with the dissolved board of each employee is deemed to be employment and seniority with the regional school board and the continuity of employment and seniority is not broken;

(g) the regional school board is a successor employer for the purpose of the *Pension Benefits Act*;

(h) the regional school board shall continue to pay any pension or annuity, being paid by a dissolved school board, according to its terms; and

(i) notwithstanding clauses (c) and (f), Section 119 of the *Labour Standards Code* does not apply to a period of employment with a district school board. 1995-96, c. 1, s. 8.

Terms of employment

9 (1) For greater certainty, a regional school board is a transferee for the purpose of Section 38 of the *Trade Union Act* and, without limiting the generality of the foregoing,

(a) the regional school board is bound by successor rights as determined pursuant to the *Trade Union Act* and the *Teachers Collective Bargaining Act*; and

(b) subject to the *Trade Union Act* and the *Teachers Collective Bargaining Act*, the regional school board and the employees, who are covered by collective agreements, of a district school board

are bound by the collective agreement as if the regional school board were a party to them.

(2) The *Public Sector Compensation (1994-97) Act* applies to a regional school board and members and employees of the board except that, notwithstanding subsection 3(4) of that Act,

(a) Section 23 of that Act does not apply;

(b) the Labour Board may exercise all of its powers under the *Teachers Collective Bargaining Act* or the *Trade Union Act* but the total effect of any changes to collective agreements must not increase the total cost of all compensation in respect of all employees to whom the collective agreements changed apply and the pay rates, as defined by the *Public Sector Compensation (1994-97) Act*, are not more than permitted by that Act; and

(c) no change may be made in a collective agreement without the approval of the Labour Board in accordance with clause (b).

(3) For greater certainty, subsection (2) does not confer any additional powers on the Labour Board with respect to persons to whom the *Teachers Collective Bargaining Act* applies except as provided by that Act.

(4) Where the Labour Board, in applying subsection (1) or (2), determines that those employees, of the regional school board, who were not previously included in a bargaining unit of a district school board are to be included in a bargaining unit of the regional school board, those employees are deemed to have seniority credits with the regional school board equal to the employment service they had with the district school board.

(5) The right of an employee of a district school board to employment with a regional school board in a bargaining unit position is not affected by whether that employee was previously employed pursuant to a collective agreement and the employee is deemed to have seniority credits with the regional school board equal to the employee's service with the district school board.

(6) In subsections (4) and (5), "employee" means an employee as defined in Section 2 of the *Trade Union Act* but, for greater certainty, does not include those described in subsection 2(2) of that Act.

(7) The Labour Board may exercise its powers pursuant to this Section upon the Governor in Council making the order establishing the school region. 1995-96, c. 1, s. 9; 2010, c. 37, s. 66.

Superintendents and directors

10 (1) There must be a superintendent for each regional school board and the Conseil acadien.

(2) The superintendent and directors of a regional school board and the Conseil acadien must be chosen from all interested candidates

(a) through an open and unrestricted competition; and

(b) strictly on the basis of merit, including educational qualifications, professional experience, personal qualities and general ability to discharge the responsibilities of the office.

(3) Nothing in this Section affects the status of a superintendent or director under a collective agreement in effect immediately before January 16, 1996. 1995-96, c. 1, s. 10; 2012, c. 21, s. 2.

DISTRICT SCHOOL BOARDS

Dissolution of Southwest Regional School Board

11 (1) The Southwest Regional School Board is dissolved.

(2) The South Shore Regional School Board is established to administer the public schools in the school region composed of Lunenburg County, Queens County and that part of the former school region administered by the former Southwest Regional School Board in Annapolis County and the Tri-County Regional School Board is established to administer the public schools in the school region composed of Digby County, Shelburne County and Yarmouth County.

(3) The employees, assets and liabilities of the South Shore District School Board as of July 31, 2004, are the employees, assets and liabilities of the South Shore Regional School Board and, for greater certainty, employees of the South Shore District School Board employed on July 31, 2004, are entitled to the same salary and benefits as employees of the South Shore Regional School Board.

(4) The employees, assets and liabilities of the Tri-County District School Board as of July 31, 2004, are the employees, assets and liabilities of the Tri-County Regional School Board and, for greater certainty, employees of the Tri-County District School Board employed on July 31, 2004, are entitled to the same salary and benefits as employees of the Tri-County Regional School Board.

(5) For greater certainty, Sections 7 to 9 apply with necessary changes to this Section. 2004, c. 3, s. 16.

Employees, assets and liabilities

12 (1) The employees, assets and liabilities of the Southwest Regional School Board, including the Provincial funding allocation, must be allocated between the South Shore Regional School Board and the Tri-County Regional School Board as determined by the Governor in Council.

(2) For greater certainty, employees of the Southwest Regional School Board employed on July 31, 2004, are entitled to the same salary and benefits as employees of the South Shore Regional School Board or the Tri-County Regional School Board, respectively.

(3) For greater certainty, Sections 8 and 9 apply with necessary changes to this Section. 2004, c. 3, s. 16.

Officials

13 (1) The appointments of the Chief Executive Officer of the Southwest Regional School Board, the Director of Education of the South Shore District

School Board and the Director of Education of the Tri-County District School Board are revoked effective July 31, 2004.

(2) Notwithstanding any enactment, contract or policy of a school board, any employment contract relating to a person referred to in subsection (1) is null and void as of July 31, 2004, and, for greater certainty, no compensation or damages shall be paid pursuant to such contract or policy after that date.

(3) No person referred to in subsection (1) has a cause of action with respect to the revocation of that person's appointment pursuant to subsection (1). 2004, c. 3, s. 16.

Superintendents of successor regional school boards

14 (1) Before August 1, 2004, the South Shore District School Board and the Tri-County District School Board shall each choose a person to be appointed the superintendent of their respective successor regional school board.

(2) When choosing a person pursuant to subsection (1), the district school board shall follow the procedure set out in subsection 10(2) and clause 75(2)(m) applies. 2004, c. 3, s. 16.

Membership of successor regional school boards

15 The number of members of the school board and the number and boundaries of the electoral districts in the school district for the South Shore District School Board and the Tri-County District School Board, as determined by the Nova Scotia Utility and Review Board, are the number of members and the number and boundaries of electoral districts for the South Shore Regional School Board and the Tri-County Regional School Board, respectively. 2004, c. 3, s. 16.

Application of Sections 11 to 15

16 Sections 11 to 15 apply with necessary changes to a school district and a district school board designated in the regulations. 2004, c. 3, s. 16.

CONSEIL SCOLAIRE ACADIEN PROVINCIAL

Establishment of Conseil

17 (1) The Governor in Council may establish a school board with jurisdiction throughout the Province, a body corporate to be known as the *Conseil scolaire acadien provincial*, for the purpose of providing a French-first-language program to the children of entitled parents.

(2) The Conseil acadien is responsible for the delivery and administration of all French-first-language programs.

(3) A public school, or part of a public school, in which a French-first-language program is provided is known as an *école acadienne*.

(4) Upon the establishment of the Conseil acadien,
(a) every conseil d'école is dissolved;

(b) the Conseil acadien becomes responsible for the control and management of every educational facility of a conseil d'école;

(c) the assets and liabilities of the conseils d'école are vested in the Conseil acadien, including all employee benefits and entitlements;

(d) the vesting of any assets of a conseil d'école in the Conseil acadien does not void any policy of insurance with respect to any of the assets, including any public liability policy, and the Conseil acadien is deemed to be the insured party for the purpose of such policy;

(e) the Conseil acadien is substituted for a dissolved conseil d'école with respect to any agreement to which the dissolved conseil d'école was a party;

(f) all persons employed by a conseil d'école become employees of the Conseil acadien, the employment and seniority of each of the employees with the conseil d'école at the time of establishment of the Conseil acadien is deemed to be employment and seniority with the Conseil acadien and the continuity of employment and seniority is not broken;

(g) the Conseil acadien is a successor employer for the purpose of the *Pension Benefits Act*;

(h) the Conseil acadien shall continue to pay any pension or annuity, being paid by a conseil d'école, according to its terms;

(i) notwithstanding clauses (c) and (f), Section 119 of the *Labour Standards Code* does not apply to a period of employment with a conseil d'école; and

(j) Sections 9 and 10 apply with necessary changes. 1995-96, c. 1, s. 11.

Entitlement to program

18 The children of an entitled parent are entitled to be provided a French-first-language program by the Conseil acadien if they otherwise have a right pursuant to this Act to attend a public school and if the numbers warrant the provision of the program out of public funds. 1995-96, c. 1, s. 12.

Election of Conseil

19 (1) The Conseil acadien must be elected by entitled persons, at the same time as the regularly scheduled elections for school boards.

(2) An entitled person may vote in an election for the Conseil acadien or for another school board if that person is otherwise entitled to vote in an election for a school board but that person is not entitled to and shall not vote in the same election for both.

(3) For greater certainty, an entitled person who votes in an election for either the Conseil acadien or for another school board may vote for either

the Conseil acadien or for another school board in a special election that follows the election.

(4) Notwithstanding the *Municipal Elections Act*,

(a) for greater certainty, only entitled persons may be members of the Conseil acadien;

(b) only an entitled person may nominate a candidate for election as a member of the Conseil acadien and a person nominating such a candidate is required to sign a statement stating that person's status as an entitled person, in a form prescribed pursuant to the *Municipal Elections Act*;

(c) a person applying to vote in an election for the Conseil acadien is not required to take an oath or make an affirmation attesting to that person's status as an entitled person but is required to confirm the person's status as an entitled person as defined in the *Education Act* and, where a person wishes to provide the confirmation, the person may provide the confirmation by requesting the ballot to vote for the Conseil acadien and that request constitutes the confirmation;

(d) where a person votes in an election for the Conseil acadien, that fact must be entered in the poll book in the manner prescribed by or pursuant to the *Municipal Elections Act*;

(e) for greater certainty, the Minister of Municipal Affairs and Housing may, pursuant to that Act, prescribe or alter any forms under that Act for the purpose of this Section; and

(f) the Municipal Elections Officer may give such directions as may be necessary for the purpose of this Section.

(5) A returning officer shall accept

(a) subject to subsection 55(5) of the *Municipal Elections Act*, a signed statement, in a form prescribed pursuant to the *Municipal Elections Act*, of a candidate that the candidate is an entitled person; or

(b) a statement signed pursuant to clause (4)(b),

as sufficient evidence that the candidate or person is an entitled person.

(6) Commencing with the first election of the members of the Conseil acadien,

(a) the Province shall be divided into eight electoral districts or such greater number of districts as the Utility and Review Board determines;

(b) the boundaries of the electoral districts shall be as determined by the Utility and Review Board; and

(c) the same number of members need not be elected from each electoral district.

(7) In determining the boundaries of the electoral districts and the number of members to be elected from each, the Utility and Review Board shall give consideration to effective representation of the Acadian and francophone communities in the Province and effective representation must be considered of greater importance than parity of voting. 1995-96, c. 1, s. 13; 2000, c. 11, s. 4; 2003, c. 9, s. 44.

Designation of facilities

20 (1) The Governor in Council may designate educational facilities that are to be used to provide a French-first-language instruction program.

(2) Upon designation pursuant to subsection (1) of an educational facility owned by a district school board or regional school board,

(a) where the educational facility is an entire school, the ownership of the school and its control and management are transferred to the Conseil acadien; or

(b) where the educational facility is not an entire school, the ownership of the school and its control and management are transferred to the Conseil acadien if the Governor in Council so orders.

(3) Upon designation pursuant to subsection (1) of an educational facility owned by a municipality,

(a) where the educational facility is an entire school, the control and management of the school is transferred to the Conseil acadien; or

(b) where the educational facility is not an entire school, the control and management of the school is transferred to the Conseil acadien if the Governor in Council so orders.

(4) In subsections (2) and (3), “school” includes the real property upon which the school is situate. 1995-96, c. 1, s. 14.

Designation of employees, assets and liabilities

21 (1) Where an educational facility is designated pursuant to subsection 20(1), the Governor in Council may, on the recommendation of the Minister after consultation by the Minister with the Conseil acadien and the school board responsible for the facility before the designation,

(a) after consultation by the Minister or the Minister’s representative with persons employed by a school board in or with respect to the facility or their representative, designate them to become employees of the Conseil acadien;

(b) designate assets and liabilities of a school board within or pertaining to the facility to be vested in the Conseil acadien;

(c) designate assets of a school board within or pertaining to the facility, including assets designated pursuant to clause (b), to be shared by the school board and the Conseil acadien;

(d) designate agreements in which the Conseil acadien is to be substituted for the school board.

- (2) Upon designation of a person pursuant to clause (1)(a),
- (a) that person becomes an employee of the Conseil acadien;
 - (b) the period of employment and seniority of that person with a school board at the time of designation of that person is deemed to be employment and seniority with the Conseil acadien and the continuity of employment and seniority is not broken;
 - (c) the Conseil acadien becomes responsible for all employee benefits and entitlements that person had as an employee of the other school board;
 - (d) the Conseil acadien is a successor employer for the purpose of the *Pension Benefits Act*; and
 - (e) Section 9 applies with necessary changes.
- (1)(b),
- (3) Upon designation of assets and liabilities pursuant to clause
- (a) those assets and liabilities are vested in the Conseil acadien; and
 - (b) the vesting of any assets of a school board in the Conseil acadien does not void any policy of insurance with respect to any of the assets, including any public liability policy, and the Conseil acadien is deemed to be the insured party for the purpose of such policy. 1995-96, c. 1, s. 14.

Cost sharing

22 (1) Upon designation of assets pursuant to clause 21(1)(c), the assets must be maintained by the school board that owns the assets and each school board shall pay its share of the costs necessary to operate and maintain those assets, as agreed upon by the school boards.

(2) Where as a result of a designation pursuant to subsection 20(1) an educational facility becomes a facility shared by the Conseil acadien and another school board, each school board shall pay its share of the costs necessary to operate and maintain the facility and of the outstanding capital costs pertaining to the facility, as agreed upon by the school boards.

(3) Where the Conseil acadien and another school board cannot agree upon their shares of the costs referred to in subsection (1) or (2), the Minister shall determine each school board's share. 1995-96, c. 1, s. 14.

Designation of agreement

23 Upon designation pursuant to clause 21(1)(d) of an agreement to which a school board is a party, the Conseil acadien is substituted for the school board with respect to that agreement. 1995-96, c. 1, s. 14.

Language of administration and operation

24 (1) Subject to subsection (2), the language of administration and operation of the Conseil acadien and all French-first-language program facilities is French.

(2) When the circumstances warrant the use of English, the Conseil acadien and French-first-language program facilities may use English. 1995-96, c. 1, s. 15.

Duties of Conseil

25 The Conseil acadien shall

- (a) promote and distribute information about the French-first-language program;
- (b) include in its learning materials information about the Acadian culture; and
- (c) in providing its educational programs, engage in activities that promote Acadian culture and the French language. 1995-96, c. 1, s. 16.

SCHOOL ADVISORY COUNCILS**Establishment of councils**

26 (1) A school board shall establish a school advisory council for a public school where

- (a) eight or more parents of students attending the public school;
- (b) a home and school association, parent-teacher association or similar organization for the public school; or
- (c) the principal of the public school,

requests, by a petition in writing to the school board, that a school advisory council be established for the school.

(2) A school board may establish one school advisory council for more than one school where requested by the persons referred to in clause (1)(a) for each school.

(3) Upon the establishment of a school advisory council for a school pursuant to subsection (1),

- (a) subject to Section 27, the initial composition of the school advisory council must be determined in the manner prescribed by the Minister; and
- (b) the school advisory council, the school board and the Minister shall enter into an agreement setting out, subject to this Act, the composition and responsibilities of the school advisory council pursuant to Section 28 and additional advisory duties, if any.

(4) The school advisory council, the school board and the Minister may amend the agreement made pursuant to subsection (3).

(5) A school advisory council established pursuant to the former Act is continued in accordance with this Act and, for the purpose of this Act, is deemed to be established pursuant to this Act. 1995-96, c. 1, s. 20.

Composition of Council

27 (1) A school advisory council for a public school must have at least five and not more than 18 members consisting of

- (a) at least one parent of a child attending the school, elected by the parents of the children attending the school;
- (b) where the school is a school with students in grade seven or a higher grade, at least two students attending the school, elected by the students attending the school;
- (c) where the school is an elementary school, at least two students attending the school if the agreement made pursuant to subsection 26(3) so provides, elected by the students;
- (d) at least one person from the teachers employed at the school, elected by the teachers, and at least one person from the support staff employed at the school, elected by the support staff;
- (e) the principal of the school; and
- (f) at least one representative of the community in which the school is situated, appointed by the school advisory council or, where the school advisory council so determines, elected by the community.

(2) Unless the agreement made pursuant to subsection 26(3) otherwise provides, a school advisory council may not have more than one-third of its members from any of the clauses referred to in subsection (1).

(3) A person may not be a member of a school advisory council and a member of a school board for the school district or school region in which the school is situate.

(4) A principal is a non-voting member of a school advisory council unless the agreement otherwise provides.

(5) A vacancy on a school advisory council does not impair the authority of the remaining members to act. 1995-96, c. 1, s. 21.

Duties of council

28 A school advisory council for a public school shall

- (a) after consultation with the staff of the school, develop and recommend to the school board a school improvement plan;
- (b) prepare an annual report in such form and containing such information as the Minister determines;
- (c) advise on the development of school policies that promote academic excellence and a positive learning environment;

(d) advise the principal and staff of the school on curriculum and programs, school practices, student discipline, fund-raising and parent-school communication and similar matters;

(e) advise the school board on curriculum and programs, student-support services, policy development, funding, communication strategies and similar matters;

(f) participate in the selection of the principal of the school by representation on the school board's selection committee;

(g) subject to the approval of the school board, make bylaws respecting the election of its members, the conduct of its meetings and the operation of the school advisory council; and

(h) perform such other duties and have such powers of the school board as the agreement made pursuant to subsection 26(3) provides and the Governor in Council transfers to the school advisory council pursuant to Section 29. 1995-96, c. 1, s. 22.

Transfers from school boards to councils

29 (1) The Governor in Council, on the recommendation of the Minister and in accordance with an agreement made pursuant to Section 23, may transfer duties and powers of a school board to a school advisory council for a public school and, upon such transfer, the school board ceases to have those powers and duties with respect to that school and those powers and duties are powers and duties of the school advisory council.

(2) Notwithstanding subsection (1), the power to hire, suspend, dismiss or discipline an employee of a school board must not be transferred to a school advisory council. 1995-96, c. 1, s. 23.

STUDENTS

Duties and rights

30 (1) It is the duty of a student to

- (a) participate fully in learning opportunities;
- (b) attend school regularly and punctually;
- (c) contribute to an orderly and safe learning environment;
- (d) respect the rights of others; and
- (e) comply with the discipline policies of the school and the school board.

(2) Students are accountable to their teachers for their conduct while under their teachers' supervision.

(3) Students may participate in decisions that affect their schools through representation on school advisory councils or committees in accordance with school board policy.

(4) It is the right of students to be informed of their educational progress on a regular basis. 1995-96, c. 1, s. 24.

PARENTS

Duties and rights

- 31 (1)** It is the duty of parents to
- (a) support their children in achieving learning success;
 - (b) cause their children to attend school as required by the regulations;
 - (c) communicate regularly with their children's school;
 - (d) ensure the basic needs of their children are met, including ensuring that their children are well-nourished and well-rested when they go to school; and
 - (e) support their children's teachers in their efforts to provide an education for their children.

(2) Parents of students with special needs must be afforded the opportunity to participate in the development of an individualized program for their children.

- (3)** Where
- (a) the parent of a child with special needs does not agree with the individualized program plan that has been developed for that child; and
 - (b) the disagreement cannot be resolved by a school board appeal process,

the parent or the school board may initiate an appeal as prescribed by the regulations. 1995-96, c. 1, s. 25.

TEACHERS

Duties

- 32 (1)** It is the duty of a teacher in a public school to
- (a) respect the rights of students;
 - (b) teach diligently the subjects and courses of study prescribed by the regulations that are assigned to the teacher by the school board;
 - (c) implement teaching strategies that foster a positive learning environment aimed at helping students achieve learning outcomes;
 - (d) encourage students in the pursuit of learning;
 - (e) monitor the effectiveness of the teaching strategies by analyzing outcomes achieved;
 - (f) acknowledge and, to the extent reasonable, accommodate differences in learning styles;

- (g) participate in individual-program planning and implement individual program plans, as required, for students with special needs;
- (h) review regularly with students their learning expectations and progress;
- (i) conduct such assessments and evaluations as are necessary to document student progress;
- (j) administer such evaluation and assessment instruments as required by the school board or by the Minister;
- (k) take all reasonable steps necessary to create and maintain an orderly and safe learning environment;
- (l) maintain appropriate order and discipline in the school or room in the teacher's charge and report to the principal or other person in charge of the school the conduct of any student who engages in unacceptable behaviour;
- (m) maintain an attitude of concern for the dignity and welfare of each student and encourage in each student an attitude of concern for the dignity and welfare of others and a respect for religion, morality, truth, justice, love of country, humanity, equality, industry, temperance and all other virtues;
- (n) attend to the health, comfort and safety of the students;
- (o) report immediately to the principal the existence of any infectious or contagious disease in the school or the existence of any unsanitary condition in the school buildings or surroundings, and perform such duties as are prescribed by or under the *Health Protection Act*;
- (p) take all reasonable steps to secure full and regular attendance at school of the students under the teacher's supervision;
- (q) keep accurate attendance records and report absent students to the principal as prescribed by the regulations;
- (r) communicate regularly with parents in accordance with policies established by the school board;
- (s) keep such records as are required by the school board or the Minister and permit the inspection of those records by the board, the superintendent or superintendent's representative, the principal, the supervisor and the Minister or Minister's representative or, upon their request, provide the records to them;
- (t) assist in the development and implementation of the school improvement plan;
- (u) maintain their professional competence;
- (v) serve, to the extent reasonable, on committees established within the school to improve student achievement and success;
- (w) implement programs and courses as prescribed by the public school program; and

(x) perform such other duties as are prescribed by this Act or the regulations.

(2) Teachers are accountable to the school board through the principals of their assigned schools with respect to the performance of their responsibilities. 1995-96, c. 1, s. 26; 2004, c. 4, s. 110; 2012, c. 56, s. 1; 2015, c. 16, s. 3.

Powers of teacher

33 A teacher has general oversight and supervision over school premises during school hours and, subject to the authority of the school board and the principal, may exclude from those premises any person who is not a student enrolled in the school and disturbs the learning environment. 1995-96, c. 1, s. 27.

Qualifications of teacher

34 Except as provided in this Act or the regulations, a school board shall not engage as a teacher or permit to teach in the public school a person who does not hold a teacher's certificate or permit under this Act. 1995-96, c. 1, s. 28.

Effect of determination

35 (1) A determination pursuant to this Act or the former Act of the classification, reclassification, certificate or permit of a teacher, whether made before, on or after January 16, 1996, is final and binding.

(2) No determination pursuant to this Act or the former Act of the classification, reclassification, certificate or permit of a teacher, whether made before, on or after January 16, 1996, gives rise to any cause of action for damages, retroactive remuneration or other loss or damage of any kind.

(3) Notwithstanding subsection (2), retroactive remuneration may be paid to a teacher as the result of a reclassification in accordance with the terms of a professional agreement between the Minister and the Nova Scotia Teachers' Union setting out conditions with respect to the effective date of reclassification for salary purposes. 1995-96, c. 1, s. 29.

Written contract

36 (1) Where a school board that has authority to engage a teacher engages a teacher other than a substitute teacher, the board shall enter into a written contract with the teacher in such form as may be approved by the Minister.

(2) Notwithstanding any provision of this Act, or any contract or agreement between or governing a school board and a teacher,

(a) the date for a teacher giving notice of termination of the teacher's contract is deemed to be April 15th in the year in which the contract will be terminated after the school year;

(b) the date for a school board giving notice of termination of a teacher's contract is deemed to be May 15th in the year in which the contract will be terminated after the school year. 1995-96, c. 1, s. 30.

Teacher-training students

37 Every school board and every teacher employed by a school board shall admit to classrooms under the jurisdiction of the board students who are enrolled in a teacher training course approved by the Minister and the instructors of those students for the purpose of observation and teaching practice, and shall give them any assistance requested by the instructors. 1995-96, c. 1, s. 31.

Permanent and probationary contracts

38 (1) Except as provided in subsections (4) and (5), a probationary contract in effect on or after November 10, 2011, is for two years, with the right of a school board to extend it at the end of the second year for a third year if, in the first or second year of the probationary contract, the teacher has had fewer than a total of 145 days taught or reckoned to be days taught during the school year.

(2) Except as provided in subsection (6), where the probationary contract of a teacher in effect on or after November 10, 2011, is not terminated as provided in this Act or the teacher is not suspended or discharged, the school board

(a) shall offer the teacher a permanent contract

(i) at the end of the second year of the probationary contract, if the teacher's probationary contract is not extended for a third year, or

(ii) at the end of the third year of the probationary contract, if the teacher is required to teach a third year; and

(b) may offer the teacher a permanent contract at the end of the first year of the probationary contract.

(3) A teacher who has had a contract or contracts with a school board for more than two consecutive years, inclusive of the school year 1971-72, is deemed to have had a permanent contract.

(4) Subject to subsection (5), any teacher, who during the school year 1971-72 or any school year thereafter has a permanent contract or is deemed to have had a permanent contract and is hired thereafter by any school board, may be hired by way of a probationary contract, which probationary contract must not be for more than one year.

(5) A probationary contract under subsection (4) in effect on or after November 10, 2011, may be extended by a school board for not more than one year if the teacher has had fewer than a total of 145 days taught or reckoned to be days taught during the school year.

(6) Where the probationary contract of a teacher to which subsection (4) or (5) applies and that is in effect on or after November 10, 2011, is not terminated as provided in this Act or the teacher is not suspended or discharged, the school board shall offer the teacher a permanent contract

(a) at the end of the probationary year if the teacher's probationary contract is not extended for a second year; or

(b) at the end of the second year, if the teacher is required to teach a second year. 1995-96, c. 1, s. 32; 2012, c. 21, s. 3; 2015, c. 16, s. 4.

Suspension of teacher

39 A school board may suspend, for just cause, with or without loss of salary but without loss of other benefits, any teacher in its employ at any time for a reasonable period, and a written report stating the reason for the suspension must be furnished to the teacher within seven days of the date of suspension. 1995-96, c. 1, s. 33; 2018, c. 1, s. 2.

Termination of teacher

40 (1) A school board may, at any time for just cause, by notice in writing, discharge any teacher in its employ.

(2) A school board may

(a) by notice in writing given to the teacher not later than May 15th, terminate a probationary contract at the end of the first, second or third year;

(b) by notice in writing given to the teacher not later than May 15th, terminate a permanent contract at the end of the school year

(i) for just cause, or

(ii) if, in the system under the jurisdiction of the school board, the estimated enrolment of courses the teacher is qualified and willing to teach is insufficient to justify the employment of the teacher.

(3) Where a school board terminates a probationary contract, the termination is not subject to any grievance procedure provided in a contract relating to the employment of the teacher nor to any appeal. 1995-96, c. 1, s. 34; 2012, c. 21, s. 4; 2018, c. 1, s. 2.

Revocation of termination at end of 1999-2000

41 The termination, for other than just cause, of a teacher's contract at the end of the 1999-2000 school academic year by notice given before May 16, 2000, is revoked and the termination is deemed not to have taken place. 2000, c. 11, s. 6.

Rights of teacher preserved

42 Nothing in this Act prevents a teacher from terminating a contract in accordance with the terms and conditions of the contract or in accordance with any method permitted by law. 1995-96, c. 1, s. 37.

PRINCIPALS**Function and duties**

43 (1) The principal of a public school is the educational leader of the school and has overall responsibility for the school, including teachers and other staff.

(2) It is the duty of a principal to

(a) ensure that the public school program and curricula are implemented;

- (b) keep attendance records respecting every student enrolled at the school and report thereon to the school board, as required by the school board;
- (c) take all reasonable steps to secure full and regular attendance at school of the students enrolled in the school in accordance with policies established by the school board;
- (d) communicate regularly with the parents of the students;
- (e) ensure that reasonable steps are taken to create and maintain a safe, orderly, positive and effective learning environment;
- (f) investigate and respond to reports of unacceptable behaviour of students, and, where the principal believes the well-being of a student has been endangered as a result of the unacceptable behaviour of any other student, notify the parents of the students;
- (g) ensure that provincial and school board policies are followed;
- (h) identify the staffing needs of the school;
- (i) assist the school board with the selection of staff for the school;
- (j) evaluate the performance of teachers and other staff of the school;
- (k) assist the school board in the development and implementation of professional-development programs;
- (l) encourage teachers and other staff of the school, students and parents to participate in school decision-making through representation on school advisory councils and committees;
- (m) participate in the establishment and operation of a school council;
- (n) assist the school advisory council in the development of school improvement plans and, upon approval by the school board, co-ordinate their implementation;
- (o) assist the school advisory council in the preparation of its annual report;
- (p) account to the school board for money received from the school board or any other source;
- (q) account to the school board, through the superintendent, for the performance of the school;
- (r) co-operate with the staff of other departments and agencies of the Government to better meet the needs of the students in the school; and
- (s) perform such other duties as are prescribed by this Act or the regulations or assigned by the superintendent. 1995-96, c. 1, s. 38; 2012, c. 56, s. 2; 2015, c. 16, s. 5.

SUPERINTENDENTS

Function and duties

44 (1) A superintendent is accountable to the school board and has overall responsibility for

- (a) the efficient operation of the school board office and the public schools in the school district or school region; and
- (b) the supervision of all employees of the school board.

(2) It is the duty of a superintendent to

- (a) administer and evaluate the programs offered by the school board;
- (b) conduct, or cause to be conducted, an annual performance appraisal of every principal, every vice-principal and all other staff employed by the school board;
- (c) provide centralized management of services for public schools that are most efficiently provided on a school district-wide or school region-wide basis;
- (d) oversee the carrying out of the Minister's and the school board's policies and report annually to the school board on the carrying out of those policies;
- (e) monitor public-school improvement plans, the annual reports of school advisory councils and annually report to the school board on their status;
- (f) ensure that resources are distributed to public schools in accordance with school board policies and guidelines;
- (g) maintain a safe, orderly and supportive learning environment in all schools in the school district or school region;
- (h) provide leadership in the school district or school region in promoting quality education, enhanced community involvement and the efficient delivery of services;
- (i) assist principals in efficient and effective management and decision-making at the school level;
- (j) work with principals to ensure that students and schools meet the expectations of the school program;
- (k) co-operate with the Minister and other departments and agencies of the Government to ensure the effective and efficient carrying out of this Act and the regulations;
- (l) operate and maintain buildings, equipment, supplies and student conveyance under the jurisdiction of the school board;
- (m) report to the school board as requested by the school board; and
- (n) perform such other duties as are prescribed by this Act or the regulations or assigned by the school board.

(3) A superintendent is accountable to the school board for the educational performance of the students and schools in the school district or school region and shall report to the school board annually on such performance. 1995-96, c. 1, s. 39.

SUPPORT STAFF

Duties

- 45** (1) It is the duty of a support staff member to
- (a) support students in their participation in school activities;
 - (b) maintain an attitude of concern for the dignity and welfare of each student;
 - (c) co-operate with the school board, superintendent, principal, teachers, students and other staff members to maintain an orderly, safe and supportive learning environment;
 - (d) report to the principal or other person in charge of a school the conduct of any student who engages in unacceptable behaviour;
 - (e) respect the rights of students;
 - (f) participate in staff-development opportunities identified by the person to whom the staff member reports, if requested to do so; and
 - (g) subject to any applicable collective agreement in effect immediately before January 16, 1996, perform such other duties as are assigned by the school board, the superintendent or the principal.
- (2) Every support staff member is accountable to the principal or other person designated by the school board.
- (3) Where a district school board has been established by this Act or the regulations, then, while the district school board continues, in the school region in which the district school board is established,
- (a) a reference to the school board and the superintendent in clause (1)(c) is to be read as a reference to the Minister, the regional school board, the district school board and the director of education;
 - (b) a reference to the school board, the superintendent or the principal in clause (1)(g) is to be read as a reference to the regional school board; and
 - (c) every support staff member, other than a teacher assistant, is accountable to the regional school board and subsection (2) does not apply. 1995-96, c. 1, s. 40; 2000, c. 11, s. 8; 2012, c. 56, s. 3; 2015, c. 16, s. 6.

SCHOOL BOARD MEMBERSHIP

Election of members

46 Except as otherwise provided by this Act, all of the members of a school board must be elected. 1995-96, c. 1, s. 41.

Membership

47 (1) A school board consists of such number of members, not fewer than five nor greater than 18, as determined by order of the Utility and Review Board.

(2) A school board is generally accountable to the electorate.

(3) A school district or school region consists of such electoral districts, as determined by order of the Utility and Review Board.

(4) After consultation with the Mi'kmaq community and the school board, the Minister may appoint a Mi'kmaq representative to each regional school board and that representative is in addition to the number of members determined pursuant to subsection (1). 1995-96, c. 1, s. 42; 2008, c. 53, s. 1; 2012, c. 20, s. 1.

African Nova Scotian representative

48 (1) In this Section,

“African Nova Scotian” means a person who is African Nova Scotian or a black person;

“African Nova Scotian elector” means a person who is qualified to vote in an election of a school board who is also

(a) an African Nova Scotian; or

(b) the parent of an African Nova Scotian.

(2) This Section does not apply with respect to the Conseil académien.

(3) Notwithstanding any other provision of this Act, the membership of a school board includes, in addition to those members as determined by the Utility and Review Board, one African Nova Scotian representative, elected by African Nova Scotian electors throughout the school district or school region over which the school board has jurisdiction.

(4) The election of the African Nova Scotian member of a school board must be held at the same time as the regularly scheduled elections to the school board.

(5) Notwithstanding the *Municipal Elections Act*,

(a) only a person who is

(i) an African Nova Scotian, and

(ii) qualified to be a candidate for election to a school board,

is qualified to be a candidate for election as the African Nova Scotian member of a school board;

(b) only an African Nova Scotian elector may nominate a candidate for election as the African Nova Scotian member of a school board and a person nominating such a candidate is required to sign a statement stating that person's status as an African Nova Scotian elector, in a form prescribed pursuant to the *Municipal Elections Act*;

(c) where a person intends to vote in an election of an African Nova Scotian to a school board, that person is not required to take an oath or make an affirmation in a form attesting to that person's status as an African Nova Scotian elector, but is required to confirm the person's status as an African Nova Scotian elector as defined in the *Education Act* and, where a person wishes to provide the confirmation, the person may provide the confirmation by requesting the ballot to vote for the African Nova Scotian elector and that request constitutes the confirmation;

(d) where a person votes in an election of an African Nova Scotian member of a school board, that fact must be entered in the poll book in the manner prescribed pursuant to the *Municipal Elections Act*;

(e) for greater certainty, the Minister of Municipal Affairs and Housing may, pursuant to the *Municipal Elections Act*, prescribe or alter any forms under that Act for the purpose of this Section; and

(f) the Municipal Elections officer may give such directions as may be necessary for the purpose of this Section.

(6) A returning officer shall accept

(a) subject to subsection 55(5) of the *Municipal Elections Act*, a signed statement, in a form prescribed pursuant to the *Municipal Elections Act*, of a candidate that the candidate is an African Nova Scotian as sufficient evidence that the candidate is an African Nova Scotian; or

(b) a statement signed pursuant to clause (5)(b) as sufficient evidence that the person is an African Nova Scotian elector if that person is qualified to vote in an election of a school board.

(7) A signed statement in good faith of a candidate that the candidate is an African Nova Scotian is conclusive evidence that the candidate is an African Nova Scotian.

(8) A statement signed pursuant to clause (5)(b) in good faith and stating that the person is an African Nova Scotian elector or a confirmation provided pursuant to clause (5)(c) in good faith confirming that the person is an African Nova Scotian elector is conclusive evidence that that person is an African Nova Scotian elector, if that person is qualified to vote in an election of a school board.

(9) Except as provided by this Section, the *Municipal Elections Act* applies with necessary changes to the election of the African Nova Scotian

member to a school board as if the district or region over which the school board has jurisdiction were a single electoral district.

(10) A qualified African Nova Scotian elector may vote in a school board election for either

- (a) a candidate for election as the African Nova Scotian member of the school board; or
- (b) a candidate for election to the school board other than as the African Nova Scotian member of the school board,

but not both.

(11) For greater certainty, a qualified African Nova Scotian elector, who votes in an election for either a candidate for election as the African Nova Scotian member of the school board or a candidate for election to the school board other than as the African Nova Scotian member of the school board, may vote for either candidate in a special election that follows the election. 2000, c. 11, s. 7; 2003, c. 9, s. 45.

Application to determine boundaries

49 In the year 1999 and every eighth year thereafter, every school board shall apply to the Utility and Review Board to confirm or change the number and boundaries of the electoral districts in the school district or school region. 1995-96, c. 1, s. 43; 1998, c. 18, s. 555.

Powers and duties of Utility and Review Board

50 (1) In determining the number and boundaries of electoral districts, the Utility and Review Board shall make such decision as in its opinion is just, and is not restricted to the proposal advanced by a school board in its application.

(2) The Utility and Review Board may reject an application and require a school board to reapply within such time as the Utility and Review Board directs, and may give such directions for the reapplication as the circumstances of the case dictate.

(3) In determining the number and boundaries of electoral districts, the Utility and Review Board shall give consideration to

- (a) subject to subsection 19(8), ensuring as nearly as practical equal numbers of electors in each electoral district;
- (b) population density;
- (c) distribution of the school-age population;
- (d) the principal language of instruction of the school board and language of instruction of the school population in areas of the district; and
- (e) any other relevant matter that in the opinion of the Utility and Review Board affects the necessity, expediency or justice of the order sought.

(4) The Utility and Review Board shall, in setting the numbers and boundaries of electoral districts, have regard to the existing boundaries of polling districts and wards. 1995-96, c. 1, s. 44.

Application of certain legislation

51 Subject to this Act, the powers of the Utility and Review Board and procedures set out in the *Municipal Government Act* apply with necessary changes. 1995-96, c. 1, s. 45; 1998, c. 18, s. 555.

Qualifications of candidates

52 (1) Except as otherwise provided in this Act, every person is qualified to be elected or appointed as a member who

(a) is a Canadian citizen of the full age of 18 years at the time of nomination or appointment;

(b) has been ordinarily resident in the school district or school region or in an area annexed to the school district or school region for a period of six months preceding nomination day or the day of appointment, and continues to so reside; and

(c) is not disqualified pursuant to this Act.

(2) No person is qualified to be nominated or to serve as a member of a school board who

(a) is a member of the House of Commons or Senate of Canada;

(b) is a member of the House of Assembly;

(c) is a member of another school board;

(d) is a judge of the Nova Scotia Court of Appeal, the Supreme Court of Nova Scotia or the Provincial Court of Nova Scotia;

(e) would be a member of a school board and a member of the council of a municipality at the same time;

(f) accepts or holds office or employment in the service of the school board;

(g) has been convicted of any corrupt practice or bribery contrary to the *Municipal Elections Act* within the 10 years preceding nomination day; or

(h) has been disqualified from any office pursuant to the *Municipal Conflict of Interest Act* or the *Municipal Elections Act* and the period of disqualification has not expired.

(3) A member of a school board, if otherwise qualified, is eligible for re-election.

(4) Every person who sits or acts as a member of a school board after becoming disqualified is guilty of an offence for each day that the person so acts or sits. 1995-96, c. 1, s. 46; 1998, c. 18, s. 555; 2003, c. 9, s. 46; 2008, c. 54, s. 1.

Restriction on employment of member or former member

53 No member of a school board may be employed by the school board of which the person is a member or during the period of six months after the person ceases to be a member of the school board. 2005, c. 16, s. 2.

Disqualification for conviction

54 Any member of a school board who is convicted of

- (a) an indictable offence that is punishable by a term of imprisonment of a maximum of more than five years; or
- (b) a child-related offence designated in the regulations,

ceases to be a member of the school board. 2005, c. 16, s. 2.

Elections

55 (1) The election of members of a school board must take place concurrently with and as part of the regular municipal elections for members of the councils of municipalities.

(2) The election of members of a school board must be conducted by the returning officers responsible for the conduct of municipal elections.

(3) Notwithstanding subsection (2), a special election may be conducted by the school board if the Minister consents.

(4) Any additional cost incurred by a municipality from

- (a) the inclusion of the election of members of a school board with the regular municipal elections; or
- (b) a special election for a member of a school board,

may be recovered by that municipality from the school board for which the cost was incurred.

(5) In the event that there is a dispute between a municipality and a school board over the amount to be recovered, the dispute must be submitted to the Minister, who shall consult with the Minister of Municipal Affairs and Housing, or an official designated by the Minister of Municipal Affairs and Housing, and shall render a decision thereon, which decision is binding and final. 1995-96, c. 1, s. 48.

Restriction on number of votes

56 (1) In this Section, “election” includes a special election.

(2) A voter shall cast only one vote for the election of a member of a school board at an election. 2003, c. 9, s. 48.

Term of office, first meeting and oath of office

57 (1) A member of a school board takes office after taking the oath of office prescribed pursuant to the regulations at the first meeting of the school board following the election at which the member was elected, or within such

extended time as the school board allows, and holds office for four years or until the next elected school board members take office.

(2) The first meeting of the school board after an election must be held not less than 14 days nor more than 30 days after the election.

(3) The superintendent shall call the first meeting of a school board after an election.

(4) A judge or a justice of the peace may administer the oath of office.

(5) The secretary of the school board shall enter a certificate of the taking of the oath in the minutes. 1995-96, c. 1, s. 50; 1998, c. 18, s. 555; 2008, c. 54, s. 2.

Vacating of seat

58

(1) The seat of a member becomes vacant if the member

(a) dies, resigns or ceases to reside in the school district or school region;

(b) acknowledges to the secretary of the school board or is found by a court to have become disqualified to serve pursuant to this Act or the *Municipal Elections Act*;

(c) neglects or refuses to take the oath required to be taken, at or before the first meeting of the school board after the election, or within such extended time as the school board allows.

(2) A member who is elected to the House of Assembly or the House of Commons or who is appointed to the Senate of Canada must resign as a member of the school board within 30 days of such election or appointment.

(3) Where a seat becomes vacant, the secretary shall report the fact to the school board in writing and the school board shall thereupon declare the seat vacant.

(4) Notwithstanding any provision of this Act, where a vacancy occurs in the seat of a member of the school board because a member has resigned, that member may not be a candidate in a special election referred to in subsection 59(3). 1995-96, c. 1, s. 51; 2005, c. 16, s. 3; 2008, c. 54, s. 3.

When vacancy to be filled

59

(1) A vacancy in the seat of a member of a school board occurring within six months of the next regularly scheduled election for school board members must not be filled.

(2) A vacancy in the seat of a member of a school board occurring within two years but not within six months of the next regularly scheduled election for school board members must, following such consultation as the Minister considers appropriate, be filled by the Minister with a person qualified to be elected to that position.

(3) A vacancy in the seat of a member of a school board occurring more than two years before the next regularly scheduled election for school board members must be filled by special election pursuant to the *Municipal Elections Act*. 2008, c. 54, s. 4.

Consequences of absence from meetings

60 (1) Where a member fails to attend three consecutive regular meetings of the school board without reasonable excuse satisfactory to the school board, the school board shall declare the seat of that member vacant, the member thereupon ceases to be a member of the school board and the school board shall forthwith call an election to fill the member's seat pursuant to the *Municipal Elections Act*.

(2) For greater certainty, subsection (1) does not apply for non-attendance because of an inability to attend a meeting of the school board because of censure pursuant to clause 61(1)(b) or (c). 1995-96, c. 1, s. 52; 2008, c. 54, s. 5.

Censure of a member by school board

61 (1) Where a school board determines that a member has not complied with the school board's code of ethics, the school board may censure a member of the school board by

- (a) issuing a public reprimand by motion at an open meeting of the school board;
- (b) revoking the member's right to sit as a member for one to three months;
- (c) suspending the member from the school board, including the suspension of all the member's rights, duties and privileges as a member of the school board, for from one to three months; or
- (d) recommending to the Minister that the member's seat be vacated.

(2) Where a member of a school board is censured pursuant to clause (1)(b), (c) or (d), the member may appeal to a single adjudicator appointed by the Minister and the adjudicator may set aside or vary the censure as the adjudicator considers appropriate.

(3) A decision by a school board to censure a member pursuant to clause (1)(a) is final and binding. 2008, c. 54, s. 6; 2011, c. 58; 2015, c. 16, s. 7.

Actions by Minister

62 (1) Where pursuant to Section 61 the school board recommends to the Minister that the seat of a member of the school board be vacated, the Minister may, subject to subsection (2), vacate the member's seat.

(2) Where an appeal pursuant to subsection 61(2) is in respect of censure pursuant to clause 61(1)(d), no action to fill the vacancy may be taken before the adjudicator has rendered a decision and notified the Minister, the school board and the member of the decision.

(3) Where the Minister considers it necessary for a member of a school board to be censured and the school board fails to censure the member or to censure the member appropriately, the Minister may

- (a) direct the school board to censure the member pursuant to clause 61(1)(a), (b) or (c) as the Minister considers appropriate; or
- (b) vacate the member's seat.

(4) Where the Minister directs a school board to censure a member pursuant to clause (3)(a), the school board shall comply with the Minister's direction. 2008, c. 54, s. 6.

Effect of vacancy

63 A vacancy on a school board does not impair the authority of the remaining members to act. 1995-96, c. 1, s. 53; 2005, c. 16, s. 4.

Remuneration and reimbursement

64 (1) In this Section, "Association" means the Nova Scotia School Boards Association.

(2) The Minister and the Association shall, on or before April 1, 1997, the year 2000 and in every fourth year thereafter, jointly appoint a person to make an inquiry and a report respecting the remuneration to be paid to and the reimbursement for expenses incurred by members of school boards for the four-year period commencing when the members take office following the next election.

(3) A person appointed pursuant to subsection (2) shall complete the inquiry and deliver the report to the Minister and the Association on or before June 30th in the year in which the person is appointed.

(4) A person appointed pursuant to subsection (2) has all the powers and privileges and immunities of a commissioner pursuant to the *Public Inquiries Act*.

(5) The remuneration referred to in subsection (2) is to be a maximum annual stipend for the chair of a school board, a maximum annual stipend for a vice-chair of a school board and a maximum annual stipend for the other members of a school board.

(6) The reimbursement for expenses referred to in subsection (2) is to be a travel allowance at a rate per kilometre, specified levels of reimbursement for local expenses and specified levels of reimbursement for overnight accommodation, meals and auxiliary expenses incurred in attending meetings or conferences outside the school district.

(7) Members of a school board are entitled to such remuneration and reimbursement, not exceeding the remuneration and reimbursement set out in the report referred to in subsection (2), as the school board determines and are not entitled to any other remuneration or reimbursement as members of a school board. 1995-96, c. 1, s. 54; 1998, c. 18, s. 555; 2005, c. 16, s. 5.

SCHOOL BOARD MEETINGS

Chair and vice-chair

65 (1) The members of a school board shall, at the first meeting of the school board after an election, and annually thereafter until the next election, elect a chair and a vice-chair from among the members.

(2) The superintendent shall preside at the first meeting of the school board until the chair of the school board is elected, unless a temporary chair is appointed by the members.

(3) For greater certainty, the superintendent shall not preside at more than one meeting of the school board.

(4) The school board shall, if a chair is not elected, choose a temporary chair to preside over the meetings of the school board until a chair is elected or appointed.

(5) Where a majority of the members do not agree upon the choice of a chair, the Governor in Council shall appoint a chair from among the members.

(6) The vice-chair shall perform the functions of the chair in the event of the absence or incapacity of the chair. 1995-96, c. 1, s. 55.

Term of office

66 (1) The term of office of the chair and of the vice-chair is one year and they may be re-elected.

(2) Where a vacancy occurs in the office of the chair or of the vice-chair, the school board shall, at its first meeting after the vacancy occurs, elect one of its members to fill the vacant office for the balance of the term of office of the person who vacated the office. 1995-96, c. 1, s. 56; 2009, c. 11, s. 1.

Minimum number of meetings

67 Each school board shall meet at least four times in each year at such time and place as the chair designates or the bylaws prescribe. 1995-96, c. 1, s. 57.

Bylaw making powers and community representatives

68 (1) A school board may, by bylaw,
(a) fix the date, hour and place, or any of them, of the meetings of the school board;
(b) provide for standing and special committees of the school board.

(2) A school board shall, by bylaw and in accordance with the regulations, regulate its proceedings and provide for preserving order at its meetings.

(3) A school board may include on its committees representation from the community. 1995-96, c. 1, s. 58; 2008, c. 54, s. 9.

Meetings

69 (1) All meetings of a school board are open to the public.

(2) A school board shall not determine by secret ballot any matter before it other than the election of a chair and vice-chair.

(3) Notwithstanding subsection (1), a meeting, or part of a meeting, of a school board may be held in private for the purpose of considering issues involving individual students, personnel matters or other confidential information as determined by a majority of the members of the school board present.

(4) Where a school board meets in private pursuant to subsection (3), the school board may not make any decision in private other than to revert to an open meeting.

(5) The person presiding at any meeting of the school board may cause to be expelled and excluded any person who is disrupting the proceedings of the school board. 1995-96, c. 1, s. 59.

Conduct of meetings

70 (1) Subject to subsection (2), the chair of a school board presides at all meetings of the school board.

(2) During the temporary absence of the chair, the vice-chair presides or, if neither is present, the school board may appoint a person from among the members present to preside at the meeting.

(3) A quorum of a school board is a majority of its members serving at the time.

(4) All questions arising at a meeting of the school board must be decided by a majority of votes.

(5) The chair has a right to vote on all questions before the school board and, in the event of a tie, the question voted on is deemed to be determined in the negative. 1995-96, c. 1, s. 60.

SCHOOL BOARD OFFICERS AND RECORDS**Secretary and treasurer**

71 (1) A school board shall appoint a secretary and a treasurer or a person as both secretary and treasurer.

(2) The secretary and the treasurer of the school board shall perform such duties as are assigned by the school board.

(3) The secretary and the treasurer of the school board shall, before entering upon or continuing to perform the duties of their offices, give security in the form of a bond or policy of a guarantee company, approved by the Governor in Council pursuant to the *Sureties Act*, in such amount as is prescribed by the school board, but in no case less than the amount of \$100,000. 1995-96, c. 1, s. 61.

Minutes and other records

72 (1) A copy of the minutes of a meeting of a school board certified by the secretary of the school board to be a true copy, or an extract from the minutes similarly certified, is admissible in evidence without proof of the signature or appointment of the secretary and is prima facie proof of the matters stated in the copy or extract.

(2) The books, records and accounts of a school board, of a committee of a school board and of the secretary of a school board or committee of the school board, including gross salaries of its employees and members of the school board and its committees, including employment and personal services contracts of employees but not including personnel records, must be open to the inspection of any person without fee at all reasonable times. 1995-96, c. 1, s. 62; 2002, c. 5, s. 8.

Bylaws respecting records

73 (1) Subject to this Act and the *Government Records Act*, a school board may make bylaws with respect to the preservation, destruction or disposal of records of the school board.

(2) A school board shall not authorize the destruction of

- (a) documents, plans and surveying records pertaining to or affecting the title to real property;
- (b) records required to be kept by any Act;
- (c) records less than six years old;
- (d) minutes, bylaws or resolutions of the school board;
- (e) records relating to school attendance by students;
- (f) records relating to student progress; or
- (g) records relating to the employment and service of teachers.

(3) No record of a school board may be destroyed pursuant to a bylaw of the school board unless

- (a) the secretary of the school board has submitted to the school board the secretary's certificate stating that the secretary has personally examined the records proposed to be destroyed and that, in the secretary's opinion, there is nothing of value therein; and
- (b) the school board has approved the destruction of the records referred to in the certificate. 1995-96, c. 1, s. 63.

DUTIES OF SCHOOL BOARD MEMBERS**Duties**

74 Every member of a school board shall

- (a) maintain a focus on the achievement of all students enrolled in the school board's schools and programs;
- (b) respect that the superintendent is responsible for the day-to-day management of the school board; and

(c) act in the best interest of the school board and carry out the member's responsibilities in a manner that assists the school board in fulfilling its duties pursuant to this Act. 2012, c. 50, s. 2.

GENERAL RESPONSIBILITIES AND POWERS OF SCHOOL BOARDS

Duties and powers

75 (1) A school board is accountable to the Minister and responsible for the control and management of the public schools within its jurisdiction in accordance with this Act and the regulations.

(2) A school board shall, in accordance with this Act and the regulations,

- (a) make provision for the education and instruction of all students enrolled in its schools and programs;
- (b) ensure that its schools adhere to the provincial program of studies;
- (c) promote excellence in education and the achievement of all students enrolled in its schools and programs;
- (d) develop and implement educational programs for students with special needs within regular instructional settings with their peers in age, in accordance with the regulations and the Minister's policies and guidelines;
- (e) develop short- and long-term plans for the provision of barrier-free access to and within educational facilities;
- (f) promote its schools as safe, quality learning environments and as community resources;
- (g) subject to the regulations, provide and pay for the conveyance of students to and from school;
- (h) pay for the boarding of students in accordance with the regulations;
- (i) pay the tuition of students educated in public schools operated by other boards or authorities in accordance with the regulations;
- (j) provide regional services to assist public schools;
- (k) subject to any applicable collective agreement in effect immediately before January 16, 1996, establish and follow a fair-hiring policy;
- (l) hire and pay the superintendent, principals, teachers and other staff;
- (m) invite the Department of Education and Early Childhood Development to name a representative to participate in the process of hiring the superintendent and to participate in the annual evaluation of the superintendent;
- (n) identify staff-development needs;

- (o) establish policies respecting the communication by teachers to students and parents of learning expectations and progress;
- (p) establish an attendance committee to monitor attendance and carry out school board policies in respect of the absenteeism of students in the schools;
- (q) take remedial steps, in accordance with school board policy, in respect of those students who have been reported to the school board by a principal as being habitually absent from the school without acceptable excuse;
- (r) collect and monitor data on unacceptable behaviour of students, as required by the Minister, including the interventions or consequences resulting from incidents of unacceptable behaviour on the basis of individual incidents and on an aggregate basis;
- (s) report to the Minister at such times and in such manner and form as required by the Minister respecting the aggregate data on unacceptable behaviour of students;
- (t) for the purpose of fostering an orderly and safe learning environment, co-operate with Government departments and agencies to promote and encourage safe and respectful electronic communications;
- (u) develop policies and implement programs consistent with the Minister's policies and guidelines respecting students who have been suspended for more than 10 school days or expelled from school;
- (v) establish a policy for the protection of students and employees from harassment and abuse;
- (w) develop other regional policies, consistent with any policies established by the Minister, that reflect the board's responsibilities, including policies with respect to staffing, student-support services, programs, school-based fund-raising and transportation;
- (x) develop regional strategic and business plans;
- (y) develop, by such time and in such manner and form as is required by the Minister, a comprehensive long-term plan respecting its public schools and the delivery of its education programs and services;
- (z) enter into an agreement, with a school advisory council and the Minister, determining the composition and responsibilities of the school advisory council;
- (aa) encourage the development of school advisory councils within its school district or school region;
- (ab) provide leadership training for members of school advisory councils;
- (ac) approve school-improvement plans and the annual report submitted by the school advisory council;

(ad) consult with school advisory councils with respect to matters assigned to school advisory councils pursuant to this Act;

(ae) provide for the effective and efficient management of the financial affairs of the board;

(af) supervise capital expenditures;

(ag) provide and pay for adequate equipment and furnishings for public schools and the maintenance and operation of equipment, furnishings and school buildings;

(ah) manage, maintain, repair and keep safe all real and personal property owned, leased or used by the board;

(ai) insure, in amounts agreed upon by the Minister, all buildings and personal property owned by the school board;

(aj) pay its own administration costs, including the provision of office space, supplies and equipment, payments to auditors and board members, and the enforcement of this Act;

(ak) provide the sums required to pay the cost of arbitration boards appointed pursuant to the provisions of the *Teachers Collective Bargaining Act* and to implement the awards of such boards;

(al) designate persons to execute agreements on behalf of the school board;

(am) establish a public tendering and procurement policy, consistent with the Atlantic Provinces Procurement Agreement or similar or successor agreement;

(an) with the approval of the Minister, enter into agreements with municipalities for the purpose of carrying out this Act and the regulations;

(ao) co-operate with other school boards and Government departments and agencies to ensure the effective and efficient carrying out of this Act and the regulations;

(ap) establish a school board conflict of interest policy for school board staff consistent with the Provincial conflict of interest policy for school board staff established by the Minister in the regulations;

(aq) adopt a code of ethics in accordance with the regulations;

(ar) submit to the Minister an annual report containing such information as is required by the Minister; and

(as) perform such other duties requested by or delegated to it by the Minister or required to carry out its responsibilities under this Act.

(3) A school board may

(a) provide such courses as are approved by the Minister;

(b) provide such additional services and benefits as the school board may consider desirable;

(c) enter into agreements, including tuition agreements, for the provision of services and benefits;

(d) permit persons to offer religious studies in its schools in accordance with the policies of the school board.

(4) An employment or personal-services contract entered into between a school board and senior staff, as defined in the regulations, of the school board has no effect until approved by the Minister.

(5) A school board shall implement the administrative structure for senior staff, as defined in the regulations, of the school board in accordance with the administrative structure prescribed by the Minister in the regulations.

(6) A school board shall establish a compensation framework for senior staff, as defined in the regulations, of the school board in accordance with the compensation framework established by the Minister in the regulations.

(7) Notwithstanding subsections (2) and (3), in any fiscal year a school board shall not incur or make expenditures that will result in the total of the amounts of expenditures being in excess of the total of the amounts of the school board's revenue from all sources in that fiscal year.

(8) A school board designated in the regulations shall share services and related resources as defined in the regulations with one or more school boards, at such time, in the manner and on the terms and conditions as prescribed by the regulations.

(9) A school board, in carrying out its responsibilities under this Act, shall meet education program, service and performance standards established by the Minister. 1995-96, c. 1, s. 64; 2002, c. 5, s. 9; 2004, c. 3, s. 17; 2005, c. 16, s. 6; 2008, c. 54, s. 10; 2012, c. 14, s. 3; 2012, c. 50, s. 3; 2013, c. 2, s. 25; 2014, c. 13, s. 1; 2015, c. 16, s. 8; 2018, c. 7, s. 16.

Commercial activity

76 A school board shall not engage in or carry out any commercial activity, including lending, without the approval of the Minister. 2002, c. 5, s. 10; 2008, c. 53, s. 2.

Unauthorized activity

77 For greater certainty, a school board shall not engage in or carry out any activity that is outside the authority, powers, duties and responsibilities of the school board pursuant to this Act and the regulations. 2002, c. 5, s. 10.

Supervision during lunch break

78 On and after September 1, 2009, a school board shall, in accordance with this Act and the regulations, provide for the supervision of students at a public school during the student's lunch break at no cost to the student. 2008, c. 53, s. 3.

Report on salaries and expenses

79 (1) Within three months after the end of each fiscal year, commencing with the 2001-02 fiscal year, a school board shall publish, in the manner

and form prescribed by the regulations, a report of all payments, including salaries and expenses, made to and all benefits conferred on members and employees of the school board during the fiscal year of the school board ending on March 31st in that year.

(2) Within four months after the end of each fiscal year, a school board shall file with the Minister a copy of the report referred to in subsection (1).

(3) A copy of the report required by subsection (1) must be available at the offices of a school board for inspection and may be purchased at cost by any person. 1995-96, c. 1, s. 65; 2002, c. 5, s. 11.

Power to make certain agreements

80 A school board may enter into and carry out an agreement or agreements with any other school board for the education of some or all of the students residing in the area within its jurisdiction, for the transportation of students to school, for maintenance of public schools, for obtaining supplies, for sharing facilities and services and respecting any other services required by the school board. 1995-96, c. 1, s. 66.

Certain bylaw-making powers

81 With the approval of the Minister, a school board may make bylaws for the conduct and operation of a public school and the exercise of the powers of the school board. 1995-96, c. 1, s. 67.

Carrying out of responsibilities

82 (1) In carrying out its responsibilities and in exercising its authority under this Act, a school board shall comply with the policies of the Department of Education and Early Childhood Development and the directives of the Minister issued in accordance with this Act.

(2) Where, in the opinion of the Minister,

(a) the health, safety or educational welfare of the students of a school are endangered or the resources of a school board are not being used in a responsible manner;

(b) a school board has failed to censure a member of a school board as directed by the Minister;

(c) a school board has failed to meet the standards referred to in subsection 75(9); or

(d) the school board has failed to comply with a request of the Minister to take corrective action,

the Minister may appoint one or more persons who shall carry out such responsibilities and exercise such authority of the school board as the Minister determines and in such manner as the Minister determines and, to the extent the Minister determines, the school board ceases to have such responsibilities or authority. 1995-96, c. 1, s. 68; 2002, c. 5, s. 12; 2004, c. 3, s. 18; 2005, c. 16, s. 7; 2008, c. 54, s. 11.

Volunteers

83 (1) A school board may permit volunteers to assist in its schools in accordance with board policy.

(2) Where a school board permits volunteers to assist in its schools, it shall establish policies respecting the role of the volunteers. 1995-96, c. 1, s. 69.

Prohibitions

84 (1) No person shall, in or upon any public school premises or school bus and in the presence of any student attending that school, use profane, threatening, abusive or improper language towards the teacher, other staff of the school board or bus driver, or speak or act in such a way as to impair the maintenance of discipline by the teacher in the school or the bus driver on the school bus.

(2) No person shall wilfully interrupt or disturb the proceedings of a school meeting or a public school by acting in a disorderly manner or by making a noise either within the place where the meeting is held or the school is conducted or so near thereto as to interfere with the proceedings of the meeting or the conduct of the school.

(3) Every person who contravenes this Section is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for six months, or to both. 1995-96, c. 1, s. 70.

SCHOOL YEAR**Academic and fiscal years**

85 (1) The school academic year begins on August 1st in each year and ends on July 31st next following.

(2) The school fiscal year begins on April 1st in each year and ends on March 31st next following. 1995-96, c. 1, s. 71.

SCHOOL BOARD FINANCES AND PROPERTY**Grants**

86 The Minister shall make grants to school boards as determined by the regulations with respect to services provided pursuant to Section 75. 1995-96, c. 1, s. 72.

Financial assistance and municipal contribution

87 (1) The Minister shall, in each fiscal year, provide to each school board and each municipality that, pursuant to this Act, is to make payments to that school board a statement of

(a) the amounts of financial assistance to be paid by the Minister;

(b) the total of the minimum municipal contributions to be paid by those municipalities; and

(c) the rate to be used in determining the minimum municipal contribution to be paid by municipalities, in the immediately following fiscal year to school boards pursuant to this Act and the regulations.

(2) The Governor in Council shall determine the rate referred to in subsection (1).

(3) Notwithstanding subsections (1) and (2) or any other enactment, the rate to be used in determining the minimum municipal contribution to be paid by municipalities in the fiscal year commencing April 1, 2008, and subsequent fiscal years up to and including the fiscal year commencing April 1, 2011, must be no greater than a rate that would increase the total of the minimum municipal contributions from the total minimum municipal contributions in the immediately preceding fiscal year by the annual average percentage increase in the Consumer Price Index for Nova Scotia for the preceding calendar year. 1995-96, c. 1, s. 73; 2008, c. 2, s. 4; 2011, c. 8, s. 5.

Statement for municipality

88 Within 30 days of receipt from the Minister of a statement pursuant to Section 87, each school board shall submit to each municipality in the school district or school region, a statement setting out

(a) the amount of the minimum municipal contribution that the municipality is required to pay pursuant to clause 90(1)(a); and

(b) any additional amount that the municipality is requested to pay pursuant to clause 90(1)(b),

for the fiscal year with respect to which the Minister's statement is made. 1995-96, c. 1, s. 74.

Statement of revenues and expenditures

89 (1) Within 60 days of receipt of the Minister's statement pursuant to Section 87, each school board prepare and approve a statement of all estimated revenues and expenditures for the education program and services proposed by the board.

(2) The statement of estimated revenues and expenditures must be prepared in the form prescribed by the Minister and must be submitted to the Minister and to each municipality in the school district or school region within 30 days of approval by the school board. 1995-96, c. 1, s. 75.

Amount of municipal payments to board

90 (1) Unless an agreement made and approved pursuant to Section 27 of the former Act or made between a municipality and a regional school board pursuant to subsection (2) otherwise provides, each municipality shall pay to the school board

(a) the minimum municipal contribution that is required to be paid by each municipality to the school board; and

(b) the municipality's proportion of the amount that is requested by the school board to provide for the estimated expenditures of the board, after deducting

(i) the amount of the Minister's contribution as set out in the Minister's statement pursuant to Section 87, and

(ii) the sum of the minimum municipal contributions to be made by the participating municipalities pursuant to clause (a),

to the extent that the amount has been approved by the municipalities.

(2) Notwithstanding subsection (1), a regional school board may, by agreement with all the municipalities within the school region, vary the minimum municipal contribution of each of the municipalities within the school region, but only if the combined minimum municipal contributions made pursuant to the agreement equal the total minimum municipal contributions due to the regional school board pursuant to subsection (1).

(3) The amount required to be paid to a school board by a municipality pursuant to subsection (1) must be paid in 12 equal monthly instalments in each fiscal year unless the school board and the municipality agree otherwise. 1995-96, c. 1, s. 76.

Power to borrow

91 Where a council of a municipality refuses or neglects to make provision for or to pay to the school board the amounts payable to the school board pursuant to Section 90, the board may borrow the amount, or so much thereof as is so refused or withheld, from any bank or person who will advance the same, and the amount so advanced, together with interest and all other borrowing and recovery expenses, may be recovered in an action against the municipality. 1995-96, c. 1, s. 77.

Payments by Minister

92 (1) The Minister shall pay annually to each municipality the sums required by the municipality in that fiscal year to pay interest and repay the principal of sums borrowed by the municipality for the purpose of erecting, acquiring, purchasing, altering, adding to, improving, furnishing or equipping buildings for public schools or acquiring land therefor.

(2) The Minister may pay annually to each school board or its assignee an amount equal to the amount the board requires to pay the interest and repay the principal of sums borrowed by the school board pursuant to clause 101(1)(d) and (e).

(3) The Minister shall pay annually to each school board, the area of which was an amalgamation area before its designation as a school district under the former Act,

(a) the sum required in that fiscal year to pay the interest and repay the principal of sums borrowed by the municipalities, for the purpose referred to in subsection (1), prior to the date of the designation of the area as an amalgamation area; and

(b) the amount required to pay the interest and repay the principal of sums borrowed by the amalgamated school board for the purpose set out in subsection (1). 1995-96, c. 1, s. 78.

Power of Minister to withhold payments

93 The Minister may withhold the payment of all or any part of financial assistance that would otherwise be payable to a school board or a municipality if the school board or the municipality

- (a) fails to provide and administer any part of the public school program that is required to be provided under this Act and the regulations;
- (b) fails or refuses to furnish such schedules and reports that the Minister may from time to time require concerning the administration and operation of public schools; or
- (c) fails to pay its minimum municipal contribution to the school board. 1995-96, c. 1, s. 79.

Special reserve fund

94 (1) A school board shall create a special reserve fund into which must be paid or credited such sums of money equal to any portion of any grant for capital purposes that has not been expended at the end of a fiscal year.

(2) Where an item of real or personal property with a value of \$25,000 or more is no longer required by the school board for its purposes, the board may, with the consent of the Minister, sell the same and pay the proceeds into the special reserve fund.

(3) The proceeds from the sale or the recovery of insurance proceeds in respect of real or personal property pursuant to Section 102 must be paid into the special reserve fund.

(4) The proceeds from the sale or the recovery of insurance proceeds in respect of real property or furniture and equipment in a school building, acquired from a former amalgamated school board when the district school board was established, must be paid into the special reserve fund.

(5) The interest earned by the special reserve fund forms part of the fund.

(6) The special reserve fund must be used only for capital purposes as approved by the Minister. 1995-96, c. 1, s. 80.

Investment policies

95 (1) Subject to subsection (2) and the regulations, a school board may, for the sound and efficient management of any money of the school board, establish and adhere to investment policies, standards and procedures that a reasonable and prudent person would apply in respect of a portfolio of investments and loans to avoid undue risk of loss and to obtain a reasonable return.

(2) Nothing in this Section or the regulations permits a school board to invest money received under a trust in investments that are expressly forbidden by the instrument, if any, creating the trust. 1995-96, c. 1, s. 81; 2005, c. 16, s. 8.

Disbursement of funds

96 The funds of a school board must be disbursed only by the board, and where the board determines the services provided by it or some of them are to be provided by others, payment for those services must be made only on certification of accounts in a manner satisfactory to the school board. 1995-96, c. 1, s. 82.

Financial statements

97 Every school board for each fiscal year shall prepare financial statements in the form prescribed by the Minister and shall submit the statements to the Minister and to each municipality in the school district or school region before July 1st of the ensuing fiscal year. 1995-96, c. 1, s. 83.

Auditor

98 (1) Every school board shall annually appoint a person who is a licensed public accountant or a firm in which a member is a licensed public accountant to be the auditor of the school board.

(2) Where a school board does not appoint an auditor in accordance with subsection (1), the Minister may appoint one on behalf of the school board. 1995-96, c. 1, s. 84.

Audit

99 (1) Within three months after the end of each fiscal year, the auditor of a school board shall examine and report on the financial statements of the board for the preceding fiscal year, including

(a) a statement of revenue and expenditure for the operating fund and any other fund of the board;

(b) a continuity of the surplus or deficit statement for the operating fund and any other fund of the board;

(c) those matters that are required to be published pursuant to subsection 79(1);

(d) a statement of assets and liabilities for the operating fund and any other fund of the board as of the end of the fiscal year; and

(e) such other statement or information as may be required by law or by the school board.

(2) The auditor shall perform the annual examination in accordance with generally accepted auditing standards.

(3) The auditor shall attach to the financial statements a report that states

(a) whether the auditor has obtained all the information and explanations the auditor has required;

(b) whether the auditor's examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as the auditor considered necessary in the circumstances; and

(c) whether the statements present fairly the financial position of the school board as at the end of the fiscal year and the results of its operations for the preceding fiscal year in accordance with generally accepted accounting principles, as set out by the Minister in the financial management system approved by the regulations.

(4) Every auditor has free access at all times to the records, documents, books, accounts and vouchers of the school board and is entitled to receive from the officers and employees of the school board such information and explanations that in the opinion of the auditor are necessary for the performance of the auditor's duty, and it is the duty of the school board officials and employees to promptly provide such access and such information and explanations.

(5) Within three months after the end of each fiscal year, the auditor shall present to the school board at a meeting of the board

(a) the audited financial statements for the preceding fiscal year;

(b) the auditor's report on the financial statements; and

(c) any management letter or other written communications between the school board and the auditor detailing weaknesses in internal control, deficiencies in management-information systems, transactions lacking authority, defalcation, irregularity or other area requiring attention or improvement.

(6) Within four months after the end of each fiscal year, the school board shall provide to the Minister a copy of the material referred to in subsection (5), together with any other reports the Minister prescribes. 1995-96, c. 1, s. 85; 2002, c. 5, s. 13.

Audit committee

100 A school board shall establish an audit committee of the board composed of those persons and with the terms of reference prescribed by the regulations. 2002, c. 5, s. 14.

Property and finances

101 (1) For the purpose of establishing, maintaining and operating public schools, a school board may

(a) acquire, hold, improve and maintain any real or personal property for such consideration and on such conditions as the Minister considers proper;

(b) lease, sell or convey any real or personal property for such consideration and on such conditions as the Minister considers proper;

(c) improve, renovate, alter, add to, repair, extend, provide service, furnish and equip buildings for public school purposes on such terms and conditions as the Minister considers proper;

(d) subject to the *Finance Act* and with the approval of the Minister, borrow money by the issue of bonds, debentures, promissory notes or other securities to evidence such borrowing on such terms and conditions as are approved by the Minister;

(e) with the approval of the Minister postpone a borrowing pursuant to clause (d) and borrow by way of a temporary loan from a chartered bank, trust company or other financial institution in the Province by the execution of promissory notes or other instruments used in connection with temporary borrowings;

(f) with the approval of the Minister, borrow money from the Maintenance Stabilization Trust Fund;

(g) with the approval of the Minister, borrow up to one per cent of the operating expenditure budget for the current fiscal year to meet current operating expenditures.

(2) The amount borrowed pursuant to clause (1)(g) must be repaid in full by the end of the fiscal year in which the amount was borrowed.

(3) The Minister may, on behalf of the Crown in right of the Province, guarantee the repayment of principal and payment of interest on any borrowings made pursuant to subsection (1) on such terms and conditions as the Governor in Council determines.

(4) A school board shall pay the interest and repay the principal in respect of sums borrowed by the board pursuant to this Section. 1995-96, c. 1, s. 87.

Further provisions respecting property

102 (1) Where the Minister has received a report pursuant to the regulations and the Minister is satisfied that it is necessary to acquire property or to construct, purchase, alter, add to, improve, furnish or equip buildings or other works for public school purposes, the Minister may, with the approval of the Governor in Council,

(a) acquire property for such consideration and on such conditions as the Minister considers proper;

(b) construct, alter or add to buildings or other works for school purposes; or

(c) furnish and equip such buildings,

and all expenditures for such purposes must be paid by the Province.

(2) Upon completion of a project, the Minister, with the approval of the Governor in Council, may convey title to such property to the school board, or to the municipality if title was acquired from the municipality for the purpose of the project, for such consideration and on such conditions as the Minister considers proper.

(3) Where alterations, additions or improvements are made to public school property owned by a municipality, the municipality holds such property upon trust that the school board is entitled to receive

- (a) in the event of the sale of such property; or
- (b) in the event of partial or complete destruction of the property,

the proportion of the proceeds from the sale, or any insurance recovery, less any amount required to be paid to the Province pursuant to subsection (5), that the value of alterations, additions or improvements made by or on behalf of the school board is to the appraised value of the whole property, and such proportion must be paid into the special reserve fund established pursuant to Section 94.

(4) Notwithstanding subsection (3), where a building owned by a municipality or school board and used for public school purposes is partially or completely destroyed and the school board requires that the building be repaired or replaced, the school board shall receive the proceeds from any insurance recovery and shall pay the proceeds into the special reserve fund established pursuant to Section 94.

(5) Where a municipality receives the proceeds from an insurance recovery with respect to a building owned by the municipality and used for school purposes and there is debt owed on the school property for which the Province is responsible, the municipality shall pay the amount of the outstanding debt to the Province out of the insurance recovery. 1995-96, c. 1, s. 88.

School review policy

103 (1) The Minister shall develop and adopt a school review policy that sets out the processes to be followed by a school board for considering or implementing a decision to permanently close a public school, which policy must include

- (a) the circumstances that may lead to a review of schools for permanent closure;
- (b) the establishment and composition of school review committees;
- (c) the information that school boards are to provide to school review committees and to the public;
- (d) the support that school boards are to provide to school review committees;
- (e) the subject-matter that school boards are to include in the terms of reference of school review committees;
- (f) the process that school boards and school review committees are to follow after a school review is initiated by a school board, including requirements for notices and public meetings to consult with respect to the options available to the school board;
- (g) time lines that are to be followed in a school review process; and

(h) transitional plans that are to be implemented by school boards following a decision to permanently close a public school.

(2) Subject to the regulations, a school board may not permanently close a school except in accordance with the school review policy adopted by the Minister. 2014, c. 13, s. 2.

School deemed permanently closed

104 A public school is deemed to be permanently closed if

- (a) all of the school buildings have been vacant for at least one school year prior to October 17, 2014;
- (b) the buildings are not being renovated; and
- (c) no students are attending the school. 2014, c. 13, s. 2.

Powers of board respecting buildings

105 (1) A school board may

- (a) declare any building used for public school purposes or any part of a building used for public school purposes, or the appurtenances or grounds thereof, to be unfit for public school purposes;
- (b) enter into and carry out a lease or agreement for the renting of premises for public school purposes.

(1)(b) that (2) No lease or agreement may be entered into pursuant to clause

- (a) does not place the rental premises completely under the control of the school board; or
- (b) contains any undertaking or agreement that abridges or modifies any power or duty of the school board. 1995-96, c. 1, s. 90.

Consequences of declaration

106 Where a school board makes a declaration that a school house or building used for public school purposes or a part of a school house or such a building or the appurtenances or grounds thereof are unfit for public school purposes, the board shall notify the municipality in which the school house or building is located and, unless otherwise provided by the board, the declaration takes effect at the commencement of the next academic school year, and the school house or building or part thereof or grounds or appurtenances must not thereafter be used for school purposes without the approval of the school board. 1995-96, c. 1, s. 91.

Control and management of buildings

107 (1) Buildings owned by municipalities and used for school purposes are under the exclusive control and management of school boards and school boards are responsible for providing adequate maintenance and repairs and shall insure the buildings in amounts agreed upon by the municipalities and the school boards.

(2) The school boards shall notify the municipalities when land and buildings owned by the municipalities are no longer required for the purpose of the school boards. 1995-96, c. 1, s. 92.

Consequences of declaring property surplus

108 (1) Subject to subsection (2), where land and buildings, that have vested in a district school board pursuant to the former Act, are declared surplus by the district school board or a successor school board and the land and buildings were owned by a municipality prior to the establishment of the amalgamated school board pursuant to the former Act, the municipality has the option of having the surplus land and buildings reconveyed to it, subject only to any lien, mortgage or charge in respect of the unmatured debt that exists at the time the land and buildings are declared surplus.

(2) Where land and buildings vested in the Conseil acadien are declared surplus by the Conseil acadien and the lands and buildings were owned by another school board prior to the vesting of the land and building in the Conseil acadien, that school board or a successor school board has the option of having the surplus land and buildings conveyed to it, subject only to any lien, mortgage or charge in respect of the unmatured debt that exists at the time the land and buildings are declared surplus. 1995-96, c. 1, s. 93.

SCHOOL ATTENDANCE

Persons required to attend

109 Subject to the regulations, every resident of the Province over the age of five years and under the age of 16 years shall attend school in accordance with the regulations. 1995-96, c. 1, s. 111.

Responsibility of custodian of child

110 When a child lives with or is under the care or in the custody of a person other than the child's parents, that person during the time that the child lives with that person or is under that person's care or in that person's custody, is subject to the duties imposed by this Act on the parents, but the duty and liability of the parent are not thereby affected or diminished. 1995-96, c. 1, s. 112.

Exemptions

111 A child is not required to attend a public school if the child

- (a) is being provided with a home education program in accordance with the regulations;
- (b) is enrolled in and in attendance at a private school operating in compliance with this Act; or
- (c) meets any other exemptions contained in regulations. 1995-96, c. 1, s. 113.

Certificates

112 Certificates of exemption or of employment, of a temporary or permanent nature, may be issued by school boards or an official to whom the school

board delegates its authorization in accordance with regulations made pursuant to this Act. 1995-96, c. 1, s. 114.

Certain employment prohibited

113 No person shall employ in any work during school hours a child who has not attained the age up to which attendance at school is required by regulations made pursuant to this Act unless an employment certificate authorizing the employment has been issued pursuant to Section 112 and the regulations and is in effect. 1995-96, c. 1, s. 115.

Duties of attendance committee

114 The attendance committee of the school board shall

- (a) monitor the attendance of students in schools in the district or region;
- (b) take steps to reduce the absenteeism of students from schools in the district or region in accordance with policies of the school board; and
- (c) recommend to the school board remedial steps and policies in respect of those students who have been reported to the school board by the principal as being habitually absent from school without acceptable excuse. 1995-96, c. 1, s. 116.

Duties of parent or custodian

115 A parent or other person having charge or control of any child, shall, within five days after having been served with a notice by the school board naming the child, cause the child to attend school and continue in regular attendance at school, unless the child is excused from attendance under this Act or the regulations or unless that person satisfies the school board that that person is unable to induce the child to attend public school. 1995-96, c. 1, s. 117.

Prima facie proof

116 It is prima facie proof to file with a court the following documents:

- (a) an affidavit of a person designated by the school board that a notice pursuant to Section 115 was served on a parent or person in charge of the child; and
- (b) a certificate purporting to be signed by the teacher, without proof of the teacher's appointment or signature, that the child was absent from school for a period of five or more school days, not necessarily consecutive, following the receipt of the warning notice by a parent or person in charge of the child. 1995-96, c. 1, s. 118.

Admissibility of certificate

117 A certificate respecting the enrolment and the attendance or non-attendance of a child in school that is or purports to be signed by a teacher is admissible in evidence without proof of the appointment or signature of the teacher and is prima facie proof of the facts stated in the certificate. 1995-96, c. 1, s. 119.

Deemed within age limits

118 Where a person is charged with an offence under this Act in respect of a child who is alleged to be within the limits of the ages prescribed by the regulations and the child appears to the court to be within those age limits the child is, for the purpose of this Act, deemed to be within those age limits unless it is proved to the satisfaction of the court that the child is not of an age within those age limits. 1995-96, c. 1, s. 120.

STUDENT CONDUCT**Requiring student to leave class**

119 Where a student in a class engages in unacceptable behaviour, the teacher of the class may require the student to leave the class and shall refer the student to the principal. 2013, c. 2, s. 26; 2015, c. 16, s. 10; 2017, c. 7, s. 16.

Suspension or other action

120 Where a student enrolled in a public school engages in unacceptable behaviour

(a) on school grounds, on property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop or on a school bus; or

(b) at a location, activity, function or program that is off school grounds and is not school-sponsored or school-related, if the behaviour significantly disrupts the learning climate of the school,

the principal, or the person in charge of the school, may take appropriate action as specified in the Provincial school code of conduct policy, including suspending the student for a period of not more than 10 school days. 2013, c. 2, s. 26; 2015, c. 16, s. 11; 2017, c. 7, s. 16.

Review of suspension

121 (1) Where a student is suspended pursuant to Section 120 the principal or other person in charge of the school shall immediately notify, in writing, the student, the student's teachers, the school board and the student's parents of the reasons for the suspension.

(2) The student or the student's parents may request a review of the suspension pursuant to Section 120 by the school board within five school days of receiving the notice pursuant to subsection (1).

(3) The school board shall

(a) confirm the suspension under Section 120; or

(b) order that the suspension be revoked and that the suspension be removed from the record of the student. 1995-96, c. 1, s. 123; 2015, c. 16, s. 12.

Extended suspension

122 (1) Where a student is suspended pursuant to Section 120 and the principal is of the view that the student should be suspended for a period greater

than 10 school days, the principal may, in writing, make a recommendation with reasons to the school board that the student be suspended for a period greater than 10 school days.

(2) Where a recommendation is made pursuant to subsection (1), the school board shall immediately notify, in writing, the student and the student's parents of the principal's recommendation and reasons.

(3) Within seven days of having received the recommendation of the principal under subsection (1), the school board shall

- (a) dismiss the principal's recommendation; or
- (b) extend the suspension of the student for a period of greater than 10 school days.

(4) Where the suspension of a student begins within two months of the end of the school academic year, the period of time for which a school board may extend the suspension under subsection (3) may include a portion of the next academic year.

(5) The school board shall notify the student, the parents of the student, the student's teachers, the principal or person in charge of the school of its decision under subsection (3) within three days of the meeting at which the decision was made.

(6) Where the school board decides under subsection (3) to extend the suspension of the student, the school board shall include in its notice under subsection (5)

- (a) the period for which the student is to be further suspended;
- (b) the reasons for the decision to further suspend the student; and
- (c) the right of the student and of the student's parents to appeal the decision.

(7) Where a student or the parent of a student has been notified of the suspension of the student pursuant to (5), the student or the parent may, within seven days of receiving such notice, appeal the suspension to the school board.

(8) The school board shall, upon receipt of a notice of appeal pursuant to subsection (7)

- (a) immediately notify the parent of the student and the student of the time and place of the hearing of the appeal and the right of the student or parent, or both, to appear in person with or without counsel;
- (b) within 10 days of receipt of the notice of appeal, hold a hearing and confirm, revoke or vary the decision of the school board.

(9) Within three clear days of the hearing, the school board shall notify the student, the student's parent, the student's counsel, the student's teachers

and the principal or person in charge of the school of its decision, which decision is final and binding. 1995-96, c. 1, s. 124; 2015, c. 16, s. 13.

Manner of exercising certain powers and duties

123 (1) The powers and duties of the school board set out in subsections 121(3) and 122(3) may be performed

(a) where so directed by the school board, by one or more committees consisting of the superintendent and two members of the school board, one of whom acts as chair of the committee;

(b) where so directed by the school board, by the school advisory council of the school or a committee of the school advisory council;

(c) with the approval of the Minister, by one or more committees of persons designated by office or named by the school board.

(2) The power and duties of the school board set out in subsection 122(8) may be performed, if so directed by the school board, by one or more committees consisting of the superintendent and two members of the school board, one of whom acts as chair of the committee. 1995-96, c. 1, s. 125.

Alternative educational arrangements

124 Where a student is suspended for more than 10 school days, the school board, in consultation with the student's parent, shall make every reasonable effort to provide alternative arrangements for the education of the student. 1995-96, c. 1, s. 126; 2015, c. 16, s. 14.

Suspension of school bus rights

125 (1) The principal of a public school, or such other supervisory person as may be designated by the school board, may suspend a student's right to use the school bus if, in that person's judgement, the student has refused to comply with reasonable rules or regulations of the school board or directions given by the bus driver or if, in that person's judgement, the behaviour of the student while on the bus endangers the safety of others using the bus.

(2) A person who suspends a student's right pursuant to subsection (1) to use the school bus shall report this action immediately to the school board and inform the student's parent by the speediest method convenient of that person's action.

(3) Where the student's right to use the school bus has been suspended for a period of more than two days, the student and the student's parent must be notified in writing of the reason for the suspension and, where the suspension is for a period of more than five school days, of the right of appeal pursuant to subsection (4).

(4) Where a student is suspended for a period of more than five school days, the parent of the student or the student, if the student is of the age of majority, may, within seven days of receiving notice of the suspension pursuant to subsection (3), appeal the decision to suspend.

(5) Where a notice of appeal has been received by the school board pursuant to subsection (4), the balance of the suspension is stayed until the school board confirms, revokes or varies the suspension.

(6) The school board shall, upon receipt of a notice of appeal

(a) immediately by registered mail notify the parent of the student, or the student, where the student is of the age of majority, of the time and place of the hearing of the appeal; and

(b) within 10 days of receipt of the notice of appeal, hold a hearing respecting the suspension and within three school days following that hearing confirm, revoke or vary the decision to suspend.

(7) No parent or other person in charge of any student, having been sent by the school board by registered mail a notice of suspension of the student's right to use the school bus, shall cause, encourage or permit the student to use the bus during the period of time during which the suspension is in effect. 1995-96, c. 1, s. 127.

HOME EDUCATION

Provision of home education

126 (1) A parent may provide a home education program to a child of the parent centered in the child's home.

(2) A parent providing a home education program to a child shall

(a) register the child for each school academic year with the Minister; and

(b) report the child's progress to the Minister,

as prescribed by the regulations.

(3) With the approval of the school board, a child in a home education program may attend courses offered by a school board, subject to any terms and conditions prescribed by the school board.

(4) The Minister may require the parent of a child in a home education program to provide evidence of the child's educational progress by providing one or more of the following as the parent determines:

(a) results of a standardized test;

(b) an assessment from a qualified assessor;

(c) a portfolio of the child's work,

as prescribed by the regulations.

(5) Notwithstanding subsection (4), where, in the Minister's opinion, further evidence of a child's educational progress is required, the Minister may appoint an independent assessor, as prescribed by the regulations, to assess and report to the Minister whether

(a) the child is making reasonable educational progress;

(b) the home education program is adequately addressing the child's needs; and

(c) the available public school program will do more to further the child's educational progress than the home education program.

(6) A parent may request that a child in a home education program be assessed through an assessment instrument authorized by the Minister in order to determine the child's educational progress, in accordance with the regulations.

(7) Where, following participation in a home education program, a child enrolls in a public school, the school board shall determine the child's grade placement. 1995-96, c. 1, s. 128.

Termination of right to provide home education

127 (1) A parent may not provide or continue to provide a home education program to a child if, based on the evidence provided pursuant to subsection 126(4) and the report made pursuant to subsection 126(5), the Minister determines that

(a) the home education program does not meet the requirements of this Act and the regulations; or

(b) the child is not making reasonable educational progress as determined by the child's performance as measured pursuant to subsection 126(4).

(2) Before making a determination pursuant to subsection (1), the Minister shall

(a) notify the parent, in writing, by registered mail of the Minister's intent to make the determination; and

(b) give the parent an opportunity to make representation to the Minister in writing as to why the home education program should be provided or continued. 1995-96, c. 1, s. 129.

PRIVATE SCHOOLS

Right to attend private school

128 A child may attend a private school. 1995-96, c. 1, s. 130.

Duties and rights of private school

129 (1) A private school shall

(a) meet local health, safety and building standards;

(b) provide statistical information with respect to the school, as required by the Minister; and

(c) where requested by the Minister, provide evidence that students are making reasonable educational progress appropriate for their age and grade level based upon results of nationally or internationally recognized standardized achievement tests.

(2) The Minister may appoint or designate a regional education officer to assess a private school, including its teachers, its educational programs and its instructional materials, to inspect its facilities and to perform such other duties with respect to the private school as the Minister may require.

(3) A private school may offer a religious-based curriculum.
1995-96, c. 1, s. 131.

Recognition of program

130 Upon application by a private school to the Minister in accordance with the regulations, the Minister may recognize the school's program of studies as meeting the requirements for a high school leaving certificate. 1995-96, c. 1, s. 132.

COMMUNITY FACILITIES

Agreements respecting community facilities

131 (1) A school board and a municipality may enter into an agreement whereby the municipality agrees to pay the capital cost of a community facility to be acquired by the school board in or in association with a public school and the cost of maintaining and operating the community facility.

(2) For the purpose of this Act, a school property includes a proposed school property.

(3) For the purpose of this Act, the capital cost of a community facility or a school property includes all costs incurred in acquiring the community facility or the school property, including costs of acquiring land and costs of designing, constructing, furnishing and equipping the community facility.

(4) An agreement may be entered into only if the agreement relates to a community facility that is part of a school property, and a municipality shall not pay the capital cost of a community facility that is an alteration, addition or improvement to a school property except pursuant to an agreement.

(5) An agreement with respect to a community facility must

(a) describe the community facility and school property to which the agreement relates;

(b) set out the capital cost of the community facility, expressed as either

(i) an amount of money, or

(ii) a proportion of the combined capital cost of the community facility and the school property to which the agreement relates;

(c) set out the respective obligations of the parties to the agreement respecting the operation and maintenance of the community facility;

(d) set out the respective rights of the parties to the agreement with respect to access to and use of the community facility; and

(e) include such provisions as are necessary or conducive to carrying out the intent and purpose of the agreement.

(6) An agreement with respect to a community facility is of no effect unless the agreement is approved by the Minister.

(7) A copy of an agreement with respect to a community facility, executed by both parties thereto, and on which is endorsed the approval of the Minister, must be filed with the Minister, the Minister of Municipal Affairs and Housing and the Minister of Health and Wellness. 1995-96, c. 1, s. 133; 2004, c. 6, s. 3.

Power to carry out agreement and impose rates

132 (1) A school board and a municipality may

(a) do every act, exercise every power and expend every sum of money necessary or proper for the purpose of implementing in every respect all of its obligations under an agreement with respect to a community facility; and

(b) do and perform the acts, matters and things that the agreement provides be done or performed by them in the manner, with the effect and under the conditions stipulated and provided in the agreement.

(2) All money required for the payment or performance by the municipality of its obligations under an agreement with respect to a community facility is money required for the ordinary lawful purposes of the municipality and must be levied, raised and collected in all respects as other money required for the ordinary lawful purposes of the municipality is levied, raised and collected.

(3) For the purpose of raising money to pay or perform its obligations under an agreement with respect to a community facility, the municipality may recover annually, from the area that benefits from the community facility to which the agreement relates, the amount required to pay such amounts by an area rate to be collected in the same manner as municipal rates and taxes with the same rights and remedies in the event of default of payment and, for greater certainty, the amount may be rated without a petition of the ratepayers.

(4) Any money required by the municipality for the purpose of paying the capital cost of a community facility under an agreement may be borrowed, and such borrowing is and is deemed to be for a municipal purpose within the meaning of the *Municipal Government Act*. 1995-96, c. 1, s. 134; 2004, c. 6, s. 4.

Holding and disposition of school property

133 (1) Where the community facility to which the agreement relates is an alteration, addition or improvement to a school property owned by a school board, the school board shall hold the school property in trust.

(2) The municipality is entitled to receive

(a) in the event of the sale of the property; or

(b) in the event of partial or complete destruction of the property,

a share of the proceeds from the sale or any insurance recovery, less any amount required to be paid to the Province pursuant to this Act.

(3) The municipality's share is equal to the proportion that the capital amount paid by the municipality pursuant to the agreement bears to the appraised value of the whole property.

(4) Every amount recovered by the municipality pursuant to this Section must be paid into the special reserve fund of the municipality.

(5) A school board shall not sell a school property to which an agreement with respect to a community facility relates without first offering to sell the school property to the municipality. 1995-96, c. 1, s. 135.

Requirement for consent unaffected

134 Nothing in this Act respecting an agreement with respect to a community facility means or is to be construed to mean that either a municipality or a school board is relieved from obtaining a consent or approval of the Minister or the Minister of Municipal Affairs and Housing required by this or another enactment. 1995-96, c. 1, s. 136.

MI'KMAQ EDUCATION

Council on Mi'kmaq Education

135 (1) A Council on Mi'kmaq Education is established.

(2) The Minister shall establish the terms of reference for the Council on Mi'kmaq Education in consultation with the Task Force on Mi'kmaq Education.

(3) The Council shall

(a) promote the rights and interests of the Mi'kmaq by providing recommendations to the Minister on programs and services in public schools and on adult education; and

(b) perform such other duties as determined by the regulations.

(4) Members of the Council are appointed by the Minister for such terms and upon such conditions as are determined by the regulations.

(5) The Council shall meet at least four times each year.

(6) Meetings of the Council are presided over by a member of the Council chosen by the Council.

(7) The members of the Council are entitled to such remuneration and must be reimbursed for such reasonable expenses as are necessarily incurred in carrying out their duties, as the Governor in Council determines by regulation. 1995-96, c. 1, s. 137.

Duties of school boards

136 School boards shall

- (a) provide and implement programs and policies promoting Mi'kmaq education; and
- (b) include in learning materials information respecting the history, language, heritage, culture, traditions and the contribution to society of the Mi'kmaq. 1995-96, c. 1, s. 138.

AFRICAN-CANADIAN EDUCATION**Council on African-Canadian Education**

137 (1) A Council on African-Canadian Education is established.

(2) The Minister shall establish the terms of reference for the Council on African-Canadian Education in consultation with the Black Learners Advisory Committee.

(3) The Council shall

- (a) promote the rights and interests of African-Nova Scotians by providing recommendations to the Minister on programs and services in public schools and on adult education; and
- (b) perform such other duties as determined by the regulations.

(4) Members of the Council are appointed by the Minister for such terms and upon such conditions as are determined by the regulations.

(5) The Council shall meet at least four times a year.

(6) Meetings of the Council are presided over by a member of the Council chosen by the Council.

(7) The members of the Council are entitled to such remuneration and must be reimbursed for such reasonable expenses as are necessarily incurred in carrying out their duties, as the Governor in Council determines by regulation. 1995-96, c. 1, s. 139.

Duties of school boards

138 School boards shall

- (a) provide and implement programs and policies promoting African-Canadian education; and
- (b) include in learning materials information respecting the history, heritage, culture, traditions and the contribution to society of African people. 1995-96, c. 1, s. 140.

GENERAL

Investigation and audit of school board

139 (1) In this Section, “records” means information or data recorded and stored by graphic photographic, electronic, mechanical or other means, and includes books, accounts, financial records, operational data, reports, minutes, files, correspondence, drawings, photographs and electronic mail.

- (2)** The Minister may appoint one or more persons to
- (a) conduct an independent financial audit of a school board;
 - (b) inquire into or investigate any school board matter related to
 - (i) the school board’s financial condition,
 - (ii) the school board’s administrative affairs,
 - (iii) the health, safety or educational welfare of the students of a school, or
 - (iv) any other matter connected with the organization, management, administration or operation of a school board.

(3) Where the Minister so provides, a person appointed pursuant to subsection (2) has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(4) The person appointed pursuant to subsection (2) is entitled to receive and shall be paid such fees as may be fixed and paid by the Minister.

- (5)** The person appointed pursuant to subsection (2) may
- (a) examine and make copies of any relevant records or property; and
 - (b) upon giving a receipt therefor, remove any records or property for the purpose of making copies, in which case the copying must be carried out with reasonable dispatch and the items removed promptly thereafter returned to the school board.

(6) The person appointed pursuant to subsection (2) shall report the results of the audit, inquiry or investigation to the Minister.

- (7)** Upon receipt of the report, the Minister may
- (a) issue such directives to the school board regarding corrective action; or
 - (b) take such other action as authorized by this Act,

as the Minister considers appropriate. 2011, c. 59, s. 2; 2015, c. 16, s. 15.

Powers of Minister

- 140 (1)** The Minister may

(a) subject to the regulations, direct the expenditure of all sums appropriated by the Legislature for educational purposes;

(b) subject to the regulations, classify teachers and grant teachers' certificates and permits;

(c) after consultation with a school board, approve plans for school buildings;

(d) maintain and operate the Nova Scotia School Book Bureau for the purchase, sale and distribution of school books and other learning materials prescribed by the regulations for use in the public schools;

(e) establish a trust fund, to be known as the Maintenance Stabilization Trust Fund, for the purpose of lending money to school boards for capital purposes;

(f) make loans from the Maintenance Stabilization Trust Fund to school boards, on such terms and conditions as the Minister determines;

(g) require that reports and returns be made by teachers, school advisory councils, school boards and others engaged in the conduct or management of public schools;

(h) establish a Provincial school code of conduct policy with respect to promoting school and student safety that includes a Provincial school code of conduct and provisions regarding student conduct and consequences for unacceptable behaviour;

(i) establish a Provincial public school network-access and network-use policy that includes defined consequences for misuse of the network by students and staff of a school;

(j) effect improvement generally in the conduct and administration of school boards, and, among other things, consult with, assist and advise school boards, develop proper methods of school board administration, financing, accounting and auditing, collaborate with public education organizations and other bodies and collect, compile and disseminate education statistics and information;

(k) provide an instructional leadership program for teachers and grant diplomas for the successful completion of the program;

(l) collect, directly and indirectly, and use personal information for

(i) administering this Act and the regulations and implementing the policies, guidelines and directives made under this Act,

(ii) ensuring compliance with this Act, the regulations and the policies, guidelines and directives made under this Act,

(iii) planning or delivering programs or services that the Minister provides or funds, in whole or in part, allocating resources to any of them and evaluating or monitoring any of them, and

- (iv) research and statistical activities that relate to education and are conducted by or on behalf of the Minister;
- (m) do such other things as the Minister considers necessary to carry out effectively the Minister's duties under this Act.

(2) The Minister shall review the Provincial school code of conduct policy established under clause (1)(h) at least once every two years. 1995-96, c. 1, s. 141; 2010, c. 50, s. 1; 2011, c. 57, s. 3(1); 2012, c. 14, s. 6; 2013, c. 2, s. 27; 2015, c. 16, s. 16; 2017, c. 7, s. 16.

Restriction on collection or use of personal information

141 (1) The Minister may not collect or use personal information if other information would serve the purpose of the collection or use.

(2) The Minister may not collect or use more personal information than is reasonably necessary to meet the purpose of the collection or use. 2010, c. 50, s. 2.

Regional education officers

142 (1) The Minister may appoint persons in the Civil Service as regional education officers for the purpose of this Act.

(2) A regional education officer shall

- (a) act as an educational adviser to one or more school boards;
- (b) visit schools and report to the Minister on the educational activities at the schools and the conditions of the schools, consult with and co-operate with other educational agencies and generally aid the Minister in keeping in touch with educational conditions throughout the Province;
- (c) promote the advancement of education by holding public meetings; and
- (d) perform such other duties as the Minister determines.

1995-96, c. 1, s. 142.

Application of legislation to certain payments

143 (1) The payments made by the Minister or a school board for all or a portion of the cost of any policy of insurance or any other benefits plan provided to teachers, including life insurance, accidental death and dismemberment insurance or medical and dental plans, are financial assistance for the purpose of the *Auditor General Act* and subject to audit by the Auditor General.

(2) Subsection 99(4) applies with necessary changes to an audit pursuant to this Section. 1995-96, c. 1, s. 143.

Power of Governor in Council respecting money

144 The Governor in Council may receive in trust, hold and spend sums of money donated, bequeathed or subscribed for the use of public schools. 1995-96, c. 1, s. 144.

Regulations by Minister

- 145 (1) The Minister may make regulations
- (a) after consultation with the Council on Mi'kmaq Education, respecting the Council on Mi'kmaq Education;
 - (b) after consultation with the Council on African-Canadian Education, respecting the Council on African-Canadian Education;
 - (c) prescribing the time in session, holidays and vacations of all public schools;
 - (d) prescribing the minimum number of hours of instruction to which students in the public schools are entitled;
 - (e) prescribing reporting systems and forms for the administration and effective carrying out of this Act;
 - (f) for the administration of the Nova Scotia School Book Bureau;
 - (g) prescribing courses of study and authorizing learning materials for use in the public schools;
 - (h) establishing a provincial policy respecting special-education programming and services;
 - (i) respecting students who have been suspended;
 - (j) prescribing an appeal process for where there is a disagreement between a school board and a parent of a child with special needs respecting the individualized program plan for that child;
 - (k) defining "senior staff" for the purpose of subsections 75(4), (5) and (6);
 - (l) respecting an administrative structure and a compensation framework for the purpose of subsections 75(5) and (6);
 - (m) prescribing the manner and form in which a school board is to report, as required by this Act, the payments, including salaries and expenses, made to and benefits conferred on members and employees of the school board;
 - (n) respecting the circumstances under which a school board may permanently close a school without following the school review policy adopted by the Minister pursuant to Section 103;
 - (o) prescribing the public school program of education to be provided and administered by school boards;
 - (p) for the support, conduct, operation and management of public schools and services;
 - (q) respecting school advisory councils;
 - (r) establishing a Provincial conflict of interest policy for school board staff;
 - (s) prescribing the oath of office to be taken by the members of a school board;

(t) prescribing the mandatory content of a code of ethics adopted by a school board;

(u) respecting the appointment of adjudicators to hear appeals from a decision of a school board to censure a member of the school board;

(v) prescribing the mandatory content of a procedural bylaw respecting the conduct of meetings of a school board;

(w) approving a financial management system respecting estimates, bookkeeping and accounting to be adopted by school boards, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of school boards must be kept, and the manner in which all funds and moneys thereof must be accounted for.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1995-96, c. 1, s. 145; 2002, c. 5, s. 15; 2007, c. 15, s. 2; 2008, c. 54, s. 12; 2010, c. 13, s. 2; 2011, c. 57, s. 4; 2012, c. 14, s. 7; 2012, c. 56, s. 4; 2014, c. 13, s. 3; 2015, c. 16, s. 17.

Regulations by Governor in Council

146 (1) The Governor in Council may make regulations

(a) respecting the expenditure, by way of grants, of money appropriated by the Legislature for grants for educational purposes and prescribing the terms and conditions upon which such grants are paid;

(b) respecting surplus operating funds of school boards;

(c) prescribing or prohibiting the investment of money of school boards and prescribing investments or classes of investments in which such money may be invested for the sound and efficient management of any money of school boards;

(d) respecting the composition of an audit committee of a school board and the terms of reference of that committee;

(e) respecting the construction, location and control of public school buildings;

(f) respecting the classification of teachers and the granting, cancellation and suspension of teachers' certificates and permits, and requiring the collection and payment of fees respecting initial certificates, duplicate certificates and renewal certificates and higher classes of certificates and statements of professional standing;

(g) prescribing restrictions or conditions on a teacher's certificate or a teaching permit;

(h) authorizing the holder of a teacher's certificate or a teaching permit to surrender the certificate or teaching permit;

(i) respecting the reporting of the suspension or cancellation of, or restrictions or conditions on, a teacher's certificate or a

teaching permit to school boards in the Province and teacher certification authorities within and outside Canada;

(j) respecting the disclosure of information pertaining to the suspension or cancellation of, or restrictions or conditions on, a teacher's certificate or teaching permit;

(k) requiring teachers and any other class or classes of employees of school boards or of persons providing services for school boards to undergo medical examinations, prescribing the nature of those examinations and the conditions under which they are given, and subject to the *Health Protection Act* prescribing the conditions under which such teachers and employees may continue teaching or in employment in or in connection with public schools;

(l) prescribing terms and conditions relating to cancellation, suspension or modification of contracts between teachers and school boards as a result of medical examinations made pursuant to the regulations;

(m) prescribing the legal age limit for students and the conditions of satisfactory attendance for public schools;

(n) prescribing the method for determining those who are entitled to receive a French-first-language program in the Province;

(o) establishing procedures for determining the demand for French-first-language programs in the Province;

(p) providing for the manner in which students may be transferred between a school of the Conseil acadien and a school of another school board;

(q) providing for the sharing of enrolment information between the Conseil acadien and another school board;

(r) providing for the method of determining the location of French-first-language program educational facilities;

(s) providing for the conveyance of students, including the conveyance of students to facilities providing a French-first-language program;

(t) generally providing for the provision and administration of French-first-language programs in the Province;

(u) respecting such other matters as the Governor in Council considers necessary or advisable for French-first-language programs;

(v) respecting home education programs, including the appointment of independent assessors;

(w) respecting private schools;

(x) respecting any matter that the Governor in Council considers necessary or advisable to give effect to the designation of a school region or for the effective establishment and operation of all regional school boards or a particular regional school board;

- (y) determining the remuneration of and respecting the reimbursement for expenses of members of the Council on Mi'kmaq Education;
- (z) determining the remuneration of and respecting the reimbursement for expenses of members of the Council on African-Canadian Education;
- (aa) prescribing the fees to be paid to the Minister and to the school board by foreign students;
- (ab) prescribing the fees to be paid to the Minister for services rendered by the Department of Education and Early Childhood Development;
- (ac) setting the maximum percentage of the school board budget or the maximum amount that may be spent for non-instructional purposes;
- (ad) respecting students with special needs attending approved special education private schools, including
 - (i) defining special needs,
 - (ii) determining eligibility requirements of students,
 - (iii) approving special education private schools,
 - (iv) the monitoring of approved special education private schools,
 - (v) the funding with respect to students with special needs attending approved special education private schools, including grants or funding based on income,
 - (vi) fees,
 - (vii) the appointment and remuneration of a person to approve applications for funding referred to in subclause (v),
 - (viii) appeals,
 - (ix) authorizing the Minister to perform the functions referred to in subclauses (i) to (viii);
- (ae) determining or designating anything required to be determined or designated under Sections 11 to 16;
- (af) for the purpose of subsection 75(8);
- (ag) respecting confidentiality of information held by a school board or a school with respect to students and the release of such information;
- (ah) respecting any matter, including the modification, restriction or enlargement of words, expressions or provisions, that the Governor in Council considers necessary or advisable to give effect to the establishment and operation of district school boards or a particular district school board;
- (ai) prescribing additional duties of a director of education of a district school board;

(aj) designating a school region and a regional school board or the Conseil acadien and determining the extent and terms and conditions upon which Sections 11 to 16 apply in each case;

(ak) determining which provisions of this Act apply to any school board designated pursuant to clause (aj), and which provisions apply to the district school boards, or to both;

(al) designating a child-related offence for purpose of clause 54(b);

(am) respecting any matter related to an audit, inquiry, investigation or report under Section 139;

(an) defining any word or expression used in this Act and not defined herein;

(ao) respecting any other matter the Governor in Council considers necessary or advisable to carry out effectively 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*. 1995-96, c. 1, s. 146; 2000, c. 11, s. 9; 2002, c. 5, s. 16; 2004, c. 3, s. 19; 2004, c. 4, s. 110; 2005, c. 16, s. 9; 2006, c. 27, s. 1; 2008, c. 53, s. 4; 2011, c. 59, s. 3.

Substituted reference

147 A reference in any Act of the Legislature or in any rule, order, regulation, bylaw, ordinance or proceeding or in any document whatsoever to the Department of Education or to the Department of Education and Culture or the Minister or Deputy Minister of that Department, whether the reference is by official name or otherwise, is to be, as regards any subsequent transaction, matter or thing, held and construed to be a reference to the Department of Education and Early Childhood Development or to the Minister or Deputy Minister of that Department, respectively, where the reference relates to an affair, matter or function that, by or pursuant to the *Public Service Act* or this Act, is assigned to the Department of Education and Early Childhood Development or to the Minister or Deputy Minister of that Department. 1995-96, c. 1, s. 152; 2005, c. 16, s. 10; 2015, c. 16, s. 18.

Former Act repealed

148 (1) The former Act is repealed.

(2) Notwithstanding subsection (1), the council of a municipality may levy an area rate pursuant to the former Act where a school board requested the area rate before January 16, 1996. 1995-96, c. 1, s. 155.

Existing regulations continued

149 For greater certainty, any regulation made pursuant to Chapter 6 of the Acts of 1991, the *School Boards Act*, or the former Act remain in force, in so far as they are not inconsistent with this Act until others are made in their stead. 1995-96, c. 1, s. 157.

CHAPTER E-5

An Act Respecting the Election of Members to the House of Assembly and Electoral Finance

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Chief Electoral Officer.....	3
Powers and duties.....	4
Discretionary powers and duties.....	5
 PART I	
Elections	
Interpretation.....	6
Chief Electoral Officer	
Appointment.....	7
Remuneration.....	8
Elections Nova Scotia.....	9
Administration.....	10
Assistant Chief Electoral Officer.....	11
Powers and duties.....	12
Acting Chief Electoral Officer.....	13
Employees of Elections Nova Scotia are civil service employees.....	14
Chief Electoral Officer appoints and places employees.....	15
Experts.....	16
Powers, privileges and immunities.....	17
Liability.....	18
Annual estimates.....	19
Review of reports.....	20
Public education and studies.....	21
Returning Officers	
Appointment of returning officer.....	22
Vacancy, suspension and resignation.....	23
Appointment of assistant returning officer.....	24
Oath.....	25
Duties.....	26
Returning office.....	27
Time on duty.....	28
Writ and Notice of Election	
Method of instituting an election.....	29
Fixed election date.....	30
Writ of election and election materials.....	31
Notice of election.....	32
Appointment of new returning officer.....	33
Substitution of new writ.....	34
By-election superseded by general election.....	35

Polling Divisions

Establishment.....	36
Amalgamation, subdivision and redefinition.....	37
Distribution of geographic descriptions.....	38

Electors

Qualifications.....	39
Disqualifications.....	40
Residence.....	41
Member of the Canadian Armed Forces and absence from Province	42
Register of Electors.....	43
16- and 17-year-olds	44
Updating information in Register of Electors.....	45
Disclosure of elector information	46
Access to own information	47

Enumeration

Initiation.....	48
Appointment of enumerators.....	49
Alternative procedure for appointment.....	50
Enumerators to act jointly.....	51
Manner of enumeration prescribed.....	52
Enumerator to be given access	53

List of Electors Used During Election

Preliminary list of electors.....	54
Notice of registration and voting information	55

Revision of List of Electors

Revision.....	56
Application for addition, correction or deletion	57
Grounds to support application.....	58
Preparation and distribution of revised and official lists of electors	59
Notice of registration after addition or correction	60
Final list of electors	61
Form determined by Chief Electoral Officer.....	62
Objection to name on list.....	63

Protection of Personal Information of Electors

Content of lists and use of information.....	64

Nomination of Candidates

Qualifications.....	65
One district only	66
Nomination documents.....	67
Close of nominations	68
Returning officer to review and accept or refuse nomination	69
Chief Electoral Officer to publish candidates' names.....	70
Authorized individual may file for prospective candidate	71
Nomination documents valid for one election.....	72
Return of nomination deposit	73
Withdrawal of nomination by candidate.....	74
Withdrawal of candidate	75
Withdrawal of endorsement.....	76
Arrangement of names on ballot.....	77
Death of candidate	78

Campaigning

Residential complexes	79
Display of advertising posters	80

c. E-5	elections	3
Return by Acclamation		
Procedure to declare elected.....		81
Granting of Poll		
Grant of poll		82
Election Day and Poll Hours		
Election day		83
Poll hours.....		84
Election Officers		
Appointment		85
Qualification		86
Resident of Province 16 to 18 years of age		87
Death or failure to act		88
List of deputy returning officers and poll clerks		89
Ballot Boxes, Ballot Paper and Ballots		
Specifications		90
Security of ballot papers and ballots		91
Printing of ballots		92
Form of Internet ballot		93
Form of electronic ballot		94
Supply of Election Materials to Deputy Returning Officer		
Custody of election material.....		95
Polling Stations		
Location		96
Identification		97
Specifications		98
Mobile polling stations		99
Persons Present in Polling Station		
Persons permitted		100
Permitted activity		101
Candidate may assist		102
Official List of Electors Used at Poll on Election Day		
Duty to use official list of electors		103
Extra polling stations.....		104
Transfer Certificate		
Application procedure		105
Duties on issuance		106
Voting by Write-in Ballot		
Application procedure		107
Approval of application		108
Voting procedure		109
Elector residing in another electoral district.....		110
Procedure upon receipt of write-in ballot		111
Sorting of write-in ballot envelopes		112
Counting of write-in ballot envelopes		113
Counting of write-in ballots		114
Assistance to vote by write-in ballot		115

Internet Voting

Chief Electoral Officer may permit	116
Requirements to vote	117
Polling station	118
Polling locations	119
Systems elections officer must verify	120
Procedures and forms	121
Internet ballot box	122
Advance voting	123
Copies of records and lists	124
List of electors	125
Counting of ballots	126
Rejected ballots	127
Recount	128
Recount by judge	129
Secret ballot	130
Offences	131
Penalty	132

Proceedings at Election Day Poll

Duties immediately prior to opening poll	133
Ballot box moved for elderly or disabled voter	134
Duties during polling hours	135
Voting procedure	136
Oath may be required	137
Secrecy of vote	138
Assistance in voting	139
Cancelled ballot	140
Error on list	141
Elector declines to vote	142
Interpreter	143
Vote by bedridden patient	144

Who May Vote at a Poll

No right to vote	145
Right to vote	146
Voting at special poll	147
Secrecy of vote	148
Peace and order at polling station	149
Election officer has authority of peace officer	150

Counting and Reporting the Votes

Procedure after close of poll	151
Counting and reporting	152
Examination of ballots	153
Rejection of ballot	154

Time for Employee to Vote

Guidelines and exceptions	155

Advance Poll

Establishing	156
Hours	157
List of electors to be used	158
Continuous poll provisions apply	159
Custody of ballot box	160
Duties at close of advance poll	161
Community continuous poll	162
Continuous poll provisions apply to community continuous poll	163

Returning Office Continuous Poll

Establishment and hours	164
Staff	165
Assistance for elector	166
Securing of ballot box	167
Electronic ballots	168
Procedure during continuous poll	169
Duties at close of continuous poll	170
Declined ballot at continuous poll	171
Counting and recording votes	172

Proceedings after Return of Election Materials
and on Official Addition Day

Security of envelopes containing election materials	173
Official addition of votes	174
Other sources for ascertaining votes cast	175
Resealing of envelopes	176
Duties after the official addition	177

Recount by Judge

Application for recount	178
Service of notice	179
Right to be present at recount	180
Procedure at recount	181
Duties of judge after recount	182
Costs	183
Appeal of recount	184
Appeal procedure	185
Interpretation Act	186

Recount by Chief Electoral Officer

Determining eligibility for reimbursement	187

Election Return

Declaration of election of candidate	188

Return of Election Documents, Materials and Supplies

Duties on completing return on writ	189
Return deemed not received	190
Duties on receiving return	191

Reports of Chief Electoral Officer

Reports to House of Assembly	192

Custody of Election Documents by Chief Electoral Officer

Controverted Elections Act	193
Government Records Act	194

PART II

Electoral Finance

Interpretation	195

Official Agents

Who must appoint	196
Official agents of registered party	197
Qualifications	198

Procedure for appointment, replacement and revocation of appointment	199
Duties	200
Auditors	
Who must appoint	201
Public accountant only	202
Auditor ceases to act	203
Disqualifications	204
Same firm not disqualified	205
Objectivity must not be impaired	206
Duty to report to official agent	207
Access to records and information	208
Registration of a Political Party	
Application for registration	209
Duties of Chief Electoral Officer	210
Information to be updated	211
Recognized party under former Act	212
Suspension and Deregistration of a Registered Party	
Suspension	213
Deregistration for contravention	214
Deregistration for fewer than 10 candidates	215
Voluntary deregistration	216
Effect of and procedure following deregistration	217
Public funding repayment	218
Report respecting tax receipts	219
Payments to Registered Parties	
Calculation and payment	220
Registration of an Electoral District Association	
Application for registration	221
Limit on electoral district associations	222
Political party must be registered first	223
Duties of Chief Electoral Officer	224
Information to be updated	225
Electoral district association registered under former Act	226
Suspension and Deregistration of an Electoral District Association	
Suspension	227
Deregistration for contravention	228
Voluntary deregistration	229
Effect of registered party deregistration	230
Public notice	231
Candidate Registration	
Registration as registered candidate	232
No contributions or expenses until registered	233
Notice of change in particulars	234
Termination of registration	235
Effect of return of writ	236
Prospective candidate must re-register following an election	237
Financial Institutions	
Must be located in Province	238
Registered party's accounts	239
Electoral district association's account	240
Candidate's account	241

Transfers

Not contributions	242
Prohibited transfers.....	243
Deemed election expense	244

Loans

When loan becomes a contribution	245
Restrictions.....	246
No tax receipt	247
Reporting.....	248
Outstanding amount of a payment.....	249

Financial Statements and Reports

Prescribed form	250
Further information	251

Registered Party Reporting

Audited financial statements	252
Election expenses report.....	253
Annual financial report.....	254
Tax receipts report	255
Annual update of registration information	256

Electoral District Association Reporting

Annual financial report.....	257
Annual update of registration information	258

Candidate Reporting

Election expenses report.....	259
Annual financial report.....	260
Tax receipts report	261
Disposal of excess contributions report.....	262

Quality of Reporting

Must meet requirements of Act and regulations.....	263

Contributions

Only as permitted by Act.....	264
Record required	265
By individuals.....	266
Making and receiving	267
Testamentary contributions	268
One official agent or financial agent to record contribution	269
When contributions may be accepted.....	270

Disclosure of Contributions

Disclosure statement.....	271
Anonymous contribution.....	272
Annual \$100 limit.....	273
Beneficial owner only	274
Illegal contribution	275
Exemptions available to eligible individual	276
Calculating attributable contribution.....	277
Gifts to contributors.....	278
Donation in kind	279
By nomination candidate or leadership contestant.....	280
Return of excess contributions	281
Publication of disclosure statements	282

Tax Receipts

Use of prescribed form	283
Who may issue.....	284
No tax receipt.....	285
Required information.....	286
Duplicate copies.....	287
Replacement receipt.....	288
Spoiled tax receipt	289

Election Expenses Spending Limits

Registered party maximum.....	290
Candidate maximum	291

Election Expenses

Who may incur or pay	292
Payment and claims	293
Failure to report	294
Error in report	295
Differentiation in report	296
Notice of court application	297
Powers of Chief Electoral Officer	298

Reimbursement of Candidate Election Expenses

Calculation and payment	299

Disposal of Excess Contributions

Calculation and payment	300

Inspection of Records

By Chief Electoral Officer.....	301
Access to premises and records	302

Election Advertising

Must be authorized	303
No transmission by Government means	304
No one to prevent transmission	305

Third Party Election Advertising

Limits.....	306
Offence.....	307
Third party must be identified and authorize.....	308
Registration.....	309
Financial agent.....	310
Registry of third parties	311
Contribution to registered third party	312
Election advertising report.....	313
Correction to report.....	314
Names and reports to be published.....	315

PART III

Compliance and Enforcement

Injunction.....	316
Public Inquiries Act	317
Investigation	318
Notice of investigation.....	319
Notice of no further action.....	320
Notice to person who requested investigation	321

Chief Electoral Officer may publish outcome	322
Prosecution	323
Frivolous or vexatious allegation	324

Compliance Agreements

Procedure for entering into	325
Involvement of Director of Public Prosecutions	326
Notice of compliance	327
Breach	328
Court may dismiss proceedings	329
Publication of notice of non-compliance and notice of agreement	330

PART IV

Offences

At polling station	331
Breach of ballot secrecy	332
Summons of returning officer	333
During advance poll or election day poll	334
Limits on campaign advertising	335
General	336
False statement that candidate has withdrawn	337
False statement respecting candidate	338
Obstructing lawful campaigning	339
Disruption of election process	340
Offences by employer	341
False tax receipt	342
False statement	343
False information regarding contribution	344
Offences respecting filing of reports	345
Penalty for Section 259 offence	346
Penalty for Section 64 offence	347
Penalty for Section 253 or 254 offence	348
Penalty for Section 264 offence	349
Penalty for Section 290 or 291 offence	350
Offence by official agent or officer	351
Failure to make proper payment	352
Prohibited use of information	353
Penalty for Section 294 offence	354
Penalty for Section 313 offence	355
Failure to provide required information	356
Further offences	357
Summary Proceedings Act	358
Default of penalty	359
Who may be prosecuted	360
Attempts and accessories	361
No privilege in answering question	362

Corrupt Practices

Offences	363
Exceptions	364
Offences respecting voting	365
Offence respecting list of electors	366
Further offences respecting list of electors	367
False information or statement	368
Illegal use of list of electors	369
Misleading statement during an investigation	370
Offence respecting election materials and ballots	371
Offences respecting voting	372
Offences respecting ballot	373
Offences by election officer	374
Offences by candidate	375
Additional offences	376
Obstruction	377

Threat of force	378
Controverted Elections Act.....	379
Effect of conviction under Controverted Elections Act.....	380
Candidate's election is void.....	381
Candidate or agent guilty.....	382
Perjury.....	383
Penalty for corrupt practice	384

PART V

General

Public notice	385
Oath.....	386
Chief Electoral Officer may advance or postpone deadline	387
Mistake or non-compliance with Act.....	388
Powers after amendment of Act.....	389
Writ issued within six months of amendment.....	390
Tariff of fees and expenses	391
Election Commission.....	392
Directive to use alternative procedure, equipment or technology	393
Election public opinion poll.....	394
Public opinion poll not based on recognized polling methods.....	395
No new public opinion poll results on election day	396
Regulations	397
Political Contributions Regulations	398
Chief Electoral Officer appointment.....	399
Assistant Chief Electoral Officer and returning officers	400

Short title

- 1** This Act may be cited as the *Elections Act*. 2011, c. 5, s. 1.

Interpretation

- 2** In this Act,
- “ballot” means a prescribed form used by an elector to vote;
- “by-election” means an election other than one conducted as part of a general election;
- “candidate” means a person who has been officially nominated as a candidate pursuant to Section 69 and for the purpose of Part II includes a person registered pursuant to this Act;
- “candidate representative” means a candidate and
- (a) up to two scrutineers for each candidate; or
- (b) up to two electors representing each candidate;
- “Chief Electoral Officer” means the Chief Electoral Officer appointed pursuant to this Act;
- “day” means a calendar day;
- “during an election” means the period commencing with the dissolution of the House of Assembly, or the issuance of the writ for a by-election, and ending at the close of the polls on election day;

“Election Commission” means the Election Commission established pursuant to this Act;

“elector” means a person who is qualified under this Act to vote during an election for the House of Assembly whether or not the person’s name is on a list of electors;

“elector’s agent” means an individual appointed by an elector to assist the elector to vote pursuant to Section 115 or 139;

“election” means an election of a person to serve as a member of the House of Assembly;

“election advertising” means the transmission to the public by any means during an election of an advertising message that promotes or opposes a registered party or the election of a candidate, including one that takes a position on an issue with which a registered party or candidate is associated but, for greater certainty, does not include

(a) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news;

(b) the distribution of a book, or the promotion of the sale of a book, for not less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election;

(c) the transmission of a document directly by a person or a group to their members, employees or shareholders, as the case may be; or

(d) the transmission by an individual, on a non-commercial basis on the Internet, of the individual’s personal political views;

“election day” means the day fixed for holding the poll during an election;

“election officer” means the Chief Electoral Officer, the Assistant Chief Electoral Officer, a returning officer, assistant returning officer, poll supervisor, deputy returning officer, poll clerk, presiding officer, deputy presiding officer, enumerator, revision assistant, information officer, write-in ballot coordinator, assistant write-in ballot coordinator, ballot box courier or constable appointed under this Act or such other official appointed to another election officer position designated by the Chief Electoral Officer;

“electoral district” means an electoral district named and described in the *House of Assembly Act*;

“electoral district association” means an electoral district association that is

(a) endorsed by the leader of a registered party and includes a trust or a fund established to further the goals of such an association; and

(b) registered by the Chief Electoral Officer;

“electronic” includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;

“endorsed” means declared by the leader of a registered party as the official candidate of the party or in the case of an electoral district association means designated as an electoral district association by the leader of the registered party;

“final list of electors” means the revised list of electors prepared by the Chief Electoral Officer following an election and includes the information of all electors whose names have been on or added to the official list of electors by the close of polls on election day as described in Section 61;

“form” includes the content and signature if any is required, instructions for completion and the manner in which the form is to be provided;

“former Act” means Chapter 140 of the Revised Statutes, 1989, the *Elections Act*;

“general election” means the simultaneous holding of elections in all electoral districts;

“hours” and all other references to time relate to local time generally used throughout the Province;

“Internet ballot” means an image of a ballot on a screen of a personal computing device, including all the choices of candidates available to an elector and the spaces in which an elector marks a vote;

“Internet ballot box” means a computer database in the system where cast Internet ballots are put;

“Internet polling days” means any hours and dates fixed by the Chief Electoral Officer for Internet voting;

“Internet voting” means voting via the Internet;

“list of electors” means a list prepared from the Register of Electors containing information of all registered electors in the Province pursuant to Section 54;

“judge” means a judge of the Supreme Court of Nova Scotia;

“nomination candidate” means a person who is campaigning to become a registered party’s candidate for election in an electoral district;

“oath” includes affidavit, affirmation and statutory declaration;

“official agent” means an agent appointed by a registered party, electoral district association, registered candidate or a candidate pursuant to Section 196;

“personal computing device” means an electronic device that may access the Internet;

“personal identification number” means the personal identification number issued to

(a) an elector for Internet voting on Internet polling days;

or

(b) a systems elections officer;

“prospective candidate” means an individual who self-declares as an independent candidate or an individual who is declared by others, with the individual’s consent, to be a candidate;

“prescribed” means prescribed by the Chief Electoral Officer pursuant to this Act;

“recount” means a recount pursuant to Section 178, unless the context requires otherwise;

“Register of Electors” means the register established and maintained by the Chief Electoral Officer under Section 43;

“registered party” means a political party that is registered by the Chief Electoral Officer pursuant to this Act or was recognized under the former Act;

“registered candidate” means a person who has been registered pursuant to Section 232;

“scrutineer” means an individual who acts as an agent for a candidate in a polling station or during the counting of the vote, with the written consent of the candidate or the candidate’s official agent;

“spouse” means a person married to another person and, for the purpose of this Act, includes persons who, not being married to each other, live together as if spouses and have done so for at least one year;

“system” means the technology, including software, that

- (a) records and stores the votes; and
- (b) counts the votes and stores the results of Internet voting after the close of polls on election day;

“systems elections officer” means

- (a) a person who maintains, monitors or audits the system; and
- (b) a person who has access to the system beyond the access necessary to vote by Internet voting;

“voter” means an elector who has voted or to whom a write-in ballot kit has been transmitted during an election;

“writ” means the writ of election. 2011, c. 5, s. 2; 2015, c. 17, s. 1; 2016, c. 7, s. 1; 2020, c. 8, s. 1.

Chief Electoral Officer

3 The Chief Electoral Officer is responsible for the administration of this Act. 2011, c. 5, s. 3.

Powers and duties

4 (1) In addition to any other powers or duties of the Chief Electoral Officer under this Act, the Chief Electoral Officer shall

- (a) enforce on the part of election officers fairness, impartiality and compliance with this Act;
- (b) exercise the general direction and supervision over the administrative conduct of elections;

(c) examine, or cause to be examined, all statements, reports, forms, returns and other information filed with the Chief Electoral Officer;

(d) issue to election officers such instructions as the Chief Electoral Officer considers necessary to ensure the effective, non-partisan execution of this Act;

(e) establish and maintain registers of

- (i) electors,
- (ii) registered parties,
- (iii) registered electoral district associations,
- (iv) registered candidates, and
- (v) candidates,

and prescribe information to be kept in the registers;

(f) make all reimbursements and payments to registered parties, electoral district associations, candidates and others in accordance with this Act and the regulations;

(g) prescribe forms and the contents thereof for use under this Act and provide for the manner of their use;

(h) provide instructions to election officers for the conduct of the polls and responsibilities of those election officers;

(i) publish on the Elections Nova Scotia website, or in such manner as determined by the Chief Electoral Officer, the reports filed under this Act or the information contained in those reports as prescribed by the Chief Electoral Officer; and

(j) exercise such other powers as are required by this Act.

(2) The Chief Electoral Officer shall not extend the hours within which a returning officer may receive nomination documents or the voting hours at either an advance polling station or, subject to subsection (3), an election day polling station.

(3) Where voting at a polling station is interrupted on election day by an emergency and the Chief Electoral Officer is satisfied that a substantial number of electors will not be able to vote if the voting hours at the polling station are not extended, the Chief Electoral Officer shall

(a) extend the voting hours at the polling station for the period the Chief Electoral Officer considers necessary to give those electors a reasonable opportunity to vote, so long as the polling station does not in any case

- (i) close later than midnight on election day, or
- (ii) remain open during election day for a total of more than 12 hours; and

(b) give notice of extended voting hours in such manner as the Chief Electoral Officer considers appropriate. 2011, c. 5, s. 4.

Discretionary powers and duties

- 5** The Chief Electoral Officer may
- (a) assist, or cause to be assisted,
 - (i) a registered party, electoral district association, candidate or registered third party,
 - (ii) an official agent of a registered party, electoral district association or candidate, and
 - (iii) a financial agent of a registered third party,
- in preparing statements and returns required under this Act and otherwise in complying with this Act;
- (b) delegate in writing to any election officer appointed under this Act authority to exercise any power and perform any duty under this Act;
 - (c) enter into agreements with municipalities, the Conseil scolaire acadien provincial and the Chief Electoral Officer of Canada providing for the sharing of lists of electors for electoral purposes;
 - (d) enter into agreements with persons for the purpose of obtaining information to update the Register of Electors with provisions for reimbursement of reasonable costs associated with preparing the information;
 - (e) subject to subsection 4(2), extend the time for doing anything under this Act;
 - (f) designate additional election officer positions and increase the number of election officers for an election;
 - (g) train individuals and pay them pursuant to the tariff of fees and expenses both during and between elections;
 - (h) increase the number of polling stations;
 - (i) vary any of the prescribed forms to suit the existing circumstances;
 - (j) prescribe an acceptable means of an electronic signature or another means of authentication for circumstances in which this Act requires a signature or a declaration;
 - (k) develop and implement public communication, education and information programs;
 - (l) obtain information for the purpose of Sections 43, 44 and 45;
 - (m) prepare and distribute guidelines with respect to any matter in this Act with power to vary such guidelines to suit existing circumstances;
 - (n) prepare and distribute policies, guidelines and codes of conduct for election officers and employees of Elections Nova Scotia with respect to any matter in this Act with power to vary such policies, guidelines and codes of conduct to suit existing circumstances;
 - (o) conduct investigations in accordance with Section 318;
 - (p) generally adapt the provisions of this Act to meet existing circumstances;

- (q) modify any provision of this Act to permit its use at a by-election;
- (r) as required, seek the advice of
 - (i) the Election Commission, and
 - (ii) advisory committees and panels of experts established by the Chief Electoral Officer;
- (s) provide administrative and technical support to the independent electoral boundaries commission in its review of electoral boundaries pursuant to the *House of Assembly Act*;
- (t) enter into agreements with any person for the purpose of obtaining or providing mapping, geographic or demographic information;
- (u) make available on the Elections Nova Scotia's website the geographic boundaries of electoral districts and polling divisions and, during an election, information respecting polling locations;
- (v) exercise such other powers as are authorized by this Act. 2011, c. 5, s. 5; 2015, c. 17, s. 2; 2018, c. 1, Sch. A, s. 107.

PART I

ELECTIONS

Interpretation

- 6** In this Part,
- “cancelled ballot” means a ballot marked “cancelled” under Section 140;
 - “declined ballot” means a ballot marked “declined” under Section 142;
 - “educational institution” means
 - (a) academies, universities, colleges, seminaries and institutes of technology;
 - (b) prescribed collegiate-level institutions, such as vocational schools, trade schools and career colleges; and
 - (c) other prescribed institutions that award academic degrees or certifications for post-secondary students;
 - “election petition” means a petition presented pursuant to the *Controverted Elections Act*;
 - “electoral boundaries” means the geographic boundaries of electoral districts or polling divisions, or both;
 - “electoral boundaries commission report” means a report prepared by an independent electoral boundaries commission pursuant to the *House of Assembly Act*;
 - “geographic description” means maps, geographic coordinates and any other geographic information that may describe a specific location or a boundary of any area;

“implementation date” means the date on which legislation that implements an electoral boundaries commission report comes into force;

“legal name” means an individual’s last name and given names;

“municipality” means a municipality within the meaning of the *Municipal Government Act*;

“official list of electors” means a list of electors provided by the returning officer to appropriate poll officials for use during an election day polling station pursuant to subsection 59(3);

“polling division” means a territorial area fixed by the returning officer;

“polling location” means the premises within which one or more polling stations have been established;

“polling station” means a polling station established pursuant to Section 96, 98 or 99;

“poll record” means the record of information gathered during the conduct of the poll related to

- (a) who has voted;
- (b) seal numbers on ballot boxes;
- (c) oaths taken;
- (d) assistance provided to electors in marking ballots; and
- (e) objections;

“preliminary list of electors” means a list of electors provided by the returning officer to candidates pursuant to subsection 54(3);

“rejected ballot” means a ballot that has been rejected under subsection 114(8) or 122(2), Section 154 or subsection 172(7);

“residential centre” means a nursing home, special care home, assisted living facility, residential unit in a public hospital or any other residential facility operated for the purpose of the care and treatment of senior citizens or persons having a physical or mental disability;

“revised list of electors” means a list of electors provided by the returning officer to appropriate poll officials for use at an advance polling station pursuant to subsection 59(1);

“write-in ballot” means a prescribed form that is used by an elector to cast the elector’s vote pursuant to Sections 107 to 115 and 164 to 169. 2011, c. 5, s. 6; 2015, c. 17, s. 3; 2018, c. 1, Sch. A, s. 108; 2020, c. 8, s. 2.

CHIEF ELECTORAL OFFICER

Appointment

7 (1) Subject to the approval of the House of Assembly by majority vote, the Governor in Council shall appoint a person to be the Chief Electoral Officer.

(2) The Chief Electoral Officer is an officer of the House of Assembly.

(3) Subject to subsection (4), the Chief Electoral Officer holds office for a term not exceeding 10 years and may be reappointed to further terms of office.

(4) The Governor in Council may only remove the Chief Electoral Officer for cause or incapacity on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members voting thereon.

(5) Upon written advice of the President of the Executive Council and the Leader of the Opposition, the Governor in Council may, at any time the House of Assembly is not sitting, suspend the Chief Electoral Officer for cause or incapacity, but the suspension does not continue in force beyond the end of the ensuing sitting of the House of Assembly. 2011, c. 5, s. 7.

Remuneration

8 (1) Subject to subsection (2), the Chief Electoral Officer must be paid remuneration within, but at or above the midpoint of, the annual salary rates for deputy ministers set out in the pay plan for deputy ministers together with any other remuneration payable to deputy ministers, which remuneration must be adjusted yearly by a percentage equal to the average increase for the remuneration of the deputy ministers.

(2) The salary of the Chief Electoral Officer must not be reduced except on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members voting thereon.

(3) The Chief Electoral Officer is entitled to all rights, privileges and benefits, including pension benefits, to which deputy ministers are entitled.

(4) The Chief Electoral Officer is an employee within the meaning of the *Public Service Superannuation Act*. 2011, c. 5, s. 8.

Elections Nova Scotia

9 (1) The Office of the Chief Electoral Officer is an office of the House of Assembly.

(2) The Office of the Chief Electoral Officer is to be known as Elections Nova Scotia.

(3) Elections Nova Scotia includes the Chief Electoral Officer, Assistant Chief Electoral Officer, employees of Elections Nova Scotia as of January 1, 2012, and such other employees as the Chief Electoral Officer may appoint pursuant to this Act.

(4) Elections Nova Scotia is a public body for the purpose of the *Freedom of Information and Protection of Privacy Act* and the Chief Electoral Officer is the head of the public body. 2011, c. 5, s. 9.

Administration

10 (1) The Chief Electoral Officer shall supervise and be responsible for all matters relating to the work, conduct and administration of Elections Nova Scotia and of those employed at Elections Nova Scotia.

(2) The Chief Electoral Officer shall direct and supervise the activities of the Assistant Chief Electoral Officer.

(3) The Chief Electoral Officer may delegate to any employee of Elections Nova Scotia any duty or power conferred upon the Chief Electoral Officer by this or any other enactment or by the Governor in Council, other than reporting to the House of Assembly.

(4) The Chief Electoral Officer may charge fees for

(a) services provided by Elections Nova Scotia on a time-and-materials cost-recovery basis; and

(b) products created and supplied by Elections Nova Scotia pursuant to the tariff of fees and expenses.

(5) Notwithstanding clause (4)(b), products created by Elections Nova Scotia must be supplied in prescribed quantities to candidates and registered parties during an election without charge.

(6) The Chief Electoral Officer may have a seal. 2011, c. 5, s. 10.

Assistant Chief Electoral Officer

11 (1) On the advice of the Chief Electoral Officer, the Governor in Council may appoint an Assistant Chief Electoral Officer to the staff of Elections Nova Scotia.

(2) The Assistant Chief Electoral Officer is an employee within the meaning of the *Public Service Superannuation Act* and is entitled to all the benefits and privileges provided to employees of the civil service under the *Civil Service Act* and the *Public Service Superannuation Act*.

(3) Upon being appointed, the Assistant Chief Electoral Officer shall take an oath to well and truly perform the duties of the office.

(4) The Chief Electoral Officer shall administer the oath referred to in subsection (3).

(5) In the absence of the Assistant Chief Electoral Officer, the Chief Electoral Officer may temporarily appoint an acting Assistant Chief Electoral Officer. 2011, c. 5, s. 11; 2015, c. 17, s. 4.

Powers and duties

12 The Assistant Chief Electoral Officer

(a) shall assist the Chief Electoral Officer in the performance of the duties of the Chief Electoral Officer; and

(b) has the powers and shall perform the duties of the Chief Electoral Officer

(i) in the absence or illness of the Chief Electoral Officer,

(ii) on the failure of the Chief Electoral Officer to perform the duties of the office, or

(iii) in the event of a vacancy in the office of Chief Electoral Officer. 2011, c. 5, s. 12; 2015, c. 17, s. 5.

Acting Chief Electoral Officer

13 In the absence or incapacity of the Chief Electoral Officer, upon the written advice of the President of the Executive Council and the Leader of the Opposition, the Governor in Council may temporarily appoint an Acting Chief Electoral Officer who has all the powers and performs all the duties of the Chief Electoral Officer. 2011, c. 5, s. 13.

Employees of Elections Nova Scotia are civil service employees

14 All employees of Elections Nova Scotia are civil service employees in accordance with the *Civil Service Act* and the *Public Service Superannuation Act* and are entitled to all the benefits and privileges provided for in those Acts. 2011, c. 5, s. 14.

Chief Electoral Officer appoints and places employees

15 (1) Notwithstanding the *Civil Service Act* or the *General Civil Service Regulations*, the Chief Electoral Officer shall

(a) appoint such individuals as employees of Elections Nova Scotia as the Chief Electoral Officer considers necessary to perform the duties of the Chief Electoral Officer;

(b) place employees in such positions as the Chief Electoral Officer considers appropriate under such classification ratings and at such rates of remuneration within those classification ratings established by the Public Service Commission as the Chief Electoral Officer considers appropriate; and

(c) establish the qualifications for the Assistant Chief Electoral Officer and establish a fair process for hiring based on merit and a fair process for removal.

(2) The Chief Electoral Officer may appoint on a temporary basis such individuals as are necessary to enable the Chief Electoral Officer to perform the duties and functions of that office.

(3) The *Civil Service Act* does not apply to individuals appointed pursuant to subsection (2) and the Chief Electoral Officer may establish their remuneration and the other terms and conditions of their engagement. 2011, c. 5, s. 15.

Experts

16 (1) Notwithstanding any Government procurement rules or policies, the Chief Electoral Officer may engage the services of such counsel, accountants, auditors or other professionals or experts to advise or assist the Chief Electoral Officer in respect of matters as the Chief Electoral Officer considers necessary to carry out the Chief Electoral Officer's powers and duties under this Act.

(2) Payments made to experts under this Section may be determined by the Chief Electoral Officer and must be within the limits of the appropriations, including any additional appropriations, for Elections Nova Scotia. 2011, c. 5, s. 16.

Powers, privileges and immunities

17 (1) The Chief Electoral Officer has all the powers, authorities, rights, privileges and immunities vested in the Chief Electoral Officer by this Act, any other enactment or the Governor in Council.

(2) The Chief Electoral Officer has all the powers, authorities, rights, privileges and immunities exercisable by a deputy minister under the *Civil Service Act*, the *Public Service Act* or any other enactment, except for any specific powers, authorities or rights related to the management of a particular department or program.

(3) Except as otherwise provided in this Act, Elections Nova Scotia shall follow Government policies but any approvals required by those policies are to be read as requiring the approval of the Chief Electoral Officer. 2011, c. 5, s. 17.

Liability

18 (1) Neither the Chief Electoral Officer nor any persons who are or were employees of Elections Nova Scotia or persons under contract to Elections Nova Scotia may be sued or be found liable by reason of any action they have done or failed to do, or anything said, in good faith in the performance of their duties.

(2) No civil action may be instituted by reason of the publication of a report of the Chief Electoral Officer under this Act or any other enactment or authority or of the publication in good faith of an extract or summary of such a report or comments made in connection with such a report.

(3) In the case of any legal action against or involving them, related to the performance of their duties in good faith, the Chief Electoral Officer or previous Chief Electoral Officer and current or past employees of Elections Nova Scotia must be indemnified and provided with legal counsel by Elections Nova Scotia. 2011, c. 5, s. 18.

Annual estimates

19 The Chief Electoral Officer shall present annually to a committee of the House of Assembly, designated for that purpose by the House, estimates of the sums of money that will be required by the Chief Electoral Officer to conduct the activities required under this Act and any other enactment or authority, together with any estimated recoveries, and

(a) the committee shall review and may alter as it considers proper the estimates presented by the Chief Electoral Officer;

(b) notice of meetings by the committee to review or alter the estimates presented by the Chief Electoral Officer must be given to the Chair of the Public Accounts Committee and the Chair may attend those meetings; and

(c) the chair of the committee shall recommend the estimates as altered by the committee to the Treasury Board for inclusion in the Government's estimates. 2011, c. 5, s. 19.

Review of reports

20 (1) At the request of the Public Accounts Committee, the Chief Electoral Officer and any employee of Elections Nova Scotia designated by the Chief Electoral Officer shall attend meetings of the Committee or its subcommittees in order to

- (a) assist the Committee in its review of the reports of the Chief Electoral Officer; and
- (b) discuss the plans and performance of Elections Nova Scotia.

(2) The Chief Electoral Officer shall provide the Public Accounts Committee with annual business plans and performance reports of Elections Nova Scotia and such plans and reports are public documents. 2011, c. 5, s. 20.

Public education and studies

21 (1) The Chief Electoral Officer may implement public communication, education and information programs, including information for new electors, to make the electoral process better known to the public, particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights.

(2) The Chief Electoral Officer may develop and make materials available to education entities, as defined in the *Education Act*, for distribution to students who have reached voting age or will soon do so, including information on

- (a) the Province's electoral process;
- (b) the right to vote;
- (c) how to have one's name added to the Register of Electors; and
- (d) any other matter that the Chief Electoral Officer considers useful for electors.

(3) The Chief Electoral Officer may, using any media or other means, provide the public with information relating to the Province's electoral process, the democratic right to vote and how to be a candidate.

(4) As directed by a resolution supported by a majority vote of the House of Assembly, the Chief Electoral Officer may carry out studies, including studies respecting

- (a) the voting procedure;
- (b) voting by persons with disabilities; and
- (c) improvements in electoral finance under Part II of this Act.

(5) The Chief Electoral Officer's studies pursuant to subsection (4) may be conducted by doing one or more of the following:

- (a) causing surveys and research to be carried out and reports to be written;

- (b) establishing advisory committees; and
- (c) holding conferences.

(6) The results of a study pursuant to subsection (4) must be made public. 2011, c. 5, s. 21; 2018, c. 1, Sch. A, s. 109.

RETURNING OFFICERS

Appointment of returning officer

22 (1) The Chief Electoral Officer shall appoint a returning officer for each electoral district.

(2) Under the general direction of the Chief Electoral Officer, the returning officer is responsible for the preparation for and conduct of an election in the electoral district.

(3) The Chief Electoral Officer shall establish the qualifications for returning officers and establish a fair process for hiring based on merit and a fair process for removal.

(4) The returning officer of an electoral district must

- (a) be eligible to vote in the Province; and
- (b) reside in the electoral district for which the returning officer was appointed.

(5) The Chief Electoral Officer shall appoint

- (a) an Internet voting returning officer responsible for the preparation and conduct of Internet voting and who must reside in the Province; and
- (b) a systems elections officer.

(6) Notwithstanding subsection (3) and clause (4)(b), where it is not possible to conduct an election without an immediate appointment, the Chief Electoral Officer may appoint a returning officer on a temporary basis without following the process established pursuant to subsection (3), but the appointee's term ends when the vacancy is filled pursuant to that subsection. 2011, c. 5, s. 22; 2015, c. 17, s. 7; 2020, c. 8, s. 3.

Vacancy, suspension and resignation

23 (1) The office of a returning officer is not vacant until the returning officer

- (a) dies;
- (b) resigns; or
- (c) is removed from office pursuant to subsection (2), (4) or (5).

(2) The office of a returning officer becomes vacant on the implementation date of an electoral boundaries commission report.

- (3) A returning officer may be reappointed.
- (4) The Chief Electoral Officer may remove or temporarily suspend from office a returning officer
 - (a) who is incapable, by reason of illness, physical or mental disability or otherwise, of satisfactorily performing the returning officer's duties;
 - (b) who fails to discharge competently a duty of a returning officer or to comply with an instruction of the Chief Electoral Officer;
 - (c) who contravenes subsection (6), whether or not the contravention occurs in the exercise of the returning officer's duties;
 - (d) who ceases to reside in the electoral district; or
 - (e) for cause.
- (5) Within a year from the date of suspension and upon review, the Chief Electoral Officer shall either end the suspension or permanently remove from office a returning officer.
- (6) No returning officer shall, while in office, knowingly engage in politically partisan conduct.
- (7) A returning officer shall, upon appointment, complete an oath of office in the prescribed form and transmit it to the Chief Electoral Officer.
- (8) A returning officer shall immediately notify the Chief Electoral Officer if
 - (a) the returning officer is unable to act; or
 - (b) has moved out of the electoral district.
- (9) A returning officer must where possible give three months notice of resignation in writing to the Chief Electoral Officer. 2011, c. 5, s. 23; 2015, c. 17, s. 8.

Appointment of assistant returning officer

- 24 (1) At the direction of the Chief Electoral Officer, a returning officer or, where the office of the returning officer is vacant, the Chief Electoral Officer, shall appoint an assistant returning officer.
- (2) The Chief Electoral Officer shall establish the qualifications for assistant returning officers.
- (3) In subsection (4), "immediate family" of a person means
 - (a) a spouse, a child or grandchild 18 years of age or older, a parent, sibling, uncle, aunt, niece, nephew, grandparent, or a child or grandchild 18 years of age or older, a parent, sibling, uncle, aunt, niece, nephew, grandparent of the spouse; or
 - (b) an individual who lives with the person.

(4) A returning officer shall not appoint a member of the returning officer's immediate family as an assistant returning officer.

(5) The appointment of an assistant returning officer must be made in the prescribed form.

(6) Where an assistant returning officer is unable or unwilling to act or neglects the assistant returning officer's duties or the office of assistant returning officer becomes vacant, the returning officer may appoint another assistant returning officer in place of the current assistant returning officer.

(7) The appointment as an assistant returning officer terminates on the completion of the duties and responsibilities for the election for which the assistant returning officer was appointed or upon the assistant returning officer being dismissed by the returning officer.

(8) An assistant returning officer may be reappointed. 2015, c. 17, s. 9.

Oath

25 Upon appointment, an assistant returning officer shall complete an oath of office in the prescribed form, and the returning officer shall transmit the oath to the Chief Electoral Officer. 2015, c. 17, s. 9.

Duties

26 (1) During an election, an assistant returning officer shall perform the duties assigned by the returning officer.

(2) At the request of the Chief Electoral Officer, the assistant returning officer may act in place of the returning officer for a time determined by the Chief Electoral Officer and, while so acting, the assistant returning officer has the powers and shall perform the duties of the returning officer and, where a writ has already been issued, act under the writ as if it had been already addressed to the assistant returning officer, without taking the returning officer's oath of office.

(3) An assistant returning officer shall immediately notify the Chief Electoral Officer if the returning officer is unable to act. 2015, c. 17, s. 9.

Returning office

27 (1) At a time determined by the Chief Electoral Officer, a returning officer shall open and maintain a returning office at some convenient place in the electoral district or, as instructed by the Chief Electoral Officer, in another electoral district, that is accessible to physically disabled persons.

(2) In addition to the publishing of the notice of election required under clause 31(1)(b), the returning officer shall give public notice of the location of the returning office in the manner determined by the Chief Electoral Officer.

(3) Where a place allowing convenient access cannot be found in the electoral district, the returning officer shall open and maintain a returning office in a neighbouring electoral district with the approval of the Chief Electoral Officer. 2011, c. 5, s. 27; 2015, c. 17, s. 10.

Time on duty

28 Either the returning officer or the assistant returning officer must be on duty in the returning officer's returning office during times prescribed by the Chief Electoral Officer. 2015, c. 17, s. 11.

WRIT AND NOTICE OF ELECTION**Method of instituting an election**

29 An election must be instituted when the Governor in Council passes an order fixing

- (a) the date of the writ, which must be the same for all writs issued for a general election; and
- (b) the date of election day, which must be a Tuesday not fewer than 30 days and not more than 46 days from the date of the writ. 2011, c. 5, s. 29; 2016, c. 7, s. 2.

Fixed election date

30 (1) Nothing in this Section affects the powers of the Lieutenant Governor, including the power to dissolve the House of Assembly at the discretion of the Lieutenant Governor.

(2) Subject to subsections (3) and (4), and the powers of the Lieutenant Governor referred to in subsection (1), notwithstanding any other enactment, each general election must be held on the third Tuesday in July, in the fourth calendar year following election day for the most recent general election.

(3) Where the Chief Electoral Officer is of the opinion that a Tuesday that would otherwise be election day is not suitable for that purpose, including by reason of it being in conflict with a day of cultural or religious significance or a federal or municipal election, the Chief Electoral Officer shall choose another day in accordance with subsection (4) and recommend to the Governor in Council that election day be that other day, and the Governor in Council may make an order to that effect.

(4) For the purpose of subsection (3), the Chief Electoral Officer may, notwithstanding clause 29(b), choose as an alternative ordinary election day one of the seven days following the Tuesday that would otherwise be election day.

(5) In the case of a general election under subsection (2), an order may not be made under subsection (3) within 70 days preceding the Tuesday that would otherwise be election day. 2021, c. 28, s. 1.

Writ of election and election materials

31 (1) Upon receipt of a certified copy of the order in council, the Chief Electoral Officer shall

- (a) issue in the prescribed form, a writ in accordance with the order and a notice of election;
- (b) cause a notice of election, in the prescribed form and including the time and date of election day, close of nominations, returning office continuous poll, application to vote by write-in ballot,

advance poll, Internet polling days and any other information the Chief Electoral Officer considers necessary, to be published in a manner the Chief Electoral Officer considers appropriate;

(c) cause the writ and the notice of election to be published on the Elections Nova Scotia website; and

(d) cause the writ and the notice of election to be transmitted to each returning officer of an electoral district in which an election is to be held.

(2) When the Chief Electoral Officer considers it appropriate, or immediately after the issue of the writ, the Chief Electoral Officer shall cause to be delivered to a returning officer a sufficient number of copies of this Act including amendments, election forms, ballot paper, ballots and other election materials and supplies required for the conduct of the election. 2011, c. 5, s. 30; 2015, c. 17, s. 12; 2020, c. 8, s. 4.

Notice of election

32 Not later than the 27th day before election day, a returning officer shall

(a) sign the notice of election for the electoral district in the prescribed form;

(b) cause the signed notice of election to be posted in the office of the returning officer where it must be kept available for public inspection at all reasonable times; and

(c) transmit one copy of the notice of election to each registered party and to every candidate in the electoral district. 2011, c. 5, s. 31; 2015, c. 17, s. 13.

Appointment of new returning officer

33 Where a returning officer

(a) refuses or neglects, or is unable because of death or other cause, to act;

(b) resigns; or

(c) is removed,

the Chief Electoral Officer may appoint another person to act under a writ already issued as if it had been so addressed. 2011, c. 5, s. 32.

Substitution of new writ

34 Where the Chief Electoral Officer certifies it is impossible to hold an election in an electoral district on the day specified in a writ, the Governor in Council may make an order

(a) withdrawing the writ;

(b) specifying a new date for the writ and election day; and

(c) requiring the Chief Electoral Officer to issue a new writ. 2011, c. 5, s. 33.

By-election superseded by general election

35 (1) Where the House of Assembly is dissolved after the issue of a writ for a by-election, the writ is thereupon deemed to have been superseded and withdrawn and the Chief Electoral Officer shall publish a notice in the Royal Gazette and on the Elections Nova Scotia website of the withdrawal of the writ and the cancellation of the by-election.

(2) The list of electors used for the general election following the dissolution of the House of Assembly pursuant to clause 54(1)(a) is the list of electors prepared after the issue of the writ for the by-election including all corrections, and deletions applied as of the date of the withdrawal of the writ. 2011, c. 5, s. 34.

POLLING DIVISIONS**Establishment**

36 (1) The Chief Electoral Officer shall, with the assistance of the returning officers, subdivide each electoral district into as many polling divisions as the Chief Electoral Officer considers necessary giving due consideration to

(a) factors such as geography, population density and distribution, and other factors that may affect the convenience of electors; and

(b) the incorporation, where practicable, of approximately 450 electors in a polling division unless the Chief Electoral Officer considers the inclusion of a greater number practicable.

(2) In respect of each electoral district, as directed by the Chief Electoral Officer, the returning officer shall

(a) review the population distribution and consider any changes required to be made to the polling division boundaries; and

(b) assist in the preparation of a geographic description of each polling division and identify each with a consecutive number.

(3) Notwithstanding subsection (1), the Chief Electoral Officer may establish a separate polling division for a residential centre in which 10 or more electors may reside. 2011, c. 5, s. 35; 2020, c. 8, s. 5.

Amalgamation, subdivision and redefinition

37 (1) The Chief Electoral Officer may amalgamate two or more polling divisions or subdivide a polling division if the amalgamation or subdivision will improve the conduct of an election.

(2) The Chief Electoral Officer may at any time before an election direct a returning officer to correct an error or omission or redefine a boundary of a polling division. 2011, c. 5, s. 36.

Distribution of geographic descriptions

38 The Chief Electoral Officer shall, before the grant of a poll, deliver a printed copy and a copy in electronic form of the geographic description of the polling divisions for an electoral district in respect of which a writ has been issued to

each registered party and to an independent candidate who is a registered candidate in that electoral district. 2011, c. 5, s. 37.

ELECTORS

Qualifications

39 (1) Subject to Section 40, a person may vote in an election if the person

- (a) is 18 years of age or older on election day;
- (b) is a Canadian citizen on or before election day;
- (c) has resided in the Province for six months immediately preceding the date of the writ; and
- (d) resides in the electoral district in which the election is being held.

(2) A candidate during a general election or by-election, and any spouse of the candidate who lives with the candidate and is qualified as an elector, may have their names entered on the list of electors for either

- (a) the polling division in which the candidate resides; or
- (b) any polling division in the electoral district in which the candidate is running.

(3) A member of the Parliament of Canada representing an electoral district in the Province who resides outside the Province, and the spouse or any dependant of the member who lives with the member and is otherwise qualified as an elector, may have their names entered on the list of electors in the polling division of the electoral district in which the member last resided in the Province.

(4) A senator in the Parliament of Canada representing the Province who resides outside the Province, and the spouse or any dependant of the senator who lives with the senator and is otherwise qualified as an elector, may have their names entered on the list of electors in the polling division of the electoral district in which the senator last resided in the Province. 2011, c. 5, s. 38; 2016, c. 7, s. 3; 2020, c. 8, s. 6.

Disqualifications

40 The Chief Electoral Officer and the Assistant Chief Electoral Officer are not entitled to be registered as electors. 2011, c. 5, s. 39.

Residence

41 (1) A person resides in the place where the person lives and to which, whenever absent, the person intends to return.

(2) A person may reside in only one place at a time.

(3) A person does not cease to reside in a place by leaving the place for a temporary purpose only.

(4) Where a person usually sleeps in one place and has meals or is employed in another place, the person resides in the place where the person sleeps.

(5) Where a person has temporary residential quarters, those quarters are considered to be the place in which the person resides only if the person has no other place the person considers as that person's residence.

(6) Where a person is

(a) incarcerated; or

(b) detained in a provincial correctional facility or psychiatric facility by reason of that person being found by a court to be not criminally responsible or unfit to stand trial or undergoing a psychiatric assessment as a result of being charged with a criminal offence,

the person is deemed to reside in the electoral district in which the person resided immediately before being incarcerated or detained unless the person did not reside in the Province before being detained, in which case the person is deemed to reside in the electoral district in which the person's correctional facility or psychiatric facility is located.

(7) Where a person is being provided with food, lodging or other social services by a shelter, hostel or similar institution, the person resides in the shelter, hostel or institution.

(8) Where the rules set out in subsections (1) to (7) are not sufficient to determine the place where a person resides, the place where the person resides must be determined by the appropriate election officer with reference to all the facts of the case.

(9) A person who, on the date of the writ,

(a) is registered and in attendance at an educational institution;

(b) resides in an electoral district or polling division other than that of the person's family home; and

(c) is qualified as an elector,

may be included on the list of electors in one or the other of the polling divisions, but not both.

(10) A person does not reside in a residence that is generally occupied by a person only between the beginning of May and the end of October but that is generally unoccupied between the beginning of November and the end of April unless the person does not have another residence in the Province where the person resides between the beginning of November and the end of April. 2011, c. 5, s. 40.

Member of the Canadian Armed Forces and absence from Province

42 (1) In this Section, "member of the Canadian Armed Forces" means

(a) a member of the regular force or a special force of the Canadian Armed Forces;

(b) a member of the reserve force of the Canadian Armed Forces who is on full-time training or service or on active service; or

(c) a person who is employed outside Canada by the Canadian Armed Forces as a teacher in, or as a member of the administrative support staff for, a Canadian Armed Forces school.

(2) Notwithstanding subsection 39(1), a person who has left the Province and intends to return and reside in the Province is eligible to vote in an election if the person is a Canadian citizen who

(a) will be 18 years of age or older on election day;

(b) is absent from the Province on election day

(i) while serving as a member of the Canadian Armed Forces,

(ii) while engaged in the service of the Government of Canada or the Government of the Province,

(iii) while attending an educational institution,

(iv) while engaged as an employee of an international organization of which Canada is a member, or

(v) because the person has left the Province and intends to return and is living with a person referred to in any of subclauses (i) to (iv); and

(c) immediately before leaving the Province in any of the circumstances described in clause (b),

(i) had resided in the Province for at least six months, and

(ii) resided in the electoral district in which the election is being held. 2011, c. 5, s. 41; 2015, c. 17, s. 14.

Register of Electors

43 (1) The Chief Electoral Officer shall establish and maintain a Register of Electors for the Province.

(2) The Register of Electors must include, for each elector,

(a) the elector's

(i) residential address,

(ii) mailing address,

(iii) legal name,

(iv) contact information, and

(v) day, month and year of birth;

(b) a unique identification number assigned by the Chief Electoral Officer;

(c) any other identification number if one has been assigned by other persons who provide information under Section 45

to the Chief Electoral Officer to assist in distinguishing one person from another, or verifying the information about a person;

(d) other information required to be included in an application for registration as prescribed by the Chief Electoral Officer; and

(e) an indication whether the elector voted in previous elections commencing with the general election held on June 9, 2009.

(3) Where an elector provides the elector's gender to a returning officer or the Chief Electoral Officer, the Register of Electors must include the elector's gender as provided by the elector.

(4) The information referred to in subsection (2) may be used only to verify the identification of an elector when creating, revising or updating information in the Register of Electors.

(5) Notwithstanding subsection (1), the Register of Electors may contain information about persons who reside in the Province and may become eligible to vote. 2011, c. 5, s. 42; 2020, c. 8, s. 7.

16- and 17-year-olds

44 The Chief Electoral Officer may, in respect of persons who are 16 or 17 years of age, reside in the Province and may become eligible to vote, collect any personal information referred to in subclauses 43(2)(a)(i) to (v) and clause 43(2)(d). 2013, c. 17, s. 1.

Updating information in Register of Electors

45 (1) The Chief Electoral Officer may amend information in the Register of Electors and shall take all steps the Chief Electoral Officer considers necessary to ensure the elector information described in subsection 43(2) and the related geographic descriptions are accurate.

(2) The Register of Electors must be updated between elections as determined by the Chief Electoral Officer and as soon as possible after an election.

(3) The Register of Electors must be updated from, including but not limited to, the following:

(a) information an elector has given the Chief Electoral Officer in the prescribed manner, including by telephone and online through the Elections Nova Scotia website;

(b) subject to subsection 43(4), information held in the National Register of Electors or any other information provided to the Chief Electoral Officer of Canada for the purpose of updating the National Register of Electors and the lists of electors for use at a general election, by-election, plebiscite or referendum conducted by the Chief Electoral Officer of Canada;

(c) information gathering activities carried out under the direction of the Chief Electoral Officer, including mailings and distribution of information, telephone calls, electronic mail and personal visits to the homes of persons who may be electors;

(d) information gathered by returning officers according to the instructions of the Chief Electoral Officer; and

(e) information obtained from any source the Chief Electoral Officer considers advisable.

(4) The Chief Electoral Officer may use any prescribed identification to verify the identity of an elector who is providing information by telephone or online when creating, revising or updating information in the Register of Electors.

(5) The Chief Electoral Officer may engage and pay the personnel necessary to carry out the updating referred to in subsection (3).

(6) Notwithstanding any enactment, a public body as defined in the *Freedom of Information and Protection of Privacy Act*, at the request of the Chief Electoral Officer, shall provide the personal information held by that body required to create, revise or update the Register of Electors.

(7) The information provided to the Chief Electoral Officer under subsection (6) may only be used for the purpose of updating the Register of Electors.

(8) A public body providing information under subsection (6) may charge a reasonable amount for providing the information, but the amount charged may not exceed the actual cost of producing the information.

(9) The Chief Electoral Officer may retain information collected under subsections (3) and (6) for the purpose of matching information subsequently collected with information already contained in the Register of Electors.

(10) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, returning officers may be granted access to the Register of Electors by the Chief Electoral Officer between elections for the purpose of updating the information contained in the Register of Electors according to the instructions of the Chief Electoral Officer. 2011, c. 5, s. 43; 2015, c. 17, s. 15; 2020, c. 8, s. 8.

Disclosure of elector information

46 (1) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Chief Electoral Officer shall disclose

(a) to each registered party the information described in subclauses 43(2)(a)(i) to (iii) and clauses 43(2)(b) and (e) and the age category of the elector as of January 1st of the calendar year in which disclosure is made;

(b) to each independent member of the House of Assembly the information described in subclauses 43(2)(a)(i) to (iii) and clauses 43(2)(b) and (e) and the age category of the elector as of January 1st of the calendar year in which disclosure is made for the electors in the member's electoral district,

at the time and in the manner determined by the Chief Electoral Officer.

(2) The age categories for the purpose of subsection (1) are:

(a) 18 to 24 years;

- (b) 25 to 34 years;
- (c) 35 to 44 years;
- (d) 45 to 54 years;
- (e) 55 to 64 years;
- (f) 65 to 74 years;
- (g) 75 years and over.

(3) The information provided pursuant to subsection (1) to a registered party and to an independent member may be used only for electoral purposes. 2011, c. 5, s. 44; 2011, c. 60, s. 1.

Access to own information

47 (1) Persons are entitled to confirm or update information in the Register of Electors about themselves and verify the information is correct.

(2) Any person requesting access to information for the purpose set out in subsection (1) shall complete an oath in the prescribed form. 2011, c. 5, s. 45.

ENUMERATION

Initiation

48

(1) The Chief Electoral Officer

(a) shall request advice respecting the areas of the Province where enumeration should be conducted

(i) between elections from the registered parties and members of the House of Assembly,

(ii) during an election from the registered parties and registered electoral district associations who shall provide any such advice no later than five days from the issuance of the writ;

(b) may cause an enumeration to be conducted under this Section for the purpose of updating the Register of Electors pursuant to Section 45 between elections or the list of electors during an election; and

(c) shall designate the period of the enumeration if an enumeration is to be conducted.

(2) The Chief Electoral Officer shall obtain the consent of the House of Assembly if an enumeration between elections is estimated to involve more than one third of the total number of electoral districts in the Province.

(3) An enumeration may be conducted for

(a) an entire electoral district; or

(b) any part of the electoral district, including a building with multiple dwelling units. 2011, c. 5, s. 46.

Appointment of enumerators

49 (1) Subject to subsection (3), when requested by the Chief Electoral Officer, a returning officer shall give written notice of enumeration to the two opposed registered parties that, at the preceding election in the electoral district, sponsored the candidates who received the highest number of votes and the next highest number of votes, respectively, requesting each registered party

(a) within 20 days from the receipt of the notice of enumeration to be conducted between elections; and

(b) no later than five days from the issuance of a writ during an election,

to provide the returning officer with a list of persons from which one or more enumerators may be selected.

(2) Where, in an electoral district,

(a) a candidate was elected by acclamation at the preceding election;

(b) the boundaries have been altered since the preceding election; or

(c) a registered party mentioned in subsection (1) is not available to provide a list of persons to act as enumerators,

the returning officer shall, in consultation with the Chief Electoral Officer determine which two opposed registered parties are to provide the list of persons pursuant to subsection (1).

(3) The returning officer shall endeavour to appoint two persons who represent different registered parties as a team of enumerators for each assigned area where enumeration is to be conducted.

(4) The returning officer shall notify each registered party that supplied a list of persons under subsection (1) of the names of the enumerators chosen and the assigned area for which each is to act. 2011, c. 5, s. 47.

Alternative procedure for appointment

50 (1) Where the lists requested pursuant to subsection 49(1) do not contain a sufficient number of qualified persons, a returning officer shall proceed to appoint enumerators without the lists.

(2) A returning officer may, on reasonable grounds, refuse to appoint an enumerator from lists supplied pursuant to subsection 49(1), and shall advise the registered parties of those grounds.

(3) Upon appointment and before commencing their duties, the enumerators shall take the prescribed oath and the returning officer shall supply each team of enumerators with appropriate materials for the conduct of the enumeration. 2011, c. 5, s. 48.

Enumerators to act jointly

51 (1) The team of two enumerators appointed for an assigned area shall

(a) act jointly and not individually in the collection of information for the Register of Electors or the list of electors; and

(b) report the details of any disagreement between them to the returning officer.

(2) The returning officer shall settle any disagreement reported to the returning officer and communicate the returning officer's decision to the enumerators who are bound by it. 2011, c. 5, s. 49.

Manner of enumeration prescribed

52 An enumerator shall conduct the enumeration in the manner prescribed by the Chief Electoral Officer and record the information on the forms prescribed by the Chief Electoral Officer. 2011, c. 5, s. 50.

Enumerator to be given access

53 An enumerator must be given access to the entrance door of each residence in an apartment building, condominium complex, residential centre or other residential complex. 2011, c. 5, s. 51.

LIST OF ELECTORS USED DURING ELECTION

Preliminary list of electors

54 (1) As soon as possible after a writ of election is issued, the Chief Electoral Officer shall

(a) provide the returning officer with the list of electors prepared from the Register of Electors; and

(b) advise the returning officer of the date on which the Register of Electors was most recently updated.

(2) As soon as possible after the receipt of the list of electors under subsection (1) but no later than the day following the close of nominations, each returning officer shall

(a) review the list of electors of the electoral district for accuracy;

(b) prepare a preliminary list of electors for each polling division in the electoral district and include a statement indicating the number of names the list contains; and

(c) certify the preliminary list of electors in the prescribed form.

(3) As soon as the preliminary list is certified and not later than the end of day on the day following the close of nominations, each returning officer shall distribute to each candidate in the electoral district and, where the candidate is endorsed by a registered party, that party, the preliminary list of electors for the electoral district.

(4) The preliminary list of electors under subsection (2) must include the information described in subclauses 43(2)(a)(i) to (iii) and clauses

43(2)(b) and (e) and an indication whether the elector voted in the current election. 2011, c. 5, s. 52; 2015, c. 17, s. 16; 2020, c. 8, s. 9.

Notice of registration and voting information

55 Each returning officer shall send a notice of registration and voting information, in the prescribed form, not later than Monday, the 15th day before election day, to each elector whose name appears on the list of electors for the electoral district. 2011, c. 5, s. 53.

REVISION OF LIST OF ELECTORS

Revision

56 (1) Following the certification of the preliminary list of electors under clause 54(2)(c), the returning officer shall revise the list of electors to ensure, to the extent possible, a complete and accurate list from which electors may be crossed off as they present themselves to vote.

(2) The Chief Electoral Officer shall advise the public how and when the list of electors is to be revised and provide any other information the Chief Electoral Officer considers appropriate.

(3) The returning officer may appoint a revision assistant and other election officers qualified to assist with revising the list of electors, including, with the approval of the Chief Electoral Officer, enumerators for the purpose of revising the list of electors for a particular area or building containing multiple residential units.

(4) The returning officer may delegate the returning officer's authority under Sections 57 and 58 to an election officer appointed under subsection (3). 2011, c. 5, s. 54; 2015, c. 17, s. 17.

Application for addition, correction or deletion

57 (1) The returning officer shall receive applications in the prescribed form for an addition or correction to or a deletion from the list of electors.

(2) An elector or a person acting on the elector's behalf may apply in person or in writing for the elector to be added to the list of electors and the application must include the elector's

- (a) legal name;
- (b) date of birth;
- (c) proof of identity and residence;
- (d) mailing address; and
- (e) current residential address.

(3) The application under subsection (2) must provide an option to include the elector's gender.

(4) An elector or a person acting on the elector's behalf may apply in person, orally or in writing for the elector to be removed from the list of

electors and the application must include satisfactory proof of the elector's identity and satisfactory proof that

- (a) the elector is deceased;
- (b) the elector no longer resides in the Province; or
- (c) the information in respect of the elector is otherwise not valid.

(5) An elector or a person acting on the elector's behalf may make an application in person or in writing for a correction to the elector's name and particulars and the application must include satisfactory proof of the elector's identity and residence.

(6) The person acting on an elector's behalf under subsections (2), (4) and (5) may do so for the person's child, grandchild, sibling, parent, grandparent or spouse.

(7) A caregiver or a friend acting on an elector's behalf under subsections (2), (4), and (5) may only apply in person and shall take an oath in the prescribed form that the information the caregiver or friend is providing is correct. 2011, c. 5, s. 55; 2015, c. 17, s. 18; 2020, c. 8, s. 10.

Grounds to support application

58 (1) Before accepting an application under subsection 57(2), (4) or (5), the returning officer must be satisfied that the applicant has provided sufficient grounds, in accordance with guidelines established by the Chief Electoral Officer and, where the returning officer is so satisfied, the returning officer shall revise the list of electors in accordance with procedures determined by the Chief Electoral Officer.

(2) A returning officer who discovers incorrect information on the list of electors shall revise the list to correct the error.

(3) A returning officer may remove the name of a person from the list of electors if the person applies in person on the prescribed form to have the person's own name removed from the list of electors and the returning officer is satisfied of the person's identity.

(4) Where the list of electors is updated by adding an elector's name to the list, the name must also be added to the Register of Electors unless the elector requests otherwise on the prescribed form.

(5) Where an elector is removed from the list of electors under subsection 57(4), the elector must also be marked as removed on the Register of Electors.

(6) Where an elector is removed from the list of electors under subsection (3), the elector must also be marked as removed on the Register of Electors if the elector so requests on the prescribed form.

(7) Where an elector does not have proof of identity or residence, the elector shall swear an oath in the prescribed form.

(8) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election. 2011, c. 5, s. 56; 2015, c. 17, s. 19.

Preparation and distribution of revised and official lists of electors

59 (1) Before an advance poll, the returning officer shall

(a) prepare and certify the revised list of electors for each polling division in the electoral district for use at the advance poll;

(b) deliver to the appropriate poll officials the revised list of electors required to conduct the election in their advance polling station; and

(c) deliver to each candidate for that electoral district and, where the candidate is endorsed by a registered party, that party, the revised list of electors for the electoral district and the information described in clause 43(2)(e).

(2) The revised list of electors prepared pursuant to subsection (1) must include the information described in subclauses 43(2)(a)(i) to (iii) and clause 43(2)(b) and an indication of whether the elector voted in the current election.

(3) Before election day, the returning officer shall

(a) prepare and certify the official list of electors for each polling division in the electoral district for use on election day;

(b) deliver to the appropriate poll officials the official list of electors required to conduct the election in their polling station on election day; and

(c) deliver to each candidate for that electoral district and, where the candidate is endorsed by a registered party, that party, the official list of electors for the electoral district and the information described in clause 43(2)(e).

(4) The official list of electors prepared pursuant to subsection (3) must include the information described in subclauses 43(2)(a)(i) to (iii) and clause 43(2)(b) and an indication of whether the elector voted in the current election.

(5) A candidate who has been provided with a copy of the list of electors for the electoral district may use the list only for electoral purposes. 2011, c. 5, s. 57; 2020, c. 8, s. 11.

Notice of registration after addition or correction

60 As soon as possible following an addition or a correction to the list of electors, each returning officer shall send a notice of registration and voting information to every elector in respect of whom the change has been made describing how the elector's name and particulars will appear on the revised or official list of electors. 2011, c. 5, s. 58.

Final list of electors

61 (1) Within 60 days of election day, the Chief Electoral Officer shall prepare a final list of electors for each electoral district in which an election has been held.

(2) The final list of electors must include the legal name, mailing address and civic address of each elector whose name was on, added or revised to the official list of electors by the close of polls on election day such that each elector appears only on one final list of electors.

(3) The Chief Electoral Officer shall provide one copy of the final list of electors to each independent elected member for an electoral district and one copy of the final list containing all electoral districts in which the party nominated candidates to each registered party.

(4) A registered party or a member of the House of Assembly who has been provided with a copy of the final list of electors may use the list only for electoral purposes. 2011, c. 5, s. 59; 2015, c. 17, s. 20; 2020, c. 8, s. 12.

Form determined by Chief Electoral Officer

62 The form of the copies of the list distributed pursuant to subsection 54(3), clauses 59(1)(b) and (c) and (3)(b) and (c) and subsection 61(3) must be as determined by the Chief Electoral Officer. 2011, c. 5, s. 60.

Objection to name on list

63 (1) During the time that the list of electors is being revised, an elector may object to the inclusion of a person on the list of electors by filing an affidavit of objection in the prescribed form with the returning officer for the electoral district in which the person who is the subject of the objection is shown to reside.

(2) An elector may make an objection on the basis that the person has died or is not qualified to vote and the affidavit must specify the basis of the objection, including the facts supporting the objection and the name and address of the person making the objection.

(3) Where the returning officer is able to confirm that the person is dead, the returning officer shall allow the objection and remove the person from the list of electors.

(4) Except where the returning officer has determined under subsection (3) that the person is dead, the returning officer shall make a reasonable effort to notify the person against whom the objection is made of the objection, the identity of the individual who made the objection and the basis on which it is made.

(5) Where, after receiving notice of the objection, the person provides satisfactory proof of the person's right to vote or swears an oath or affirmation as to this right, the returning officer shall leave the person's name on the list of electors.

(6) Where, after receiving the notice of objection, the person refuses or is unable to provide proof of qualification to vote or refuses to swear an oath as to such qualification, the returning officer shall remove the person's name from the list of electors.

(7) Where the returning officer is unable to contact the person who is the subject of the objection and the returning officer is satisfied that the objection is valid, the returning officer shall remove the person's name from the list of electors. 2011, c. 5, s. 61.

PROTECTION OF PERSONAL INFORMATION OF ELECTORS

Content of lists and use of information

64 (1) The Chief Electoral Officer may include fictitious information within the elector information provided pursuant to Section 46, within the preliminary, revised or official lists of electors provided during an election, and within the information disclosed to a municipality or the Conseil scolaire acadien provincial pursuant to clause (3)(a), for the purpose of tracing any unauthorized use of elector information.

(2) Candidates and registered parties shall destroy all lists of electors received during an election and any copies of the list of electors provided to others by or on behalf of the candidate, and inform the Chief Electoral Officer of the destruction of such lists in the prescribed manner, within 30 days of the close of the polls on election day.

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the information contained in

(a) clauses 43(2)(a) and (b) may be disclosed by the Chief Electoral Officer to municipalities and the Conseil scolaire acadien provincial for electoral purposes; and

(b) Section 43 may be disclosed to the Chief Electoral Officer of Canada at the time and in the manner determined by the Chief Electoral Officer.

(4) A municipality or the Conseil scolaire acadien provincial may disclose the information contained in subclauses 43(2)(a)(i) to (iii) received from the Chief Electoral Officer only to villages or candidates nominated at a municipal or Conseil election.

(5) A municipality provided with elector information pursuant to clause (3)(a) shall confirm in the prescribed manner, within 10 days of the close of polls on election day, that all of the elector information provided by the Chief Electoral Officer and provided by the municipality to others, including a candidate nominated at a municipal election, has been used only for election administration purposes.

(6) Where the Conseil scolaire acadien provincial is provided with elector information pursuant to clause (3)(a), it shall destroy all such information received during the election and any copies of elector information provided to others by or on behalf of the Conseil, and confirm to the Chief Electoral Officer that the information has been destroyed in the prescribed manner, within 10 days of the close of polls on election day. 2011, c. 5, s. 62; 2016, c. 7, s. 4; 2018, c. 1, Sch. A, s. 110; 2020, c. 8, s. 13.

NOMINATION OF CANDIDATES

Qualifications

65 A candidate must

(a) be an eligible elector under Section 39; and

(b) not be disqualified or ineligible under this Act, the *House of Assembly Act* or any other Act to be a candidate or a member of the House of Assembly. 2011, c. 5, s. 63; 2015, c. 17, s. 21.

One district only

66 An individual may be a candidate in only one electoral district at a time. 2011, c. 5, s. 64.

Nomination documents

67 (1) Nomination documents must be in the prescribed form and include

(a) a signed statement by the prospective candidate containing

(i) the prospective candidate's legal name and residential address,

(ii) the name by which the prospective candidate is usually known, if different than the legal name and the prospective candidate wishes to have that name on the ballot instead of the prospective candidate's legal name,

(iii) the prospective candidate's official agent's name and residential address,

(iv) the prospective candidate's auditor's name and business address,

(v) an address for serving documents under this Act on the candidate or the official agent if different than the address given under clause (i) or (iii),

(vi) the name of any registered party that has endorsed the prospective candidate or a statement that the prospective candidate is an independent candidate,

(vii) a sworn declaration by the prospective candidate that the prospective candidate is qualified and eligible to be nominated,

(viii) a signed statement by the prospective candidate consenting to the nomination, and

(ix) where the prospective candidate is endorsed by a registered party, a statement by the prospective candidate consenting to the endorsement; and

(b) the names and residential addresses of at least five electors in the electoral district who support the nomination, and a signed oath by each of them that they are eligible to vote in the electoral district.

(2) The nomination documents must be accompanied by

(a) where the prospective candidate is endorsed by a registered party, a statement signed by the leader that the prospective candidate is the endorsed candidate of the party; and

(b) a nomination deposit of \$200 in legal tender or a certified cheque or money order for that amount made payable to the Minister of Finance and Treasury Board.

(3) The nomination documents referred to in subsection (1) must be signed, dated and submitted during the writ period. 2011, c. 5, s. 65; 2020, c. 8, s. 14.

Close of nominations

68 (1) Nominations close on the 20th day before election day at 2:00 p.m.

(2) The nomination documents and nomination deposit required by Section 67 must be received by the returning officer between the date of the notice of election and 2:00 p.m. on the close of nominations.

(3) It is the prospective candidate's obligation to ensure that the nomination documents and nomination deposit are received in accordance with this Section. 2011, c. 5, s. 66; 2015, c. 17, s. 22.

Returning officer to review and accept or refuse nomination

69 (1) Upon receiving nomination documents and the nomination deposit, the returning officer shall review them to determine whether they are complete and in accordance with the instructions of the Chief Electoral Officer.

(2) As soon as possible after reviewing nomination documents and the nomination deposit, the returning officer shall give the prospective candidate

(a) a signed certificate in the prescribed form accepting the nomination and confirming that the person is a candidate in the election; or

(b) notice in the prescribed form that the returning officer refuses to accept the nomination and the reason for such refusal.

(3) Nomination documents and the nomination deposit that are not accepted may be replaced or corrected if the new or corrected documents or appropriate nomination deposit are filed with the returning officer before the close of nominations.

(4) As soon as possible after accepting a nomination pursuant to subsection (2), the returning officer shall send a copy of the accepted nomination documents, a copy of the certificate and the nomination deposit to the Chief Electoral Officer. 2011, c. 5, s. 67.

Chief Electoral Officer to publish candidates' names

70 (1) Upon receiving the nomination documents and the copy of the certificate given pursuant to subsection 69(2), the Chief Electoral Officer shall publish on the Elections Nova Scotia website

(a) the name and registered party, if any, of each candidate; and

(b) the name of each candidate's official agent.

(2) The Chief Electoral Officer shall publish any changes in a candidate's particulars, the withdrawal of a candidate or the death of a candidate and any postponement of an election on the Elections Nova Scotia website. 2011, c. 5, s. 68.

Authorized individual may file for prospective candidate

71 (1) For the purpose of Sections 69 and 70, a prospective candidate who is absent may, in writing, and using the prescribed form, name and authorize another individual to complete the nomination documents and present the nomination deposit on the prospective candidate's behalf.

(2) The other individual shall cause the authorization to be filed with the returning officer before the nomination documents are filed. 2011, c. 5, s. 69.

Nomination documents valid for one election

72 A candidate's nomination documents are valid only for one election and, for greater certainty, a candidate's nomination documents are superseded and withdrawn if a by-election is superseded and withdrawn by a general election. 2011, c. 5, s. 70.

Return of nomination deposit

73 (1) The Chief Electoral Officer shall return the nomination deposit of a candidate to

- (a) the candidate's official agent if the candidate
 - (i) declares in the prescribed manner that the candidate has destroyed all lists of elector information, and
 - (ii) files with the Chief Electoral Officer a report of election expenses pursuant to Section 259 on or before the deadline, or
 - (iii) dies before the close of the polls on election day; or
- (b) the candidate's official agent if nomination documents are superseded and withdrawn pursuant to Section 72.

(2) In all other cases, the Chief Electoral Officer shall transfer the nomination deposit to the Minister of Finance and Treasury Board for deposit into the General Revenue Fund. 2011, c. 5, s. 71; 2015, c. 17, s. 23.

Withdrawal of nomination by candidate

74 (1) Before the close of nominations, the nomination for the election may be withdrawn by the candidate by filing a signed declaration in the prescribed form with the returning officer.

(2) The candidate's signature on the withdrawal must be witnessed by one other individual 18 years of age or older who signs the withdrawal as witness.

(3) Upon filing the declaration pursuant to subsection (1), the candidate is deemed not to have been officially nominated and the candidate's nomination deposit is forfeited.

(4) The returning officer shall promptly notify the Chief Electoral Officer, in writing, of the withdrawal of the candidate.

(5) The Chief Electoral Officer shall publish in the electoral district a notice of the withdrawal in the prescribed manner. 2011, c. 5, s. 72; 2015, c. 17, s. 24.

Withdrawal of candidate

75 (1) A candidate may withdraw at any time between the close of nominations and the close of polls on election day by delivering to the returning officer the prescribed notice of withdrawal signed by the candidate in the presence of a witness.

(2) Where a candidate withdraws after the close of nominations,
and

(a) only one candidate remains, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make a return to the Chief Electoral Officer as provided by Section 81; or

(b) two or more candidates remain and the ballots have been printed, the returning officer shall

(i) where possible, cause every deputy returning officer to be notified forthwith of the withdrawal, and

(ii) cause notice of the withdrawal to be posted in a conspicuous place in every polling place in the electoral district,

and any ballots cast for a candidate who has so withdrawn are void and must be considered rejected ballots.

(3) Where clause (2)(b) applies, the returning officer shall determine whether ballots are to be reprinted without the inclusion of the candidate who has withdrawn. 2020, c. 8, s. 15.

Withdrawal of endorsement

76 (1) A registered party may withdraw its endorsement of a candidate by delivering written notice to the Chief Electoral Officer before 5:00 p.m. on the Saturday immediately before election day.

(2) Where a registered party withdraws its endorsement of a candidate under subsection (1), the candidate becomes an independent candidate unless the candidate withdraws as a candidate under subsection 74 or 75.

(3) A registered party that withdraws its endorsement of a candidate under subsection (1) may endorse another candidate before the close of nominations.

(4) Where a registered party withdraws its endorsement of a candidate under subsection (1), the returning officer shall

(a) determine whether the ballots are to be reprinted and the candidates to be included on the reprinted ballots; and

(b) cause notice of the registered party's withdrawal of endorsement of a candidate and, where applicable, endorsement of another candidate to be posted in a conspicuous place in every polling place in the electoral district.

(5) Where a registered party withdraws its endorsement for a candidate under subsection (1) and does not endorse another candidate,

(a) ballots cast for a candidate who becomes independent do not count towards the party that previously endorsed the candidate;

(b) write-in ballots with the name of the registered party and without the name of the candidate are rejected; and

(c) ballots with the candidate's name and the registered party name are counted for the candidate.

(6) Where a registered party withdraws its endorsement for a candidate under subsection (1) and endorses another candidate,

(a) write-in ballots with the name of the registered party and without the name of a candidate are counted for the endorsed candidate;

(b) ballots with the previously endorsed candidate name and the registered party name are counted for the previously endorsed candidate; and

(c) ballots counted under clause (b) do not count towards the other candidate endorsed by the registered party that previously endorsed the candidate. 2020, c. 8, s. 15.

Arrangement of names on ballot

77 Where two members are to be elected for an electoral district, the candidates may by the close of nominations agree in writing to their names being arranged on the ballot otherwise than alphabetically, and the returning officer shall have the names arranged accordingly. 2015, c. 17, s. 25.

Death of candidate

78 (1) Where a candidate dies before the close of nominations, the candidate is deemed not to have been officially nominated.

(2) Where a candidate dies between the close of nominations and the close of the poll on election day, the returning officer, with the approval of the Chief Electoral Officer, shall

(a) revoke the grant of the poll by transmitting a declaration, in the prescribed form, to the Chief Electoral Officer; and

(b) fix the date of a new election day, which must be not fewer than 30 days nor more than 45 days from the date of the death of the candidate, unless the circumstances are considered by the Chief Electoral Officer to warrant a longer period and the writ is deemed to have been amended accordingly.

(3) After revoking the grant of the poll, the Chief Electoral Officer shall issue a notice of election as provided in Section 31 and commence afresh all other proceedings for the election as if the amended writ had been received immediately following the revocation of the grant of the poll, but,

(a) notwithstanding Section 72, a person, other than the candidate who died, nominated before the revocation of the grant of the poll or nominated in accordance with Sections 69 and 71 between the date of the new notice of election and the close of nominations is deemed to have been duly nominated; and

(b) the list of electors prepared after the issue of the writ including all corrections, and deletions applied as of the date of the revocation of the grant of the poll, must be used at the postponed election as the list of electors.

(4) The returning officer shall make a full report to the Chief Electoral Officer of any action taken under this Section when the writ is returned.

(5) The Chief Electoral Officer shall publish in the electoral district a notice of the death of a candidate and postponement of the election. 2011, c. 5, s. 74.

CAMPAIGNING

Residential complexes

79 A registered candidate or registered candidate's representative may enter any apartment building, condominium complex, residential centre or any other residential complex for the purpose of lawfully campaigning. 2011, c. 5, s. 75; 2015, c. 17, s. 26.

Display of advertising posters

80 (1) No landlord or person acting on the landlord's behalf may prohibit a tenant from displaying election advertising posters on the premises leased by the tenant and no condominium corporation or any of its agents may prohibit the owner of a condominium unit from displaying election advertising posters on the premises of that person's unit.

(2) Notwithstanding subsection (1), a landlord, person, condominium corporation or agent referred to in that subsection may set reasonable conditions relating to the size or type of election advertising posters that may be displayed on the premises and may prohibit the display of election advertising posters in common areas of the building in which the premises are found. 2011, c. 5, s. 76.

RETURN BY ACCLAMATION

Procedure to declare elected

81 Where only one candidate, or only the number of candidates authorized by law to be elected to represent the electoral district, are officially nominated in the electoral district at the close of nominations, the returning officer shall

(a) declare the candidate or candidates duly elected by completing the return in the prescribed form on the writ; and

(b) comply with Section 189. 2011, c. 5, s. 77.

GRANTING OF POLL

Grant of poll

82 (1) Where there are more candidates nominated than are required to be elected, a returning officer shall, as soon as practical after the close of nominations,

(a) grant a poll for taking the votes of the electors according to the instructions of the Chief Electoral Officer;

(b) post a notice of the grant of poll in the returning office;

(c) transmit one copy of the notice of the grant of poll to each candidate in the electoral district; and

(d) transmit to the Chief Electoral Officer one copy of the notice of the grant of poll, together with the name of any person proposed for nomination, but rejected by the returning officer for non-compliance with this Act, and the reasons for the rejection.

(2) Following the receipt of the notice of the grant of poll from the returning officers in an election or a by-election, the Chief Electoral Officer shall cause a consolidated notice of the grant of poll to be published in the prescribed form in a manner the Chief Electoral Officer considers appropriate.

(3) In any notice of a grant of poll, the name of a candidate must be shown in the same manner as it appears on the grant of poll. 2011, c. 5, s. 78; 2020, c. 8, s. 16.

ELECTION DAY AND POLL HOURS

Election day

83 Subject to Section 78, at a general election, the date fixed for election day must be the same for all electoral districts. 2011, c. 5, s. 79.

Poll hours

84 Subject to subsection 4(3), the polls must be open for voting on election day commencing at the hour of 8:00 a.m. and ending at the hour of 8:00 p.m. 2011, c. 5, s. 80.

ELECTION OFFICERS

Appointment

85 (1) The returning officer shall appoint a deputy returning officer for each polling station and an appropriate number of poll clerks for each polling location as soon as possible after the writ has been issued.

(2) A returning officer may

(a) dismiss and replace a deputy returning officer or poll clerk for cause;

(b) appoint a deputy returning officer or poll clerk in the place of one who resigns or dies;

(c) direct the person replaced pursuant to clause (a) or (b) to deliver up anything relating to the revoked appointment to the person designated in writing by the returning officer.

(3) Where a returning officer establishes a central polling location in which several polling stations are located, the returning officer may appoint a poll supervisor to attend at the central polling location on election day for the purpose of keeping the returning officer informed with respect to matters affecting peace and order in the central polling location.

(4) A poll supervisor has all of the powers and privileges of the deputy returning officer and may be dismissed or replaced in the same manner as a deputy returning officer.

(5) For the purpose of improving returning office and poll operations for a single election, the Chief Electoral Officer may

(a) designate additional election officer positions and determine the responsibilities and required qualifications of these positions;

(b) appoint, dismiss for cause and replace such election officers;

(c) pay the fees and expenses of such election officers in accordance with Section 391.

(6) Notwithstanding subsection 4(1) of the *Labour Standards Code*, a returning officer, assistant returning officer, poll supervisor, deputy returning officer, poll clerk, presiding officer, deputy presiding officer, enumerator, revision assistant, information officer, write-in ballot coordinator, assistant write-in ballot coordinator, ballot box courier, constable appointed under this Act and other additional election officer appointed pursuant to subsection (5) is exempt from the application of subsections 40(4) and 112(2) and Section 114 of the *Labour Standards Code*.

(7) The *Workers' Compensation Act* and *Occupational Health and Safety Act* apply to election officers appointed pursuant to subsection (5). 2011, c. 5, s. 81; 2015, c. 17, s. 27; 2020, c. 8, s. 17.

Qualification

86 No person may be appointed as a returning officer, assistant returning officer, Internet voting returning officer, systems elections officer, enumerator, poll supervisor, deputy returning officer, poll clerk, write-in ballot coordinator, assistant write-in ballot coordinator, presiding officer or deputy presiding officer unless the person is qualified as an elector in the Province. 2011, c. 5, s. 82; 2015, c. 17, s. 28; 2020, c. 8, s. 18.

Resident of Province 16 to 18 years of age

87 The Chief Electoral Officer may designate by policy election officer positions that may be held by a resident of the Province who is 16 to 18 years of age excluding those listed in Section 86. 2011, c. 5, s. 83.

Death or failure to act

88 Where a deputy returning officer dies or fails to act and no replacement has been appointed, the poll supervisor shall act as the deputy returning officer. 2011, c. 5, s. 84; 2020, c. 8, s. 19.

List of deputy returning officers and poll clerks

89 Not later than the third day before election day, a returning officer shall prepare a list of the names of the poll supervisors, deputy returning officers and poll clerks appointed for the electoral district, and of the polling locations for which each is to act, in the prescribed form and shall provide a copy of the list to each candidate in the electoral district. 2011, c. 5, s. 85; 2020, c. 8, s. 20.

BALLOT BOXES, BALLOT PAPER AND BALLOTS**Specifications**

- 90** (1) A ballot box must be
- (a) made of suitable material; and
 - (b) constructed so that ballots can be inserted into it, but cannot be withdrawn without unlocking or unsealing the box.

(2) The ballot paper must be of a quality, weight, colour and size determined by the Chief Electoral Officer.

(3) The Chief Electoral Officer, the returning officer, the assistant returning officer, election officers designated by the Chief Electoral Officer and authorized printers shall secure the ballot paper and ballots while they are in their possession. 2011, c. 5, s. 86; 2015, c. 17, s. 29.

Security of ballot papers and ballots

91 (1) The Chief Electoral Officer shall, pursuant to subsection 31(2), cause to be delivered to each authorized printer sufficient ballot paper to print the ballots required to conduct the election in the prescribed electoral districts.

- (2) The authorized printer shall
- (a) count the ballot papers received and forward a receipt for them to the returning officer and Chief Electoral Officer;
 - (b) prepare a proof of the ballot according to the instructions of the Chief Electoral Officer and submit the proof to the Chief Electoral Officer for approval; and
 - (c) upon receipt of the approval, print the number of ballots requested by the Chief Electoral Officer.

(3) The authorized printer shall advise the returning officer when the printing of the ballots is complete and make arrangements for the delivery to the returning officer of the ballots and a completed affidavit of the printer in the prescribed form.

(4) The authorized printer shall make arrangements for the delivery to the Chief Electoral Officer of all remaining ballot paper, including those

sheets that were spoiled, as well as parts or scraps of ballot paper left over from the printing process. 2015, c. 17, s. 30.

Printing of ballots

92 (1) The ballots for each voting opportunity must be of the same description and as nearly alike as possible in the forms prescribed by the Chief Electoral Officer.

(2) The following information must be printed on each ballot for the election day polls:

(a) the legal name of each candidate in the election or, where a candidate has specified a different usual name in the nomination documents, this usual name;

(b) in the case of a candidate endorsed by a registered party, the name or abbreviation of the name of the registered party, which may not exceed the number of characters prescribed by the Chief Electoral Officer, printed under the candidate's name;

(c) in the case of a candidate who is not endorsed by a registered party, the word "Independent" printed under the candidate's name;

(d) on the back of the stub and on the counterfoil, the same serial number; and

(e) on the back of the ballot

(i) a space for the deputy returning officer's initials and the phrase "DRO Initials",

(ii) the stamp of the returning officer, and

(iii) the date of election day.

(3) A ballot must not include

(a) an indication that a candidate is holding or has held an elected office;

(b) a candidate's occupation; or

(c) an indication of a title, honour, degree or other decoration received or held by a candidate.

(4) Except as provided in Section 77, the names of candidates must be arranged alphabetically in order of their last names and, where two or more candidates have the same last name, the names must be arranged alphabetically in order of their first given or usual name.

(5) Where two or more candidates

(a) have the same last names and given or usual names; or

(b) have names so similar that, in the opinion of the Chief Electoral Officer, they are likely to cause confusion,

the Chief Electoral Officer may modify the names or include additional information to assist the electors to identify the candidates, subject to the restrictions under subsection (3), and may establish their order on the ballot. 2011, c. 5, s. 88; 2015, c. 17, s. 31.

Form of Internet ballot

93 The form of an Internet ballot is as prescribed by the Chief Electoral Officer. 2020, c. 8, s. 21.

Form of electronic ballot

94 The form of an electronic ballot is as prescribed by the Chief Electoral Officer. 2020, c. 8, s. 21.

SUPPLY OF ELECTION MATERIALS TO DEPUTY RETURNING OFFICER

Custody of election material

95 (1) Not later than the day before a poll is scheduled to be open to the public, a returning officer shall provide to the deputy returning officer or other appropriate election officer for the polling station to which the deputy returning officer has been appointed, the election materials and supplies required to operate the poll as prescribed by the Chief Electoral Officer.

(2) Until the opening of the poll, a deputy returning officer is responsible for the election materials and supplies received from the returning officer and shall prevent any person from having unlawful access to them. 2011, c. 5, s. 89.

POLLING STATIONS

Location

96 (1) With the approval of the Chief Electoral Officer, the returning officer

(a) not later than the 25th day before election day, shall secure within each polling division at least one accessible premises for a polling station;

(b) may provide additional polling stations in more than one location in any polling division as required having regard to the extent of the division and the electors that may conveniently vote at each polling location;

(c) may provide one polling location for the polling stations of two or more polling divisions; and

(d) where unable to secure accessible premises for a polling station within the polling division, shall secure a convenient and accessible premises for a polling station elsewhere within that electoral district for the electors in that polling division.

(2) As soon as possible after the close of nominations, the returning officer shall provide a list of the polling stations and their locations to all candidates in the electoral district.

(3) Where it is not practical to hold a poll in the location indicated to the electors in their notice of registration and voting information, the poll must be held in another location as near as practicable to the original polling location, and thereupon the returning officer shall

(a) publish notice of the change on the Elections Nova Scotia website;

(b) where time permits, publish notice of the change in a newspaper, broadcast it on radio or television or give notice in any other manner the returning officer considers appropriate;

(c) post notices of the new location for the polling station at or near the location of the former polling station; and

(d) as soon as possible after the close of nominations, give notice in writing of the new location of the polling station to each candidate in the electoral district. 2011, c. 5, s. 90.

Identification

97 The identification on the polling station must include

(a) the number of the polling division;

(b) where there is more than one polling location for a polling division, the designation of the polling location; and

(c) where the list of electors for a polling station is split alphabetically, the initial letter of the family name of the first and last electors on the list of electors for the polling station. 2011, c. 5, s. 91.

Specifications

98 (1) A polling station must be located in premises that are convenient for a majority of electors in the polling division.

(2) Subject to subsection (3), every polling station in an electoral district must be in accessible premises with level access and with an internal structure that allows persons with disabilities to cast their ballots without barrier or obstruction.

(3) In the event there is no suitable premises for a polling station, the returning officer may, with the approval of the Chief Electoral Officer,

(a) use premises that do not comply with subsection (1) or (2); and

(b) have a plan for accommodating physically disabled electors if the premises do not comply with subsection (2).

(4) Every polling station must contain a compartment, adequately lighted and located so that electors are screened from observation and may vote without interference or interruption. 2011, c. 5, s. 92.

Mobile polling stations

99 (1) Where separate polling divisions are established for residential centres, the returning officer, with the approval of the Chief Electoral Officer,

may establish a mobile polling station to be located in each of those residential centres successively.

(2) The returning officer shall set the times during which a mobile polling station will be in the residential centres referred to in subsection (1).

(3) Notwithstanding subsection (2), a mobile polling station must be in a residential centre referred to in subsection (1) for not less than two hours.

(4) The returning officer shall give to the candidates and electors residing in each residential centre notice of the itinerary of the mobile polling station in such form and manner as may be prescribed.

(5) Subject to the instructions of the Chief Electoral Officer, the provisions of this Act relating to election day polling stations apply to mobile polling stations. 2011, c. 5, s. 93.

PERSONS PRESENT IN POLLING STATION

Persons permitted

100 (1) The only persons permitted to be in a polling station while the poll is open are

- (a) election officers authorized by the Chief Electoral Officer;
- (b) candidates;
- (c) up to two scrutineers for each candidate or, in their absence, two electors to represent each candidate;
- (d) an elector and a friend or relative who is helping the elector only for the period necessary to enable the elector to vote;
- (e) a child of the elector;
- (f) any person necessarily present in order to comply with any other provision of this Act;
- (g) at the discretion of and on such terms and conditions as specified in writing by the Chief Electoral Officer, any person or group of persons for educational purposes;
- (h) media representatives authorized by the Chief Electoral Officer, upon request, to be present and to film or photograph registered party leaders and the candidates running against them, as they cast their ballots.

(2) When a scrutineer is admitted to a polling station, the scrutineer shall deliver the scrutineer's written authorization from the candidate or the candidate's official agent in the prescribed form to the deputy returning officer.

(3) A scrutineer who has written authorization under subsection (2) is entitled to represent the candidate in preference to, and to the exclusion of, an elector who might otherwise claim the right to represent the candidate.

(4) Each elector, friend or relative described in clause (1)(d) who will be assisting the elector to vote, on being admitted to the polling station, shall take an oath in the prescribed form. 2011, c. 5, s. 94; 2015, c. 17, s. 32.

Permitted activity

101 (1) A candidate or the candidate's official agent may authorize any number of scrutineers to be present at a polling station, but for each polling station a maximum of two scrutineers or electors described in clause 100(1)(c) may be present inside the polling location in which the polling station is situated at any time.

(2) A scrutineer, or an elector described in clause 100(1)(c), may leave a polling station at any time and return at any time before the counting of the votes begins and is not required to produce a new written authorization from the candidate or official agent or to take another oath.

(3) A scrutineer may, during voting hours,

(a) view and, subject to subsection 135(2), obtain at the polling station a list showing the unique number of those electors who have been crossed off the list as having voted;

(b) view the names and addresses of electors who have applied and been added to the list of electors at a polling station;

(c) without disturbing the conduct of the election, convey the information obtained by the examination referred to in clause (a) electronically by photographing or copying it and transmitting it to a representative of the candidate who is on duty outside the polling station; and

(d) subject to this Act, and without disturbing the conduct of the election, observe the voting process and inspect the voting environment, including the list of electors being used by the election officers conducting the poll.

(4) For greater certainty, no person present in a polling station shall operate an electronic device unless that person is directly authorized to do so under this Act or does so with the permission of the Chief Electoral Officer or designate, obtained in advance. 2011, c. 5, s. 95; 2015, c. 17, s. 33.

Candidate may assist

102 A candidate may act as or assist a scrutineer, or may assist an elector described in clause 100(1)(c), and may be present at any place that the scrutineer or such elector is authorized to be present. 2011, c. 5, s. 96; 2015, c. 17, s. 34.

OFFICIAL LIST OF ELECTORS USED AT POLL ON ELECTION DAY

Duty to use official list of electors

103 (1) The list of electors for a polling division that is certified pursuant to subsection 59(3) is the official list of electors for that polling division.

(2) The official list of electors must be used at a polling station on election day. 2011, c. 5, s. 97.

Extra polling stations

104 Where the official list of electors for a polling station contains the names of more than 450 electors, a returning officer may

- (a) provide two or more polling stations in that polling location; and
- (b) as instructed by the Chief Electoral Officer, divide the official list of electors into as many separate lists as required for the taking of the vote at each polling station. 2011, c. 5, s. 98; 2015, c. 17, s. 35.

TRANSFER CERTIFICATE

Application procedure

105 (1) A candidate or the candidate's spouse whose name appears on the official list of electors for a polling station and any scrutineer whose name appears on a list of electors are entitled, on request, to receive a transfer certificate to vote at another polling station in the electoral district on election day.

(2) A returning officer or assistant returning officer shall issue a transfer certificate to any person whose name appears on the official list of electors for a polling station and who has been appointed after the last day of the advance poll to act as an election officer on election day for another polling station in the electoral district to vote at that other polling station.

(3) Where the physical layout of or access to the polling station prevents or impedes an elector from voting at the polling station where the elector's name is on the official list of electors, the elector may apply for a transfer certificate to vote at another polling station on election day.

(4) An application pursuant to subsection (1) or (3) must be in the prescribed form and delivered to the returning officer or assistant returning officer by the elector or a person designated in writing by the elector.

(5) An application pursuant to subsection (1) or (3) must be delivered to the returning office during office hours no later than the third day before election day.

(6) Where a transfer certificate is issued pursuant to this Section to an elector to vote at a polling station other than the polling station where the elector's name is on the official list of electors, the elector may vote at the other polling station on election day. 2011, c. 5, s. 99; 2015, c. 17, s. 36; 2020, c. 8, s. 22.

Duties on issuance

106 A returning officer or assistant returning officer, on issuing a transfer certificate, shall

- (a) complete the certificate in triplicate;
- (b) consecutively number each certificate in the order of its issue;

- (c) deliver the original certificate to the elector;
- (d) transmit a copy of a certificate issued pursuant to subsection 105(1) or (3) and, where possible, a copy of a certificate issued pursuant to subsection 105(2) to the deputy returning officer of the polling station where the name of the person to whom the certificate is issued appears on the official list of electors; and
- (e) keep a copy of the certificate in the returning office, available for public inspection at all reasonable times. 2011, c. 5, s. 100; 2015, c. 17, s. 37.

VOTING BY WRITE-IN BALLOT

Application procedure

107 (1) A write-in ballot poll must be established in the office of each returning officer.

(2) A returning officer shall begin to receive applications to vote by write-in ballot as soon as possible but no later than the 27th day before election day.

(3) An elector may make an application for a write-in ballot in the prescribed form during the hours the returning office is open to the public

(a) by an elector's agent appointed pursuant to Section 115, at a returning office other than the returning office in the district where the elector is resident, up to the hour of 6:00 p.m. on the third day before election day;

(b) by an elector's agent appointed pursuant to Section 115, at the returning office in the district where the elector is resident, up to the hour of 3:00 p.m. on election day;

(c) to a write-in ballot coordinator in a district where the elector is not resident, up to the hour of 6:00 p.m. on the third day before election day;

(d) to a write-in ballot coordinator in the electoral district where the elector is resident, up to the hour of 3:00 p.m. on election day; or

(e) by any other means, if the application is received at a returning office or a location prescribed by the Chief Electoral Officer for that purpose, on the 10th day before election day.

(4) The write-in ballot poll must be open for the receipt of write-in ballots up to the close of polls on election day.

(5) On the first day of the write-in ballot poll, in full view of the candidates and up to two scrutineers for each candidate or up to two electors representing each candidate, as may be present, the presiding officer for the write-in ballot poll shall

(a) open the ballot box and ensure that it is empty;

(b) secure the ballot box according to the instructions of the Chief Electoral Officer; and

(c) label the box for write-in ballots of electors.

(6) The returning officer shall appoint

(a) a presiding officer and a deputy presiding officer to conduct the write-in ballot poll; and

(b) one or more teams, each of which is composed of a write-in ballot coordinator and assistant write-in ballot coordinator to provide additional opportunities to vote by write-in ballot.

(7) The returning officer shall assign a temporary ballot box for each write-in ballot coordinator team to use for receiving write-in ballots while conducting the write-in poll outside the returning office.

(8) A write-in ballot coordinator accompanied by an assistant write-in ballot coordinator shall carry out the write-in ballot poll procedures outside the returning office by

(a) visiting electors requiring special assistance at their residences;

(b) visiting electors at hospitals or residential centres; or

(c) visiting electors at educational institutions as approved by the Chief Electoral Officer,

and

(d) approving applications of such electors;

(e) delivering the ballot kit to an elector whose application for write-in ballot has been approved;

(f) receiving the completed write-in ballot from the elector and placing the ballot in the temporary ballot box; and

(g) returning the temporary ballot box to the returning officer. 2011, c. 5, s. 101; 2015, c. 17, s. 38; 2020, c. 8, s. 23.

Approval of application

108 (1) The returning officer, presiding officer, assistant presiding officer or write-in ballot coordinator shall approve an application for a write-in ballot from an elector only if the application is complete, signed by the elector and received in accordance with subsection 107(3), and

(a) the name of the elector is on the list of electors for a polling division in any electoral district and the elector provides the prescribed proof of identity and residence; or

(b) the elector swears or affirms the elector's eligibility to vote and current residence.

(2) Where an application is received pursuant to subsection 107(3) and approved and the applicant is not on the list of electors, the applicant is deemed to have applied to be added to the list of electors for the electoral district in which the elector resides.

(3) Where an elector's application is approved, the election officer who has approved the application shall record in the poll record that the elector has voted by write-in ballot.

(4) Where an application is approved, the returning officer, presiding officer or write-in ballot coordinator shall provide the elector with the ballot kit described in subsection 109(1) in as timely and convenient a fashion as possible. 2011, c. 5, s. 102; 2015, c. 17, s. 39.

Voting procedure

109 (1) Where an application is approved pursuant to subsection 108(1), a ballot kit that includes the following documents as prescribed by the Chief Electoral Officer must be transmitted to the elector:

- (a) an outer envelope, on which there is written the elector's name, the electoral district number of the elector and an oath;
- (b) an inner envelope; and
- (c) a write-in ballot initialled by the presiding officer.

(2) In order to complete a write-in ballot, the elector shall, after receiving the ballot kit,

- (a) mark the ballot by printing or writing on it, in the prescribed manner,
 - (i) the name of the candidate for whom the elector intends to vote, or
 - (ii) with a cross, an "X", a check mark, a line or other mark in the blank space provided on the ballot opposite the name of the registered party that endorsed the candidate the elector wishes to have elected,

or both;

- (b) place the marked ballot in the inner envelope;
- (c) seal the inner envelope;
- (d) place the inner envelope into the outer envelope;
- (e) seal the outer envelope; and
- (f) sign and date the oath on the outer envelope.

(3) Where an elector requests assistance, an election officer, an elector's agent appointed pursuant to Section 115 or a write-in ballot coordinator may assist the elector by marking the write-in ballot in the manner directed by the elector.

(4) Unless voting by means of a write-in ballot coordinator, it is the voter's responsibility to return the completed write-in ballot before the close of polls on election day.

(5) Where the elector or the elector's agent has applied at the returning office of the electoral district where the elector is resident, the ballot must be returned to that returning office.

(6) Where the elector or the elector's agent has applied at a returning office of an electoral district where the elector is not resident or to a location prescribed by the Chief Electoral Officer for that purpose, the ballot must be returned to

- (a) the returning office where the application was received, before the close of advance polls on the third day before election day;
- (b) the returning office of the electoral district where the voter is resident, before the close of polls on election day; or
- (c) a location prescribed by the Chief Electoral Officer for that purpose, before the close of polls on election day. 2011, c. 5, s. 103; 2015, c. 17, s. 40.

Elector residing in another electoral district

110 (1) Where an application is approved pursuant to subsection 108(1) for an elector residing in another electoral district, the presiding officer shall

- (a) cause to be delivered to a location prescribed by the Chief Electoral Officer
 - (i) one copy of the elector's approved application, and
 - (ii) where the outer envelope containing the write-in ballot was returned, the unopened outer envelope;
- (b) where the outer envelope containing the write-in ballot was returned, deposit the unopened outer envelope in the appropriate ballot box until such time as the write-in ballot is delivered pursuant to clause (a); and
- (c) note in the poll record the transmittal date and the electoral district to which the write-in ballot application and outer envelope, if any, were sent.

(2) Upon receiving the application and the outer envelope pursuant to subsection (1), if any, the presiding officer at the location prescribed by the Chief Electoral Officer shall note in the poll record

- (a) the date the application and the outer envelope, if any, were received;
- (b) the electoral district from which the application and outer envelope, if any, were sent; and
- (c) the name of the elector. 2011, c. 5, s. 104; 2015, c. 17, s. 41.

Procedure upon receipt of write-in ballot

111 (1) Where an outer envelope containing the write-in ballot is received at the returning office or at a location prescribed by the Chief Electoral Officer by the applicable deadline set out in subsection 109(6), the presiding officer shall, without unsealing the outer envelope,

- (a) verify the information and signature on the outer envelope against that on the voter's application and reject any outer envelope on which the identity of the voter cannot be determined;

(b) deposit the outer envelope in the ballot box used for the write-in ballot poll, and the rejected envelopes in the envelope designated for rejections; and

(c) record the number of envelopes accepted and rejected.

(2) A candidate representative present may object to the acceptance or rejection of an outer envelope, and the presiding officer shall record the objection in the poll record in the prescribed manner.

(3) At the close of the write-in ballot poll each day, the presiding officer shall, in the presence of the deputy presiding officer and those candidates or their representatives present,

(a) affix a seal on the ballot box in such a manner that the ballot box cannot be opened or anything deposited in or removed from it without breaking the seal;

(b) note the number of the seal in the poll record; and

(c) give the ballot box, unused ballots, stubs, poll record and other voting materials to the returning officer who shall secure them as instructed by the Chief Electoral Officer until the opening of the write-in ballot poll the next day.

(4) At the opening of the poll on each day, the presiding officer, in the presence of the persons referred to in subsection (3) who are present, shall remove the seals from the ballot box and open the secured materials. 2011, c. 5, s. 105; 2015, c. 17, s. 42; 2020, c. 8, s. 24.

Sorting of write-in ballot envelopes

112 After the close of the write-in ballot poll on the third day before election day, the presiding officer, in full view of the candidates and up to two scrutineers for each candidate or up to two electors representing each candidate, as may be present or, where none of them are present, in the presence of at least two electors, shall

(a) open the ballot box and separate the outer envelopes containing the write-in ballots cast by electors who reside in the district from the outer envelopes containing ballots cast by electors who reside in another district;

(b) place the outer envelopes of the electors who reside in the district back in the ballot box and reseal the ballot box; and

(c) place the outer envelopes of the electors who reside in another district and one copy of the electors' approved applications in an envelope and deliver the envelope to the returning officer who shall deliver it as instructed by the Chief Electoral Officer. 2015, c. 17, s. 43.

Counting of write-in ballot envelopes

113 (1) The returning officer may appoint additional presiding officers and deputy presiding officers to assist with the counting of the ballots for the write-in ballot poll and the continuous poll.

(2) At the close of polls on election day, or at an earlier time on election day as approved by the Chief Electoral Officer, the presiding officer and deputy presiding officer shall, in full view of any candidate representative present,

- (a) remove the seals from the ballot box; and
- (b) remove the outer envelopes,

and secure the outer envelopes, the poll record, the voters' write-in ballot applications and any other documents until the close of polls on election day.

(3) Where no candidate representatives are present, the election officers referred to in subsection (2) may carry out their duties only if both the presiding officer and the deputy presiding officer for the poll are present.

(4) A ballot that is not contained in an inner envelope must not be rejected if it is found in the ballot box in a sealed outer envelope but, after being taken from the outer envelope, the ballot must be placed and sealed in an inner envelope without being unfolded and that envelope must be mixed together with the other inner envelopes.

(5) An inner envelope that is found in the ballot box other than within an outer envelope must be so marked and set aside and is deemed to be a rejected ballot.

(6) A ballot found in the ballot box other than in an outer envelope must be so marked and laid aside and is deemed to be a rejected ballot. 2011, c. 5, s. 106; 2015, c. 17, s. 44; 2020, c. 8, s. 25.

Counting of write-in ballots

114 (1) The returning officer or assistant returning officer may appoint additional presiding officers and deputy presiding officers to assist with the counting of the ballots for the write-in ballot poll.

(2) After the close of polls on election day or at such earlier time as approved by the Chief Electoral Officer, the presiding officer and deputy presiding officer, in full view of any candidate representative present, shall

- (a) remove the seals from the ballot box;
- (b) record the number of outer envelopes rejected and accepted, and secure the outer envelopes, the poll record, the voters' write-in ballot applications and any other documents;
- (c) open the outer envelopes that have been accepted and remove the inner envelopes;
- (d) mix the inner envelopes together in the ballot box;
- (e) remove the inner envelopes from the ballot box;
- (f) remove the ballot from each inner envelope;
- (g) where fewer than 15 votes are cast at the write-in ballot poll, combine the ballots with the ballots of another polling station in the same electoral district according to the instructions of the Chief Electoral Officer; and

(h) count the vote at the poll in accordance with Sections 151 to 154.

(3) Where no candidate representatives are present, the election officers referred to in subsection (2) may carry out their duties only if both the presiding officer and the deputy presiding officer for the poll are present.

(4) A ballot that is not contained in an inner envelope must not be rejected if it is found in the ballot box in a sealed outer envelope but, after being taken from the outer envelope, the ballot must be placed and sealed in an inner envelope without being unfolded and that envelope must be mixed together with the other inner envelopes.

(5) An inner envelope that is found in the ballot box other than within an outer envelope must be so marked and set aside and is deemed to be a rejected ballot.

(6) A ballot found in the ballot box other than in a sealed outer envelope must be so marked and set aside and is deemed to be a rejected ballot.

(7) In the manner prescribed by the Chief Electoral Officer, the presiding officer shall secure the envelopes containing the statement of poll, the ballots, the poll record, outer envelopes of the write-in ballots, write-in ballot applications and any other prescribed documents and deliver them to the returning officer.

(8) Notwithstanding Section 154, a ballot must be set aside and is deemed to be a rejected ballot if the voter has on the ballot

(a) printed or written the name of a person who is not a candidate;

(b) printed, written or marked only the name of a registered party that did not sponsor a candidate; or

(c) printed or written only the name of a political party that is not a registered party.

(9) It is not necessary that a voter print or write on a ballot the name of a candidate or the name of a registered party as specified for use on the ballot in the nomination documents.

(10) Where the name of a candidate or registered party is printed or written on the ballot in such manner that it is clear for which candidate the voter intended to vote or to which registered party the voter intended to refer, the ballot must be counted.

(11) The presiding officer shall keep a record in the poll record of every objection made by a candidate, agent of a candidate or elector who was present during the counting of the ballots. 2011, c. 5, s. 107; 2015, c. 17, s. 45; 2020, c. 8, s. 26.

Assistance to vote by write-in ballot

115 (1) Subject to subsection (2), where an elector is unable to attend or vote in person at a poll and the elector wishes to vote by write-in ballot, the elector may request the assistance of an election officer or appoint an elector's agent in accordance with this Section.

(2) The appointment of the elector's agent must be in writing and contain a statement signed or marked by the elector to appoint the elector's agent.

(3) An elector's agent appointed under subsection (1) shall take an oath in the prescribed form that the elector's agent

- (a) is at least 18 years of age;
- (b) will not try to influence the elector in choosing a candidate; and
- (c) has not, except as permitted under subsection (4), assisted another elector.

(4) A person appointed as an elector's agent may not assist more than one elector in an election unless the person is the child, grandchild, sibling, parent, grandparent, spouse or caregiver of the elector. 2011, c. 5, s. 108; 2015, c. 17, s. 46.

INTERNET VOTING

Chief Electoral Officer may permit

116 The Chief Electoral Officer may permit Internet voting on Internet polling days as prescribed by the Chief Electoral Officer. 2020, c. 8, s. 27.

Requirements to vote

117 No person may vote by Internet voting unless

- (a) the person's name appears on the applicable list of electors;
- (b) the person's name is added to the applicable list of electors in accordance with this Act or the regulations; or
- (c) the person's name is added to the applicable list of electors by the person providing evidence, acceptable to the Chief Electoral Officer, that the person is
 - (i) a resident of the Province,
 - (ii) a member of the Canadian Armed Forces, as defined in Section 42, or such other person or class of persons as prescribed in the regulations, and
 - (iii) stationed outside the Province or will be so stationed during an election. 2020, c. 8, s. 27.

Polling station

118 (1) An Internet voting returning officer shall establish at least one polling station for Internet voting for every election.

(2) Each polling station established under subsection (1) must be equipped with at least one personal computing device that is capable of casting an Internet ballot. 2020, c. 8, s. 27.

Polling locations

119 (1) In addition to establishing at least one polling station under subsection 118(1), an Internet voting returning officer may establish one or more polling locations for Internet voting during Internet polling days.

(2) A polling location established under subsection (1) may be at such place and be open during such times as may be determined by the Internet voting returning officer.

(3) A polling location established under subsection (1) must be equipped with at least one device capable of casting an Internet ballot.

(4) A polling location established under subsection (1) is not a polling station within the meaning of this Act. 2020, c. 8, s. 27.

Systems elections officer must verify

120 (1) A systems elections officer must have access to the system prior to the commencement of Internet voting and shall verify that the count for each candidate is zero prior to the commencement of Internet voting.

(2) Notwithstanding the day and time set for Internet voting, Internet voting may not commence until a systems elections officer has verified that the count for each candidate is zero under subsection (1). 2020, c. 8, s. 27.

Procedures and forms

121 A systems elections officer shall comply with any procedures and forms established by the Chief Electoral Officer. 2020, c. 8, s. 27.

Internet ballot box

122 (1) The system must put an Internet ballot cast by an elector in the Internet ballot box.

(2) The system must reject an Internet ballot when processing results if any of the criteria for rejecting a ballot under subsection 154(1) are met.

(3) The system must put rejected ballots in the Internet ballot box. 2020, c. 8, s. 27.

Advance voting

123 Where Internet voting closes before the close of the polls on election day, the system must

- (a) record in the poll record each elector who has voted;
- (b) generate a list of all electors who voted by Internet voting; and
- (c) on the applicable lists of electors, cause a line to be drawn through the name of all electors who voted during Internet polling days. 2020, c. 8, s. 27.

Copies of records and lists

124 An electronic copy of the records and lists recorded or generated under Section 123 must be delivered to the Internet voting returning officer within 24 hours of the close of Internet voting. 2020, c. 8, s. 27.

List of electors

125 Where Internet voting closes at the close of the polls on election day, the system must generate a list of all electors who voted by Internet voting. 2020, c. 8, s. 27.

Counting of ballots

126 (1) At the close of polls on election day, the system must generate a count of Internet ballots in the ballot box that were cast for each candidate during Internet polling days.

(2) In counting the votes that were cast for each candidate during Internet polling days, the system must not count rejected ballots. 2020, c. 8, s. 27.

Rejected ballots

127 At the close of polls on election day, the system must count the number of rejected ballots that were cast during Internet polling days and deliver that count to the Internet voting returning officer. 2020, c. 8, s. 27.

Recount

128 (1) In the event of a recount, the system must regenerate the Internet voting election count and a printed copy of the regenerated count must be given to the Internet voting returning officer.

(2) Where the initial count and the regenerated count match, the regenerated count is the final count of the votes cast by Internet voting.

(3) Where the regenerated count and the initial count do not match, the Internet voting returning officer shall

(a) direct one final count to be regenerated by the system of the votes cast by Internet voting; and

(b) attend while the final count is being regenerated.

(4) Where a final count is regenerated under subsection (3), the regenerated final count is the final count of the votes cast by Internet voting. 2020, c. 8, s. 27.

Recount by judge

129 (1) Where a recount by a judge is undertaken in accordance with Sections 178 to 186, the judge shall only consider the final count by the system, as determined under Section 128, of the total number of votes that were cast by Internet voting for each candidate.

(2) The final count of the system, as determined under Section 128, of the total number of votes cast by Internet voting for each candidate must be added

to the judge's count of the number of votes for each candidate cast by non-Internet voting. 2020, c. 8, s. 27.

Secret ballot

130 An election officer and a systems election officer shall maintain and aid in maintaining the secrecy of Internet voting. 2020, c. 8, s. 27.

Offences

- 131 (1)** No person shall
- (a) use another person's personal identification number to vote or access the system;
 - (b) take, seize or deprive an elector of the elector's personal identification number; or
 - (c) sell, gift, transfer, assign or purchase a personal identification number.
- (2)** No person shall
- (a) interfere or attempt to interfere with an elector who is casting an Internet ballot;
 - (b) interfere or attempt to interfere with Internet voting; or
 - (c) attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.

(3) No candidate, official agent or person acting on behalf or in support of a candidate shall provide a personal computing device for the purpose of casting an Internet ballot. 2020, c. 8, s. 27.

Penalty

132 (1) A person who violates Section 131, permits a violation of Section 131 or makes a false statement in a declaration respecting any matter referred to in Section 131 is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$5,000 and not more than \$10,000, to imprisonment for a term of not more than two years less a day or to both a fine and imprisonment.

- (2)** In determining a penalty under subsection (1), a judge shall consider
- (a) the number of votes attempted to be interfered with;
 - (b) the number of votes interfered with; and
 - (c) any potential or actual interference with the outcome of an election. 2020, c. 8, s. 27.

PROCEEDINGS AT ELECTION DAY POLL

Duties immediately prior to opening poll

133 During the 30 minutes before the opening of the polling station, the deputy returning officer shall, in the presence of the poll clerk and any candidates, or their scrutineers or electors as may be present,

- (a) post signs providing directions to electors inside and outside the polling location;
- (b) inspect, count and record the number of the ballots in the poll record and permit a candidate, scrutineer or elector to examine all election materials;
- (c) show the ballot box to all persons present to show it is empty, seal or lock it so that it cannot be opened without breaking the seal and place it on a table in full view of all present where it must remain sealed or locked until the close of the poll except as permitted in Section 134; and
- (d) affix the deputy returning officer's initials on the ballots either entirely with ink of one colour or entirely with a black lead pencil. 2011, c. 5, s. 109; 2015, c. 17, s. 47.

Ballot box moved for elderly or disabled voter

134 Notwithstanding Section 133, and according to instructions of the Chief Electoral Officer, the ballot box may be moved by an election officer to facilitate voting by an elderly or disabled elector. 2011, c. 5, s. 110.

Duties during polling hours

135 (1) At the time determined for the opening of a polling station and during polling hours, the election officer designated by the Chief Electoral Officer, according to instructions of the Chief Electoral Officer, shall

- (a) admit into the polling station each elector who has not already voted;
- (b) request that the elector state the elector's name and address;
- (c) request identification proving the elector's identity and residence as prescribed by the Chief Electoral Officer;
- (d) where the elector is unable to show identification as requested in clause (c), have the elector attest to the elector's name, address and eligibility to vote by signing the prescribed form;
- (e) where the elector is qualified to vote under Section 146, and subject to the elector providing the identification provided for in clause (c) or attesting to the elector's identity and eligibility as provided for in clause (d), fold the ballot so that when folded the deputy returning officer's initials can be seen without unfolding it;
- (f) deliver the folded ballot to the elector with instructions on the proper method for voting;
- (g) record in the poll record that the elector has voted; and
- (h) direct the elector to return the ballot, when marked, folded as shown with the counterfoil attached.

(2) Each deputy returning officer shall, on request,

- (a) at intervals of no less than one hour, provide to a scrutineer in the prescribed form, the name, address and unique number of every elector who has voted on election day, excluding that of electors who were added to the list of electors on election day; and

(b) permit a scrutineer to view the information of electors who, on election day, were added to the list of electors and voted. 2011, c. 5, s. 111; 2015, c. 17, s. 48.

Voting procedure

136 An elector, on receiving a ballot, shall

(a) proceed into the voting compartment and using a pencil or pen, mark with a cross, an “X”, a check mark, a line or other mark on the blank space provided on the ballot opposite the name of the candidate for whom the elector wishes to vote;

(b) fold the ballot so that the initials and the serial number on the counterfoil can be seen without unfolding it;

(c) return and hand the ballot to the deputy returning officer, who shall

(i) without unfolding it, ascertain that it is the same ballot delivered to the elector and, where it is, remove the counterfoil, and

(ii) return the ballot to the elector to deposit in the ballot box or, in full view of the elector and all others present, deposit the ballot in the ballot box; and

(d) leave the polling station. 2011, c. 5, s. 112.

Oath may be required

137 (1) Where required by an election officer or a candidate, a scrutineer or an elector representing a candidate, an elector shall, before receiving a ballot, take an oath in the prescribed form.

(2) Where the elector refuses to take the oath under subsection (1), the elector may not be permitted to vote and the appropriate notation must be made in the poll record.

(3) A person who has taken the required oath is entitled to receive a ballot even if another person has already voted under the person’s name. 2011, c. 5, s. 113; 2015, c. 17, s. 49.

Secrecy of vote

138 (1) Voting during an election is by secret ballot.

(2) Every person present at a polling station either to exercise the right to vote, assist an elector to vote or to witness or participate in the counting of the vote shall preserve the secrecy of the ballot and shall not

(a) attempt to discover how a person voted;

(b) communicate information regarding how another person voted or marked a ballot;

(c) induce an individual to show the ballot in a way that reveals how the individual voted; or

(d) take a photograph or copy of a marked ballot. 2011, c. 5, s. 114; 2015, c. 17, s. 50.

Assistance in voting

139 (1) Where an elector is unable to mark a ballot because of physical disability or difficulty reading or writing, the elector may be assisted in voting by an election officer or by an elector's agent.

(2) An elector's agent shall not act under this Section to assist more than one elector in an election unless the elector's agent is the child, grandchild, sibling, parent, grandparent, spouse or caregiver of the elector.

- (3)** The elector's agent shall take an oath that the agent will
- (a) mark the ballot in the manner directed by the elector;
 - (b) not disclose the name of the candidate for whom the elector voted;
 - (c) not try to influence the elector in choosing a candidate;
- and
- (d) not, except as permitted under subsection (2), assist another elector under this Section.

(4) The election officer or elector's agent who is assisting the elector shall accompany the elector to the voting compartment and mark the ballot in accordance with the directions of the elector.

(5) Where the ballot has been marked under subsection (4), the election officer shall enter in the poll record

- (a) the reason why the ballot was marked with assistance;
- (b) the name of the person who assisted the elector; and
- (c) that the required oaths were taken. 2011, c. 5, s. 115; 2015, c. 17, s. 51.

Cancelled ballot

140 Where an elector has inadvertently dealt with a ballot so that it should not be used,

- (a) the elector shall return it to the deputy returning officer; and
- (b) the deputy returning officer shall
 - (i) without showing the ballot to any other person, write "cancelled" upon the back of the ballot and place it into the envelope provided for the purpose, and
 - (ii) provide the elector with another ballot. 2011, c. 5, s. 116.

Error on list

141 Where an elector's name or address does not match a name and address on the list of electors, the elector may receive a ballot and vote if the elector completes the prescribed form and

- (a) provides the prescribed proof of identity and residence; or
- (b) swears or affirms the elector's eligibility to vote and current residence before an election officer. 2011, c. 5, s. 117.

Elector declines to vote

142 (1) Where an elector who received a ballot declines to vote, the deputy returning officer shall mark the ballot “declined” and follow the prescribed process.

(2) Where an elector who received a ballot declines to vote, the elector may not be given a further ballot. 2020, c. 8, s. 28.

Interpreter

143 (1) Where neither the deputy returning officer nor another election officer understands the language spoken by a person admitted to a polling station, the deputy returning officer shall

(a) where possible, obtain an interpreter who shall be the means of communication between the deputy returning officer and the elector with reference to all matters required to enable the elector to vote; or

(b) where no interpreter is obtained and the person is required to take an oath in order to vote, not allow the elector to vote until an interpreter is obtained.

(2) Every person other than an election officer must take an oath in the prescribed form before acting as an interpreter. 2011, c. 5, s. 119.

Vote by bedridden patient

144 Where a polling station has been established in a residential centre, the deputy returning officer and poll clerk, while the polling station is open, may

(a) suspend temporarily the voting in the polling station; and

(b) accompanied by a representative of the facility and, where permitted by the facility, not more than one scrutineer for each candidate, if any, carry the ballot box, poll book, ballots and other necessary election documents from room to room in the facility and take the votes of the bedridden patients who meet the conditions under Section 146 to vote in the polling station. 2011, c. 5, s. 120; 2015, c. 17, s. 52.

WHO MAY VOTE AT A POLL**No right to vote**

145 A person may not vote if

(a) the person refuses to take the oath as provided for in subsection 137(1);

(b) subject to clause 146(e), the deputy returning officer has received a transfer certificate pursuant to Section 105 from the returning officer certifying that the elector is entitled to vote at another polling station; or

(c) the person fails to comply with Section 146. 2011, c. 5, s. 121.

Right to vote

146 Subject to Section 145, a person may vote

(a) at the returning office continuous poll, community continuous poll, advance poll or the write-in ballot poll if the person's name is on the list of electors for the electoral district where the person resides;

(b) at an election day poll if the person's name is on the official list of electors for the polling station of the polling division where the person resides;

(c) where the person applies to be added to the appropriate list of electors pursuant to Section 147 if the person's name is not on the list of electors, the revised list of electors or the official list of electors for a polling division;

(d) where the person delivers to the deputy returning officer of the polling station if the person's name is not on the list of electors, the original transfer certificate issued under Section 105; or

(e) where the person delivers to the deputy returning officer of the polling station if the person's name is on the list of electors, the original transfer certificate issued under Section 105. 2011, c. 5, s. 122; 2015, c. 17, s. 53.

Voting at special poll

147 (1) A person whose name is not on

(a) the list of electors;

(b) the revised list of electors; or

(c) the official list of electors,

for a polling division where the person resides may vote by write-in ballot, at the returning office continuous poll, the advance polling station or the polling station on election day if the person applies to be added to the appropriate list by completing the prescribed application for addition and providing proof of identity and residence in the prescribed form or taking the prescribed oath.

(2) The application for addition must be made to

(a) the presiding officer or deputy presiding officer when applying for a write-in ballot in the returning office or when voting at the returning office continuous poll;

(b) a poll clerk when voting at the advance poll or at the polling station on election day; or

(c) a write-in ballot coordinator who is conducting the write-in ballot poll outside the returning office.

(3) Upon accepting the application for addition,

(a) in the case of a write-in ballot poll in the returning office, the presiding officer or deputy presiding officer shall add the elector to the list of electors, and the presiding officer shall cause to be delivered to the elector a write-in ballot kit to the elector;

(b) in the case of the returning office continuous poll, the presiding officer or deputy presiding officer shall add the elector to the list of electors;

(c) in the case of the advance poll and an election day poll, the poll clerk shall add the elector to the revised list of electors or the official list of electors respectively and issue to the elector a certificate in the prescribed form to be presented to the deputy returning officer; or

(d) in the case of a write-in ballot poll where an application is approved outside the returning office, the write-in ballot coordinator shall cause to be delivered to the elector a write-in ballot kit to the elector and shall add the elector to the list of electors. 2011, c. 5, s. 123.

Secrecy of vote

148 A person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting. 2011, c. 5, s. 124.

Peace and order at polling station

149 A returning officer, during an election, and a poll supervisor and deputy returning officer, during the hours a polling station is open or while the votes are being counted,

(a) shall maintain peace and order as far as reasonably possible at the election proceedings for which they are responsible;

(b) may of the officer's own accord, or on the written request of a candidate, a scrutineer or an elector representing a candidate, appoint a constable in the prescribed form in the poll record;

(c) may restrict or regulate the number of persons admitted at any time to a polling station or polling location;

(d) may order a person to leave a polling station or polling location if, in the officer's opinion, the person is

(i) not permitted to be at the polling station or polling location,

(ii) disturbing the peace and order,

(iii) interfering with the conduct of voting, or

(iv) contravening this Act;

(e) may require proof of identification from a person who is ordered to leave under clause (d);

(f) may order the removal of a person ordered to leave under clause (d) if the person does not comply; and

(g) may request the assistance of peace officers to maintain peace and order. 2011, c. 5, s. 125; 2015, c. 17, s. 54; 2020, c. 8, s. 29.

Election officer has authority of peace officer

150 For the purpose of Section 149, from the time a writ of election is issued until a candidate is declared elected, an election officer referred to in Section 149 has all the authority and protections of a peace officer. 2011, c. 5, s. 126.

COUNTING AND REPORTING THE VOTES

Procedure after close of poll

151 (1) Immediately after the close of the poll, the deputy returning officer assisted by a poll clerk shall count the vote in full view of every candidate representative present.

(2) The deputy returning officer shall count the votes at the poll in accordance with Sections 152 to 154.

(3) A candidate representative present may object to the acceptance or the rejection of a ballot and the deputy returning officer shall record the objection in the poll record in the prescribed manner.

(4) Where no candidate representatives are present, the election officers referred to in subsection (1) may carry out their duties only if both the election officers referred to in subsection (1) are present.

(5) In the manner prescribed by the Chief Electoral Officer, the deputy returning officer shall secure the envelopes containing the statement of poll, the ballots, and the poll record, and any other documents and deliver them to the agent of the returning officer or the returning officer directly in accordance with the instructions of the returning officer. 2011, c. 5, s. 127; 2015, c. 17, s. 55; 2020, c. 8, s. 30.

Counting and reporting

152 (1) The deputy returning officer or presiding officer, according to instructions of the Chief Electoral Officer, shall

(a) count the number of voters recorded as having voted at the polling station and write the number in the statement of poll;

(b) count the number of cancelled ballots, place them in the envelope provided, record the number on the envelope and seal it;

(c) count the number of declined ballots;

(d) count the number of unused ballots, place them with the stubs of all used ballots in the envelope provided, record the number of the unused ballots on the envelope and seal it; and

(e) remove the seals from the ballot box and count the votes on the ballots according to Sections 153 and 154.

(2) Where fewer than 15 votes are cast at the polling station, the deputy returning officer or presiding officer shall combine the ballots with the ballots of another polling station in the electoral district according to the instructions of the Chief Electoral Officer.

(3) After counting the votes, the deputy returning officer or presiding officer according to instructions of the Chief Electoral Officer shall

(a) complete and sign a statement of poll, in the prescribed form, setting out the number of votes cast for each candidate, the number of rejected ballots, the number of cancelled ballots, the number of declined ballots and any other prescribed information;

(b) attach one copy of the statement of poll to the poll record, retain one copy and enclose one copy in the envelope provided to deliver it to the returning officer;

(c) make available one copy of the statement of poll for candidates, scrutineers, or electors representing a candidate, who are present and request it;

(d) place the ballots cast for each candidate in a separate envelope provided for the purpose, write on it the name of the candidate and the number of votes the candidate received and seal it;

(e) place the rejected ballots in the appropriate envelope, write on it the number of rejected ballots and seal it; and

(f) place the declined ballots in the appropriate envelope, write on it the number of declined ballots and seal it. 2011, c. 5, s. 128; 2015, c. 17, s. 56; 2020, c. 8, s. 31.

Examination of ballots

153 (1) During the counting of the votes, a deputy returning officer or presiding officer shall decide whether the ballot should be rejected under Section 154 or counted and give each person present the opportunity to examine the ballot.

(2) Where ballot is to be counted, the deputy returning officer or presiding officer shall call out the vote and have it entered on the tally sheet.

(3) During the counting of the votes, where a ballot is found with the counterfoil attached or without the initials of the deputy returning officer or presiding officer, the deputy returning officer or presiding officer shall, in the presence of any person present in the polling station,

(a) after carefully concealing the number on the counterfoil and without examining it, remove and destroy the counterfoil; or

(b) where satisfied that the ballot is one that was provided to an elector to be used at the polling station according to this Act, initial the ballot,

and subject to Section 154, count the vote on the ballot. 2011, c. 5, s. 129; 2015, c. 17, s. 57.

Rejection of ballot

154 (1) During the counting of the votes, a deputy returning officer or presiding officer shall reject and place in the appropriate envelope a ballot

(a) that was not provided to an elector by the deputy returning officer or presiding officer;

(b) that is not marked for any candidate;

(c) upon which the specified space at the right of the name of a candidate is not marked in a manner that shows the elector's intent;

(d) on which votes have been given for more candidates than are to be elected;

(e) that is so marked as to render it uncertain for which candidate or candidates, if more than one is to be elected, the elector has voted; or

(f) that is marked in a way that could identify the voter,

but no ballot may be rejected because of a writing, number or mark placed on the ballot by the deputy returning officer or presiding officer.

(2) Where during the counting of the votes a candidate, a scrutineer or an elector, who is present, objects to any ballot found in the ballot box, the deputy returning officer or presiding officer shall hear, make and declare a decision on each objection, which decision is final, subject only to reversal on a recount or on a petition questioning the election or return, and

(a) where the ballot is declared rejected, place it in the appropriate envelope; or

(b) where the ballot is declared not rejected, count the vote on the ballot. 2011, c. 5, s. 130; 2015, c. 17, s. 58.

TIME FOR EMPLOYEE TO VOTE

Guidelines and exceptions

155 (1) An employee who is an elector is entitled, while the polls are open on election day, to three consecutive hours for the purpose of casting the employee's vote.

(2) Where the employment of an employee does not permit the use of three consecutive hours of the employee's own time for voting, the employer shall allow the employee such additional time with pay from the hours of the employee's employment as may be necessary to provide the three consecutive hours, but the additional time for voting must be granted to the employee at the time of day that best suits the convenience of the employer.

(3) This Section does not apply to an employee who is engaged in the operation and dispatch of scheduled railway trains, buses, motor transports, ships or aircraft and to whom the three consecutive hours mentioned in subsection (1) cannot be allowed without interfering with the scheduled operation or dispatch of the trains, buses, motor transports, ships or aircraft. 2011, c. 5, s. 131.

ADVANCE POLL

Establishing

156 At the direction of the Chief Electoral Officer, the returning officer shall establish an advance polling station in a convenient place that is accessible by an elector who has a physical disability. 2015, c. 17, s. 59.

Hours

157 (1) An advance polling station must be open on

(a) Saturday, the 10th day before election day, until and including Saturday, the third day before election day, excluding Sunday, commencing at the hour of 9:00 a.m. and ending at 6:00 p.m.; and

(b) Thursday, the fifth day before election day, and Friday, the fourth day before election day, commencing at the hour of 9:00 a.m. and ending at 8:00 p.m.

(2) The dates and times must be the same for all electoral districts in which an election is being held. 2011, c. 5, s. 134; 2015, c. 17, s. 60.

List of electors to be used

158 The revised list of electors must be used for the advance poll. 2011, c. 5, s. 135; 2015, c. 17, s. 61.

Continuous poll provisions apply

159 The provisions of this Act respecting staffing, polling stations, voting procedure, securing and sealing the ballot box, counting of the vote, keeping of records and access to information at the poll by a scrutineer apply to an advance poll in the same manner as the continuous poll in so far as they are applicable. 2015, c. 17, s. 62; 2020, c. 8, s. 32.

Custody of ballot box

160 (1) On the close of an advance poll, the presiding officer shall deliver the ballot box to the returning officer, and the ballot box must remain in the custody of the returning officer until the counting of the votes takes place at the close of polls on election day.

(2) Subsection (1) does not apply if the returning officer directs the presiding officer to maintain custody of the ballot box. 2011, c. 5, s. 138; 2015, c. 17, s. 63.

Duties at close of advance poll

161 (1) At the close of an advance poll on each day of advance polling, the presiding officer shall provide a list of the persons who voted at the advance polling station in the prescribed manner, and forthwith deliver it to the returning officer.

(2) At the close of an advance poll on the last day of the advance poll, unless the Chief Electoral Officer has authorized the use of electronic ballots under Section 168, the presiding officer, in full view of any candidate representative present, shall

(a) open the ballot box and separate the ballots cast by electors who reside in the electoral district of the advance poll from the ballots cast by electors who reside in another electoral district;

(b) place the ballots of the electors who reside in the district of the advance poll in the ballot box and reseal the ballot box; and

(c) place the ballots of the electors who reside in another district in an envelope and deliver it to the returning officer who shall deliver the envelope to the place prescribed by the Chief Electoral Officer.

(3) At the close of the poll on election day, at the place where the advance poll was held or at the returning office for the electoral district, or at the place prescribed by the Chief Electoral Officer, a minimum of two presiding officers, in full view of any candidate representative present, shall count the vote of the electors who voted at the advance poll

(a) where a paper ballot is used, in accordance with Sections 152 to 154; or

(b) where an electronic ballot is used by

(i) completing the transmittal of the vote,

(ii) printing a record of the transmittal of the vote in duplicate,

(iii) posting a copy of the record of the transmittal of the vote for any candidate representative present to inspect, and

(iv) completing the statement of poll.

(4) At the close of the poll on election day, at the place prescribed by the Chief Electoral Officer, a presiding officer and a deputy presiding officer shall count, in full view of representatives of registered parties and up to two scrutineers for each independent candidate, as are present, or, where none of them are present, in the presence of at least two electors, the vote on the ballots of the electors who reside in another district of the advance poll according to the instructions of the Chief Electoral Officer.

(5) A candidate, a scrutineer or an elector representing a candidate may object to the acceptance or the rejection of a ballot and the presiding officer shall record the objection in the poll record in the prescribed manner.

(6) Where no candidate representatives are present, the presiding officers referred to in subsections (2) and (3) may carry out their duties only if at least two presiding officers are present.

(7) As instructed by the Chief Electoral Officer, the presiding officer shall secure the envelopes containing the statement of poll, the ballots and the poll record, and any other documents, and deliver them to the agent of the returning officer or the returning officer directly in accordance with the instructions of the returning officer. 2011, c. 5, s. 139; 2015, c. 17, s. 64; 2020, c. 8, s. 33.

Community continuous poll

162 The Chief Electoral Officer may direct a returning officer to conduct a community continuous poll at a specified location for any time and period from the 27th day before election day up to and including the third day before election day. 2015, c. 17, s. 65.

Continuous poll provisions apply to community continuous poll

163 The provisions of this Act respecting staffing, polling stations, voting procedure, securing and sealing the ballot box, counting of the vote, keeping of records and access to information at the poll by a scrutineer apply to a community continuous poll in the same manner as the continuous poll in so far as they are applicable. 2015, c. 17, s. 65; 2020, c. 8, s. 34.

RETURNING OFFICE CONTINUOUS POLL

Establishment and hours

164 (1) A returning office continuous poll must be established in the office of each returning officer according to the instructions of the Chief Electoral Officer.

(2) A returning office continuous poll must commence no later than the 27th day before election day and be conducted every day except Sunday during the hours the returning office is open to the public

(a) up to and including election day for electors who reside in the electoral district; and

(b) up to and including the third day before election day for electors who reside in another electoral district. 2015, c. 17, s. 66.

Staff

165 The returning officer shall appoint a minimum of two presiding officers to conduct the continuous poll. 2015, c. 17, s. 66; 2020, c. 8, s. 36.

Assistance for elector

166 When an elector requires assistance from the elector's agent to vote at the continuous poll, the elector may obtain assistance in voting in accordance with the requirements under Section 139. 2015, c. 17, s. 66.

Securing of ballot box

167 On the first day of the continuous poll the presiding officer, in full view of the candidates and up to two scrutineers for each candidate or up to two electors representing each candidate, as may be present, shall

(a) open the ballot box and ensure it is empty; and

(b) secure the ballot box according to the instructions of the Chief Electoral Officer. 2011, c. 5, s. 141; 2015, c. 17, s. 67.

Electronic ballots

168 (1) The Chief Electoral Officer may direct that a returning office continuous poll use electronic ballots instead of paper ballots.

(2) The Chief Electoral Officer shall inform all registered parties of a direction under subsection (1) in a manner considered appropriate by the Chief Electoral Officer. 2020, c. 8, s. 37.

Procedure during continuous poll

169 (1) Each day at the time determined for the opening of the continuous poll and during polling hours, the presiding officer, according to the instructions of the Chief Electoral Officer, shall

(a) admit into the polling station each elector who has not already voted;

(b) have the elector state the elector's name and address;

(c) request identification proving the elector's identity and residence as prescribed by the Chief Electoral Officer; and

(d) where the elector is unable to show identification as requested in clause (c), have the elector attest to the elector's name, address and eligibility by signing the prescribed form.

(2) Where the elector is qualified to vote under Section 146 or 147, subject to the elector providing the identification provided for in clause (1)(c) or attesting to the elector's identity as provided for in clause (1)(d), the presiding officer shall

- (a) where a paper ballot is used,
 - (i) initial the ballot,
 - (ii) fold the ballot so that when folded the presiding officer's initials can be seen without unfolding it,
 - (iii) deliver the ballot to the elector with instructions on the proper method for voting,
 - (iv) record in the poll record that the elector has voted, and
 - (v) direct the elector to return the ballot, when marked, folded as shown; or
- (b) where an electronic ballot is used,
 - (i) deliver the ballot envelope to the elector and provide instructions on completing the voting process, and
 - (ii) record in the poll record that the elector has voted.

(3) Where a paper ballot is used, an elector, on receiving a ballot, shall proceed into the voting compartment and

- (a) use a pencil or pen to mark the ballot by printing or writing on it in the space provided
 - (i) the name of the candidate for whom the elector intends to vote, or
 - (ii) the name of the registered party that endorsed the candidate the elector wishes to have elected,

or both, or

- (iii) a cross, an "X", a check mark, a line or other mark opposite the name of the candidate for whom or the name of the registered party for which the elector wishes to vote; and
- (b) return and hand the ballot to the presiding officer, who shall
 - (i) without unfolding it, ascertain that it is the same ballot delivered to the elector, and
 - (ii) where it is the same ballot, return the ballot to the elector to deposit in the ballot box or in full view of the

elector and all others present deposit the ballot in the ballot box; and

(c) leave the polling station.

(4) Where an electronic ballot is used, an elector, on receiving a ballot envelope, shall proceed into the voting compartment and

(a) scan the ballot envelope to retrieve the electronic ballot;

(b) use the device provided to mark the electronic ballot by following the instructions provided and marking the elector's selection;

(c) upon marking the elector's selection, confirm the selection, retrieve the elector's ballot receipt and then fold the ballot receipt and place it in the ballot envelope as instructed;

(d) proceed to the presiding officer, who shall

(i) without unfolding it, confirm the ballot receipt is contained in the ballot envelope, and

(ii) where the ballot receipt is contained in the ballot envelope, seal the ballot envelope and return it to the elector to deposit in the ballot box or, in full view of the elector and all others present, deposit the ballot envelope in the ballot box; and

(e) leave the polling station.

(5) At the close of voting on each day of the returning office continuous poll, the presiding officer shall in the presence of candidates and scrutineers or electors representing candidates who are present

(a) affix a seal on the ballot box in such a manner that the ballot box cannot be opened or anything deposited in or removed from it without breaking the seal;

(b) note the number of the seal in the poll record; and

(c) secure the ballot box, poll record and other voting materials as instructed by the Chief Electoral Officer until the opening of the continuous poll the next day.

(6) At the opening of the returning office continuous poll on each voting day, the presiding officer, in the presence of the candidates and scrutineers or electors representing candidates who are present, shall remove the seal from the returning office continuous poll ballot box, open the secured materials and open the poll. 2011, c. 5, s. 142; 2015, c. 17, s. 68; 2020, c. 8, s. 38.

Duties at close of continuous poll

170 (1) At the close of a continuous poll on the third day before election day, unless the Chief Electoral Officer has authorized the use of electronic ballots under Section 168, at least two presiding officers, in full view of any candidate representative present, shall

(a) open the ballot box and separate the ballots cast by electors who reside in the electoral district of the poll from the ballots cast by electors who reside in another electoral district;

(b) place the ballots of the electors who reside in the electoral district of the continuous poll in the ballot box, reseal the ballot box and initial the seals; and

(c) place the ballots of the electors who reside in another electoral district in an envelope and deliver it to the returning officer, who shall deliver the envelope to the place prescribed by the Chief Electoral Officer.

(2) Where no candidate representatives are present, the election officers referred to in subsection (1) may carry out their duties only if at least two of the presiding officers appointed for the poll under Section 165 are present. 2020, c. 8, s. 39.

Declined ballot at continuous poll

171 Where an elector who has been given a ballot declines to vote at a continuous poll, the presiding officer shall mark the ballot declined and follow the prescribed process for an elector who declines to vote, and the elector may not be given a further ballot. 2020, c. 8, s. 40.

Counting and recording votes

172 (1) At the close of polls on election day, a minimum of two presiding officers shall count the vote in full view of any candidate representative present.

(2) Where fewer than 15 votes are cast at the returning office continuous poll, the presiding officer shall combine the ballots with the ballots from another polling station according to the instructions of the Chief Electoral Officer.

(3) The presiding officers referred to in subsection (1) shall count the vote at the continuous poll

(a) where a paper ballot is used, in accordance with Sections 152 to 154; or

(b) where an electronic ballot is used, by

(i) completing the transmittal of the vote,

(ii) printing a record of the transmittal of the vote in duplicate,

(iii) posting a copy of the record for any candidate representative present to inspect, and

(iv) completing the statement of poll.

(4) Where no candidate representatives are present, the presiding officers referred to in subsections (1) and (3) may carry out their duties only if at least two presiding officers are present.

(5) A candidate representative present may object to the acceptance or the rejection of a ballot and the presiding officer shall record the objection in the poll record in the prescribed manner.

(6) As instructed by the Chief Electoral Officer, the presiding officer shall secure the envelopes containing the statement of poll, the ballots, the ballot receipts, the poll record, and any other documents, and deliver them to the returning officer.

(7) Notwithstanding Section 154, a ballot must be set aside and is deemed to be a rejected ballot if the voter has printed or written on the ballot

- (a) the name of a person who has not been nominated as a candidate;
- (b) the name of a person and a party if
 - (i) the person is not a candidate endorsed by the party, or
 - (ii) the party is not a registered party;
- (c) the name of a registered party that did not sponsor a candidate; or
- (d) the name of a political party that is not a registered party.

(8) It is not necessary that a voter print or write on a ballot the name of a candidate or the name of a registered party as specified for use on the ballot in the nomination documents.

(9) Where the name of a candidate or registered party is printed or written on the ballot in such manner that it is clear for which candidate the voter intended to vote or to which registered party the voter intended to refer, the ballot must be counted.

(10) The presiding officer shall keep a record in the poll record of every objection made by a candidate, a scrutineer or an elector representing a candidate who was present during the counting of the ballots. 2011, c. 5, s. 143; 2015, c. 17, s. 70; 2020, c. 8, s. 41.

PROCEEDINGS AFTER RETURN OF ELECTION MATERIALS AND ON OFFICIAL ADDITION DAY

Security of envelopes containing election materials

173 Upon receipt of the envelopes containing the statement of poll, the ballots or ballot receipts and the poll record, and any other prescribed documents from the designated election officer, a returning officer shall

- (a) where the seal on an envelope is not in good order, affix a further seal without removing the existing one, and record the condition of the seal on the envelope; and
- (b) take every precaution for the safekeeping of the envelopes and any other documents and for preventing any person from having unlawful access to them. 2011, c. 5, s. 144; 2015, c. 17, s. 71; 2020, c. 8, s. 42.

Official addition of votes

174 (1) Subject to Section 175, the official addition of the votes must be held by the returning officer at the returning office commencing at 10:00 a.m. on the second day after election day.

(2) At the official addition of the votes, a returning officer shall, in the presence of the assistant returning officer and any candidate representative present, ascertain the number of votes cast for each candidate in each polling station in the electoral district by obtaining the information

(a) from the statement of poll enclosed in the appropriate envelope; or

(b) from the statement of poll in the poll record in the appropriate envelope if a candidate or the scrutineer objects in writing to the use of the statement of poll in clause (a), or the envelope is missing.

(3) Where no candidate representatives are present, the election officials referred to in subsection (2) may carry out their duties only if both the election officials referred to in subsection (2) are present. 2011, c. 5, s. 145; 2015, c. 17, s. 73; 2020, c. 8, s. 43.

Other sources for ascertaining votes cast

175 (1) Where the statement of poll cannot be obtained for a polling station, the returning officer may ascertain the number of votes cast for each candidate

(a) from the endorsements on the appropriate envelopes that contain the ballots cast for the candidates;

(b) from the designated election officer, presiding officer, or any other person; or

(c) from such evidence as the returning officer is able to obtain.

(2) The returning officer, in the performance of the returning officer's duties under subsection (1),

(a) shall give notice of the proceedings, and of the day and hour thereof, to the candidates or their official agents;

(b) may summon any person to appear before the returning officer at a day and hour to be named by the returning officer and to bring all necessary papers and other documents; and

(c) may examine under oath any person respecting the matter in question. 2011, c. 5, s. 146; 2015, c. 17, s. 74.

Resealing of envelopes

176 Where the poll materials are opened for the purpose of ascertaining the number of votes cast for the candidates, a returning officer shall return all documents and materials to the appropriate envelopes, affix and sign a seal on each envelope, and permit a candidate or a scrutineer to sign each seal. 2011, c. 5, s. 147; 2015, c. 17, s. 75.

Duties after the official addition

177 (1) The official addition of the votes must be completed not later than

- (a) the second day after election day; or
- (b) where the statement of poll cannot be obtained and the returning officer ascertains the number of votes cast for each candidate in accordance with Section 175, the seventh day after election day.

(2) At the completion of the official addition of the votes the returning officer shall

- (a) complete the statement of official results in the prescribed form;
- (b) transmit to the Chief Electoral Officer as instructed by the Chief Electoral Officer
 - (i) a copy of the statement of official results, and
 - (ii) where a statement of a poll was not obtained for a polling station, a statement of how the returning officer ascertained the number of votes cast for each candidate at that polling station; and
- (c) transmit, to each candidate or the candidate's official agent, a copy of the statement of official results.

(3) Where, at the official addition of the votes,

- (a) there is an equality of votes between two or more candidates and an additional vote for one of such candidates would enable one of those candidates to be declared as having obtained the largest number of votes; or
- (b) the number of votes separating the candidate receiving the highest number of votes and any other candidate is fewer than 10,

the returning officer with the assistance of the Chief Electoral Officer shall

- (c) apply for a recount to a judge to whom an application may be made pursuant to Section 178; and
- (d) give written notice to each candidate in the electoral district or the candidate's official agent of the application for a recount.

(4) The provisions of this Act relating to a recount by a judge, except the provisions for security for costs, apply, with such modification as the circumstances require, to an application for a recount by a returning officer under subsection (3). 2011, c. 5, s. 148; 2015, c. 17, s. 76.

RECOUNT BY JUDGE**Application for recount**

178 (1) Within four days after the day on which the returning officer has completed and distributed the statement of official results pursuant to Section 177,

any candidate or official agent of a candidate may, for the purpose of challenging the election of a candidate, apply to a judge of the Supreme Court of Nova Scotia for a recount of all the ballots cast in the electoral district by

- (a) filing an application in the prescribed form with the prothonotary of the Supreme Court;
- (b) specifying on the application as the justification for the recount
 - (i) that a deputy returning officer improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate,
 - (ii) that the returning officer improperly tabulated the votes, or
 - (iii) such other grounds as may justify a recount;
- (c) providing the Chief Electoral Officer with a copy of the application; and
- (d) depositing with the prothonotary the sum of \$100 in legal tender or a certified cheque or money order for that amount made payable to the Minister of Finance and Treasury Board as security for the cost of the recount.

(2) Where an application is made under subsection (1), the Chief Electoral Officer may submit a written response to the application to the judge for the judge's consideration within 24 hours of notification of the application.

(3) Where the judge is satisfied that the application is reasonable, then within two days after the application for a recount has been filed,

- (a) the judge shall by order appoint a date, time and place for the recount; and
- (b) the prothonotary of the Supreme Court shall notify the individual filing the application of the date, time and place at which the recount is to be conducted.

(4) Where the judge is not satisfied that the application is reasonable, the judge shall dismiss the application.

(5) The recount must be held within eight days of the filing of the application for the recount. 2011, c. 5, s. 149; 2020, c. 8, s. 44.

Service of notice

179 (1) Within one day of being notified by the prothonotary pursuant to subsection 178(3), the applicant shall serve notice of the date, time and place of the judicial recount on the

- (a) candidates or their official agents; and
- (b) Chief Electoral Officer.

(2) The judge may order substituted service of the notice of the time and place of the recount. 2011, c. 5, s. 150.

Right to be present at recount

180 (1) The following persons and their counsel may be present before the judge at a recount:

- (a) the applicant;
- (b) the Chief Electoral Officer;
- (c) the returning officer and other appropriate election officers;
- (d) the candidates and not more than three persons representing each candidate; and
- (e) where a candidate is not present or represented, three persons who have requested to attend on the candidate's behalf.

(2) The returning officer and appropriate election officers shall

- (a) attend at the time and place appointed for the recount; and
- (b) bring the sealed envelopes that contain the statement of poll, the ballots, outer envelopes of the write-in ballots, write-in ballot applications, the unused ballots, stubs and the poll record, and any other documents used at the poll, for all polling stations in the electoral district. 2011, c. 5, s. 151.

Procedure at recount

181 (1) The recount must be

- (a) conducted by the returning officer and the appropriate election officers according to procedures established by the Chief Electoral Officer to the extent possible in accordance with Sections 153 and 154; and
- (b) supervised by the judge.

(2) A recount must, so far as practicable, proceed continuously as directed by the judge, until the recount is complete. 2011, c. 5, s. 152.

Duties of judge after recount

182 At the conclusion of a recount and in the presence of those in attendance, the judge shall

- (a) ensure that the ballots are sealed in the same manner as they are at the close of polls on election day and all election documents are secured;
- (b) add the number of votes cast for each candidate as ascertained on the recount;
- (c) certify the result of the recount on the statement of official results in duplicate; and
- (d) transmit
 - (i) the statement of official results in duplicate to the returning officer, and

(ii) a copy of the statement of official results to each candidate, or the candidate's authorized agent, and the Chief Electoral Officer. 2011, c. 5, s. 153.

Costs

183 At the conclusion of a recount, the judge may make such order as the judge considers fit respecting costs, including the disposition of money deposited as security for costs. 2011, c. 5, s. 154.

Appeal of recount

184 (1) A candidate may appeal the decision of the judge who conducted the recount to the Nova Scotia Court of Appeal by filing a notice of appeal with the Registrar of the Court of Appeal within two days following the judge's decision under Section 182 or 183.

(2) Within the appeal period referred to in subsection (1), the appellant shall give written notice of the appeal to the judge who conducted the judicial recount, the candidates or their authorized agents and the Chief Electoral Officer.

(3) Upon receiving the notice of appeal, the Registrar of the Court of Appeal shall immediately

(a) arrange a hearing date that is within 10 days after the notice is received; and

(b) notify the candidates and the Chief Electoral Officer of the time and place of the hearing.

(4) An appeal is limited to decisions made by the judge concerning

(a) specific ballots cast at identified polling stations, and those polling stations must be identified in the notice of appeal; or

(b) the decision of the judge regarding costs.

(5) All ballots related to the polling stations identified in the notice of appeal must be sealed in a separate package and delivered to the Court of Appeal along with a copy of the judge's decision under Section 182 or 183.

(6) Where the appeal is limited to the judge's decision regarding costs, the decision and any submissions respecting the award of costs must be delivered to the Court of Appeal. 2011, c. 5, s. 155.

Appeal procedure

185 (1) The individuals entitled to be present at an appeal of a judicial recount are the same as those entitled to be present at the judicial recount, and other individuals may be present only if permitted by the Court of Appeal.

(2) On the hearing of the appeal, the ballots that are the subject of the appeal must be recounted according to the procedures established under Section 181 and the recount must be supervised by the Court of Appeal.

(3) At the conclusion of the appeal, the Court of Appeal shall declare the results of the election in accordance with its recount decision and must issue to the candidates, the returning officer and the Chief Electoral Officer a certificate of those results. 2011, c. 5, s. 156.

Interpretation Act

186 For the purpose of Sections 178 to 185, time is to be calculated according to the rules in the *Interpretation Act*. 2011, c. 5, s. 157.

RECOUNT BY CHIEF ELECTORAL OFFICER

Determining eligibility for reimbursement

187 (1) Where an application is made pursuant to Section 177(3), the Chief Electoral Officer may, upon the written request of a candidate or the official agent of a candidate, conduct a recount of all the ballots cast in the electoral district for the sole purpose of determining whether a candidate received the required percentage of the valid votes cast in an election to be entitled to reimbursement of election expenses pursuant to Section 299.

(2) The Chief Electoral Officer may designate a person to conduct a recount pursuant to subsection (1).

(3) The Chief Electoral Officer or person designated pursuant to subsection (2) is not required to give notice to any person before conducting a recount pursuant to subsection (1).

(4) Only persons authorized by the Chief Electoral Officer or the person designated pursuant to subsection (2) may be present at a recount pursuant to subsection (1).

(5) The Chief Electoral Officer shall establish procedures to be followed during a recount pursuant to subsection (1).

(6) Following a recount pursuant to subsection (1), the Chief Electoral Officer shall advise the candidate or the official agent of a candidate who requested the recount whether, as a result of the recount, the candidate is entitled to a reimbursement of election expenses pursuant to Section 299 and the amount of the reimbursement to which the candidate is entitled pursuant to that Section.

(7) A written request for a recount pursuant to subsection (1) must be received by the Chief Electoral Officer within 30 days of the election to which it relates.

(8) The decision of the Chief Electoral Officer or the person designated pursuant to subsection (2) respecting a recount pursuant to subsection (1) is final. 2011, c. 5, s. 158; 2015, c. 17, s. 72.

ELECTION RETURN

Declaration of election of candidate

188 (1) Subject to subsection (2) and where a poll is held, the returning officer for each electoral district shall

(a) where there is no recount on the eighth, ninth or 10th day following election day or where the official addition has been conducted in accordance with Section 175, not later than the 14th day after election day; or

(b) where there has been a recount, upon receipt of the statement of official results in duplicate from the judge pursuant to Section 182,

declare elected the candidate for the electoral district having the largest number of votes, by completing the return on the writ in the prescribed form.

(2) Where the statement of official results received from the judge shows that an equality of votes exists between candidates on a recount, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall, at the close of the recount and in the presence of the assistant returning officer, the candidates or their scrutineers who are present or, where none are present, in the presence of at least two electors and in the presence of the judge who conducted the recount,

(a) place the name of each candidate on an equal size piece of paper of the same colour;

(b) fold each piece of paper so that the name of the candidate cannot be seen;

(c) place the folded pieces of paper into a box;

(d) secure the lid of the box;

(e) shake the box;

(f) open the box;

(g) draw one piece of paper from the box;

(h) unfold the piece of paper so that the name on it can be seen;

(i) declare elected the candidate whose name appears on the paper; and

(j) endorse the return on the writ. 2011, c. 5, s. 159; 2015, c. 17, s. 77; 2020, c. 8, s. 45.

RETURN OF ELECTION DOCUMENTS, MATERIALS AND SUPPLIES

Duties on completing return on writ

189 Upon completing the return on a writ, the returning officer shall

(a) cause to be delivered to the Chief Electoral Officer

(i) the writ certified by the returning officer indicating which candidate or candidates, where more than one candidate is to be elected for the electoral district, has been elected,

(ii) the original nomination documents of each candidate,

(iii) where there has been a recount, the statement of official results duly certified in duplicate by the judge, and

- (iv) the final list of electors; and
- (b) cause to be delivered to the Chief Electoral Officer as directed
 - (i) the sealed envelopes that contain the official list of electors, the statement of poll, the ballots, outer envelopes of the write-in ballots, write-in ballot applications, the unused ballots, stubs and the poll record, and any other documents used at the poll, for all polling stations in the electoral district,
 - (ii) all unused election materials and supplies, and
 - (iii) the ballot paper that remains unused or has been spoiled, as well as parts or scraps of ballot paper left over from the printing process. 2011, c. 5, s. 160; 2015, c. 17, s. 78.

Return deemed not received

190 Where a returning officer does not comply with Section 189, the return is deemed not to have been received by the Chief Electoral Officer until Section 189 has been complied with. 2011, c. 5, s. 161.

Duties on receiving return

191 Subject to Section 190, the Chief Electoral Officer, on receiving the return of a member elected to the House of Assembly, shall

- (a) provide the Clerk of the House of Assembly with a copy of the return on the writ;
- (b) give notice of the name of the member elected in an issue of the Royal Gazette and on the Elections Nova Scotia website; and
- (c) inform the Minister of Finance and Treasury Board of the number of votes received by each candidate according to the return. 2011, c. 5, s. 162.

REPORTS OF CHIEF ELECTORAL OFFICER**Reports to House of Assembly**

192 (1) As soon as possible after the election, the Chief Electoral Officer shall prepare a detailed report of the conduct of the election that includes

- (a) the results by candidate for each polling station in the electoral district;
- (b) the total cost of the election;
- (c) such other information as determined by the Chief Electoral Officer; and
- (d) amendments to this Act or any related enactment recommended by the Chief Electoral Officer.

(2) The Chief Electoral Officer shall report at least annually to the House of Assembly on the administration of Elections Nova Scotia and include any recommendations made to the Chief Electoral Officer pursuant to subsection 392(1).

(3) The reports referred to in subsections (1) and (2) and 393(6) must be transmitted to the House of Assembly through the Speaker.

(4) The Speaker shall table the reports referred to in subsection (3) before the House of Assembly if it is sitting or, where it is not sitting, at the next ensuing sitting. 2011, c. 5, s. 163.

CUSTODY OF ELECTION DOCUMENTS BY CHIEF ELECTORAL OFFICER

Controverted Elections Act

193 The Chief Electoral Officer shall request a certificate for each electoral district in which an election was held from the prothonotaries of the Supreme Court of Nova Scotia pursuant to Section 79 of the *Controverted Elections Act*. 2011, c. 5, s. 164.

Government Records Act

194 (1) The Chief Electoral Officer shall destroy the election and electoral finance documents and records in the possession of Elections Nova Scotia in accordance with the *Government Records Act*.

(2) Notwithstanding subsection (1), where an election is contested, the Chief Electoral Officer shall retain the election documents transmitted to the Chief Electoral Officer pursuant to Section 189 until the time for appeal has expired or in accordance with the *Government Records Act*, whichever time period is longer. 2011, c. 5, s. 165.

PART II

ELECTORAL FINANCE

Interpretation

195 In this Part,

“audit” means an examination of financial statements, accounting records and supporting documents by an independent public accountant to obtain reasonable assurance of whether the financial statements or any element of the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and includes

(a) examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;

(b) assessing the accounting principles used and significant estimates made in the financial statements; and

(c) evaluating the overall financial statement presentation;

“audited financial statement” means the audited financial statement of a registered party prepared by an independent public accountant following an audit respecting all money or funds held by or in trust for the party as of the applicable date and includes statements of all

- (a) income, on a gross basis, of the registered party during the reporting period before related or associated expenses are deducted;
- (b) contributions and transfers received by the registered party during the reporting period;
- (c) expenses and transfers made by the registered party during the reporting period;
- (d) loans payable and receivable; and
- (e) assets and liabilities of the registered party;

“bank prime rate” means the prime business rate published by the Bank of Canada;

“contributions” means services, money or other property donated to a registered party, electoral district association, candidate or registered third party or an individual acting on behalf of a registered party, electoral district association, candidate or registered third party to support the political purposes of a registered party, electoral district association, candidate or registered third party, but does not include

- (a) personal services or the use of a vehicle volunteered by an individual unless the services or vehicle are provided as part of that individual’s work in the service of an employer;
- (b) goods or services produced or provided by the voluntary, unpaid labour of an individual;
- (c) an annual membership fee paid to a registered party or electoral district association if
 - (i) the fee does not exceed \$25 in total per calendar year,
 - (ii) no individual pays membership fees for anyone other than that individual or a member of that individual’s immediate family, and
 - (iii) the registered party or electoral district association that receives the fee maintains a current membership list;
- (d) money received at a meeting held on behalf of a registered party, electoral district association, candidate or registered third party in response to a general solicitation of money from individuals in attendance if
 - (i) no individual gives more than \$25, and
 - (ii) the date of the meeting, number of attendees and gross amount received are recorded by the official agent or financial agent or an individual acting on behalf of the official agent or financial agent in accordance with this Act;
- (e) the price paid by an individual for a fundraising event held on behalf of a registered party, electoral district association, candidate or registered third party if the price paid by the individual minus the value of the benefit received by the individual, is \$50 or less;

(f) the net profit resulting from the sale or auction of goods, services or property sold or auctioned on behalf of a registered party, electoral district association, candidate or registered third party to an individual at a fundraising event if the net profit resulting from the sale or auction of goods, services or property is \$50 or less;

(g) a donation in kind if it is made by an individual for the benefit of a registered party, electoral district association, candidate or registered third party if

(i) the fair market value of the donation in kind is \$50 or less, and

(ii) the individual has not already made previous donations in kind with a total value exceeding \$50 as determined pursuant to Section 279;

“corporation” means a corporation incorporated by or pursuant to an Act of the Legislature, a corporation registered under the *Corporations Registration Act* or a corporation doing business in the Province and exempt from registration under that Act but does not include a Crown corporation, a public body within the meaning of the *Freedom of Information and Protection of Privacy Act* or a government business enterprise or governmental unit within the meaning of the *Finance Act*;

“disclosure statement” means the disclosure statement required by Section 271;

“donation in kind” means goods, services or property provided by an individual eligible to make a contribution under this Act for the benefit of a registered party, electoral district association, candidate or registered third party but does not include

(a) personal services or the use of a vehicle volunteered by an individual and not provided as part of that individual’s work in the service of an employer;

(b) the services of an individual who acts as an official agent of a candidate;

(c) the services of an individual who acts as an official agent or officer of a registered party or electoral district association or provides legal counsel to a registered party or electoral district association; or

(d) the services of an individual who acts as a financial agent of a registered third party;

“election advertising expense” means an expense incurred in relation to

(a) the production of an election advertising message; or

(b) the acquisition of the means of transmission to the public of an election advertising message;

“election expenses” means all expenses incurred during the period commencing with the dissolution of the House of Assembly, or the issuance of the writ for a by-election, and the close of polls on election day for the purpose of promoting or opposing, directly or indirectly, the election of a

candidate or the program or policy of a registered party or candidate, and includes

- (a) expenditures incurred before an election for literature, objects or materials of an advertising nature used during the election for an aforementioned purpose;
- (b) reasonable expenses incurred by a candidate endorsed by a registered party to travel outside the candidate's electoral district to attend a meeting organized by the registered party, including food and lodging expenses;
- (c) reasonable expenses incurred within seven days after election day in relation to the closing of an office used during the election for an aforementioned purpose or for other post-election costs related to official addition or a judicial recount; and
- (d) family and accessibility expenses,

but does not include

- (e) the cost of publication in a newspaper or other periodical of editorials, news, reports or letters to the editor that are published in the same manner and under the same rules as outside an election period, without payment, reward or promise of payment or reward, if the newspaper or other periodical is not established for the purpose of the election or with a view to the election and the frequency and circulation of publication do not differ from what occurs outside an election period;
- (f) the cost of transmission by a radio or television station of a broadcast of news or comment that is made in the same manner and under the same rules as outside an election period, without payment, reward or promise of payment or reward;
- (g) the necessary cost, not to exceed \$1,000, of holding a convention in respect of an electoral district for the selection of a nomination candidate including the reasonable expenses of nomination candidates at the convention, the cost of renting a hall and the convening of delegates but not including publicity costs and, apart from expenses of nomination candidates other than the nomination candidate selected;
- (h) reasonable expenses incurred by a candidate or other individual, out of the candidate's or other individual's own money, for lodging and food during travel for election purposes if those expenses are not reimbursed to the candidate or other individual;
- (i) a candidate's transportation costs;
- (j) the transportation costs of any individual other than a candidate, paid out of the individual's own money if those costs are not reimbursed to the individual;
- (k) the sum deposited with nomination documents; or
- (l) the usual expenses incurred for the current operation of one permanent office in the Province of a registered party if the leader of the party, before the seventh day following the issue of the

writ, has given written notice to the Chief Electoral Officer of the existence of the office, its exact address and any change of address;

“fair market value” means the amount that goods, services or property would sell for in an open market between a willing buyer and a willing seller who are

- (a) knowledgeable, informed and prudent; and
- (b) acting independently of each other;

“family and accessibility expenses” means reasonable expenses incurred during an election by a candidate as a result of the candidate’s candidacy in respect of

- (a) childcare;
- (b) spousal care;
- (c) elder care;
- (d) the care of a person with a disability, as defined in the *Accessibility Act*, for whom a candidate normally provides care; and
- (e) expenses incurred in relation to a disability, as defined in the *Accessibility Act*, of the candidate;

“financial agent” means an agent appointed by a registered third party pursuant to Section 310;

“immediate family” means the spouse, parents, children and grandchildren of a person;

“leadership contestant” means an individual who is campaigning to become the leader of a registered party;

“net profit” means the amount equal to the difference between the selling price of goods, services or property and the greater of

- (a) the actual cost of the goods, services or property; or
- (b) the fair market value of the goods, services or property at the time the goods, services or property are acquired;

“organization” means a corporation, partnership, sole proprietorship or trade union;

“partnership” means a partnership registered under the *Partnerships and Business Names Registration Act* or a partnership doing business in the Province and exempt from registration under that Act;

“public accountant” means a public accountant licensed to audit under the *Chartered Professional Accountants Act*;

“registered candidate” means an individual who has been registered under Section 232;

“review engagement” means an examination of the financial statements or any element of the financial statements of an electoral district association by an independent public accountant to obtain a moderate level of assurance of whether information contained in the financial statements is plausible and whether there is any reason to believe that the financial statements are not, in all material respects, in accordance with generally accepted accounting principles, and consists primarily of

- (a) enquiry;
- (b) analytical procedures; and
- (c) discussion related to information supplied by the electoral district association;

“third party” means a person or a group, other than a candidate, registered party or electoral district association;

“trade union” means a certified bargaining agent as defined in the *Trade Union Act* or a labour organization representing workers in the Province;

“transfer” means a transfer of services, money or other property made without consideration in accordance with Sections 242 and 243. 2011, c. 5, s. 166; 2013, c. 17, s. 2; 2015, c. 17, s. 79; 2016, c. 7, s. 6; 2020, c. 8, s. 46.

OFFICIAL AGENTS

Who must appoint

196 The following shall appoint an official agent:

- (a) a registered party;
- (b) an electoral district association;
- (c) a candidate; and
- (d) a registered candidate. 2011, c. 5, s. 167.

Official agents of registered party

197 (1) A registered party may appoint up to three official agents.

(2) Where a registered party appoints more than one official agent, the registered party shall designate one official agent as the primary contact for the Chief Electoral Officer. 2011, c. 5, s. 168.

Qualifications

198 (1) Subject to subsection (2), an individual who is an elector may act as official agent for any one or more registered parties, electoral district associations or candidates.

(2) The following may not act as the official agent of a registered party, electoral district association or candidate:

- (a) a member of the House of Assembly;
- (b) a candidate;
- (c) an auditor acting for a registered party, an electoral district association or a candidate;
- (d) an election officer or an employee of Elections Nova Scotia;
- (e) an individual who does not have full capacity to enter into contracts;

(f) an individual who, at any time in the previous seven years, has been convicted of an offence under this Act or the former Act. 2011, c. 5, s. 169; 2015, c. 17, s. 80.

Procedure for appointment, replacement and revocation of appointment

199 (1) A registered party, electoral district association or candidate may revoke the appointment of an official agent at any time by delivering written notice of revocation to the Chief Electoral Officer.

(2) The appointment or replacement of an official agent by a registered party, electoral district association or candidate must be made in writing and must be confirmed immediately upon appointment or replacement, as the case may be, in the prescribed form, to the Chief Electoral Officer by

- (a) the leader of the registered party for an official agent of the registered party;
- (b) a duly authorized officer of the electoral district association for the official agent of the electoral district association; and
- (c) the candidate for the official agent of the candidate.

(3) Where the official agent of a registered party, electoral district association or candidate is unable to perform the official agent's duties, the Chief Electoral Officer may accept the signature of another executive of the registered party or of the electoral district association or of the candidate.

(4) The appointment or replacement of an official agent in subsection (2) must include the name, mailing address and telephone number of the individual appointed as official agent and the effective date of the appointment.

(5) Notwithstanding subsection (2), where during an election the official agent of a candidate ceases for any reason to hold that office, the candidate shall immediately appoint a new official agent and deliver a written confirmation of the appointment to the returning officer in the candidate's electoral district.

(6) The returning officer shall immediately notify the Chief Electoral Officer of every appointment and replacement of an official agent.

(7) A registered party, electoral district association or candidate shall provide such information as to the reason for an official agent ceasing to hold office as the Chief Electoral Officer requests. 2011, c. 5, s. 170; 2020, c. 8, s. 47.

Duties

200 (1) An official agent shall exercise due diligence in

- (a) maintaining an account in a financial institution in the Province in the name of a registered party, electoral district association or candidate;
- (b) maintaining records of contributions, including the name and address of each contributor and the cumulative value of an individual's contributions during the year, and filing a disclosure statement, with the Chief Electoral Officer, in accordance with Section 271;

- (c) keeping records of receipts, including transfers and other income;
- (d) maintaining records of contributions pursuant to Section 272, including contributions received by an individual appointed by an official agent of a registered party, electoral district association or candidate to accept contributions on behalf of the registered party, electoral district association or candidate pursuant to Section 267;
- (e) issuing tax receipts in the case of registered parties and candidates in accordance with Section 284;
- (f) maintaining records of all expenses, including election expenses in the case of a registered party and a candidate;
- (g) complying with the election expenses spending limits, in the case of a registered party and a candidate, in accordance with Sections 290 and 291, respectively;
- (h) filing statements, reports and other information required under this Part with the Chief Electoral Officer, in accordance with the time frames prescribed in this Part; and
- (i) providing the auditor appointed by a registered party, electoral district association or candidate with access at all reasonable times to all records, documents, books, accounts, vouchers or other information and explanation as in the opinion of the auditor may be necessary to enable the auditor to report as required by this Act.

(2) Where an official agent refuses, fails or is unable to comply with this Act, the Chief Electoral Officer may apply to a judge for an order directing the official agent to appear before the judge to show cause why the official agent has not complied with this Act and, upon the hearing of the matter, the judge may order the official agent to be examined with respect to any report or particulars that have not been provided in accordance with this Act and may order the official agent to make such return or supply such statement of particulars as the judge considers appropriate within such time, to such person and in such manner as the judge may direct. 2011, c. 5, s. 171.

AUDITORS

Who must appoint

201 (1) Every registered party shall appoint an auditor.

(2) Every electoral district association shall appoint an auditor if it receives contributions in excess of \$5,000 in a calendar year.

(3) Every registered candidate who files nomination documents shall appoint an auditor.

(4) A registered candidate who receives contributions in excess of \$5,000 in a calendar year in which

- (a) a writ of election is not issued in the registered candidate's electoral district; or

(b) a writ of election is issued in the registered candidate's electoral district and the registered candidate does not become a candidate in the election,

shall appoint an auditor. 2011, c. 5, s. 172.

Public accountant only

202 An auditor must be a public accountant licensed to audit. 2011, c. 5, s. 173; 2020, c. 8, s. 48.

Auditor ceases to act

203 Where the auditor of a registered party, electoral district association or candidate ceases to act for any reason, the registered party, electoral district association or candidate, as the case may be, shall

- (a) appoint another auditor immediately; and
- (b) advise the Chief Electoral Officer in writing of the appointment of the new auditor. 2011, c. 5, s. 174.

Disqualifications

204 The following individuals may not act as an auditor for a registered party, an electoral district association or a candidate:

- (a) an election officer;
- (b) an individual already acting as the official agent of a registered party, electoral district association or candidate;
- (c) an individual involved in the raising, spending or custody of money or property of a registered party, electoral district association or candidate;
- (d) an individual engaged by an electoral district association to provide bookkeeping services;
- (e) a candidate. 2011, c. 5, s. 175.

Same firm not disqualified

205 A partner or employee in a firm of public accountants may act as an auditor notwithstanding that another individual in the firm is an official agent or auditor of a registered party, electoral district association or candidate. 2011, c. 5, s. 176.

Objectivity must not be impaired

206 (1) An auditor engaged to express an opinion respecting a financial statement, an element of a financial statement or a report of a registered party, electoral district association or candidate required under this Act, must be free from any influence, interest or relationship in respect of the client's affairs that would, or would in the view of a reasonable person, impair the auditor's professional judgement or objectivity.

(2) An auditor whose professional judgement or objectivity is impaired in the manner described in subsection (1) is disqualified from being an

auditor and shall resign immediately on becoming aware of the disqualification. 2011, c. 5, s. 177.

Duty to report to official agent

207 (1) The auditor appointed by a registered party, electoral district association or candidate shall make a report to the official agent of the registered party, electoral district association or candidate, as the case may be, and the report of the auditor must

(a) provide an opinion respecting the financial statement, an element of a financial statement or the report being audited;

(b) indicate that the audit is performed using generally accepted auditing standards.

(2) An auditor, in the auditor's report pursuant to subsection (1), shall make such statements and qualifications as the auditor considers necessary if

(a) the financial statement, an element of a financial statement or the report being audited does not present fairly the financial transactions required to be detailed in the financial statement or report;

(b) the auditor has not received all of the information and explanations that the auditor has requested from the official agent;

(c) possible non-compliance with this Act has come to the attention of the auditor during the audit; or

(d) there is any other qualification the auditor considers necessary. 2011, c. 5, s. 178.

Access to records and information

208 (1) An auditor appointed by a registered party, electoral district association or candidate is entitled to access at all reasonable times all records, documents, books, accounts and vouchers of a registered party, electoral district association or candidate.

(2) The official agent and officers of a registered party, electoral district association or candidate shall provide to the auditor such information and explanation that the auditor considers necessary to prepare the report required under Section 207. 2011, c. 5, s. 179.

REGISTRATION OF A POLITICAL PARTY**Application for registration**

209 (1) In this Section and Section 210, "political party" means a group of individuals that has as its primary purpose the fielding of candidates for election as members of the House of Assembly.

(2) An application for registration of a political party must be in the prescribed form and include

(a) the proposed registered name of the political party;

(b) subject to clause 92(2)(b), the name of the political party, or abbreviation of the name, if any, that is to be used as the name of the political party on a ballot;

(c) the abbreviation of the political party name to be used in official publications of Elections Nova Scotia, if different from the name referred to in clause (b);

(d) the political party logo, if any;

(e) the name, residential address and telephone number of the leader and two principal officers of the political party and the address to which communications intended for the political party may be addressed;

(f) the name, residential address and telephone number of the political party's official agents;

(g) the address where the books, records and accounts, including those pertaining to contributions and expenditures by the political party, are maintained;

(h) the name, address and telephone number of the political party's auditor;

(i) the financial institution and account number of all accounts held by the political party and the identification of accounts into which all money is to be deposited;

(j) a written statement that the political party's primary purpose is to field candidates for election as members of the House of Assembly; and

(k) any other information of an administrative nature required by the Chief Electoral Officer.

(3) The application in subsection (2) must include an audited financial statement of the political party as of a date not more than 60 days before the date of the application for registration.

(4) An application for registration pursuant to this Section must be accompanied by a complete and accurate petition in the prescribed form requesting registration of the political party.

(5) The petition required under subsection (4) must be signed by no fewer than 25 electors in each of 10 different electoral districts, whose signatures must have been obtained no earlier than 12 months before the date the application is submitted to the Chief Electoral Officer.

(6) An application for registration pursuant to this Section must be signed by the leader of the political party.

(7) Where the Chief Electoral Officer requires further information to clarify or verify any information contained in the application for registration, audited financial statement or petition for registration of a political party, the political party shall file such further information with the Chief Electoral Officer. 2011, c. 5, s. 180; 2016, c. 7, s. 7.

Duties of Chief Electoral Officer

210 (1) On receipt of the application pursuant to Section 209, the Chief Electoral Officer shall examine the application and determine whether the political party meets the requirements for registration and inform the leader of the political party, in writing,

- (a) where the political party's application does not fully comply with Section 209, how the application does not comply; and
- (b) where the Chief Electoral Officer requires additional information, the additional information required.

(2) Where the political party's application complies with Section 209, the Chief Electoral Officer shall register the political party and inform the leader of the political party, in writing, and confirm the date of registration.

(3) The Chief Electoral Officer shall publish the audited financial statements filed pursuant to subsection 209(3) on the Elections Nova Scotia website when a political party has been registered.

(4) The examination required under subsection (1) must be completed

- (a) within 30 days after the application is received unless clause (b) or (c) applies;
- (b) where writs of election for a general election are issued after the application is received but before the examination is completed, within 60 days after election day for the election; or
- (c) where the application is received during a general election, after election day but within 60 days after election day.

(5) A political party whose application does not meet the requirements for registration may amend its application but, where the requirements are not met within 60 days of its receipt of notice under clause (1)(a) or (b), the application ceases to be effective and the Chief Electoral Officer shall advise the political party that its application has ceased to be effective.

(6) The Chief Electoral Officer shall not register a political party if

- (a) the Chief Electoral Officer is of the opinion that the name, abbreviation or logo of the political party seeking registration so closely resembles the name, abbreviation or logo of a registered party that it is likely to be confused with the name, abbreviation or logo of that registered party; or
 - (b) the name, abbreviation or logo of the political party includes the word "independent" or an abbreviation of that word.
- 2011, c. 5, s. 181.

Information to be updated

211 (1) A registered party shall update with the Chief Electoral Officer, in the prescribed form, information required by subsection 209(2) within 10 days of any change in the information.

(2) A registered party shall confirm or update, with the Chief Electoral Officer, in the prescribed form, by April 30th of each year the information required by subsection 209(2). 2011, c. 5, s. 182; 2020, c. 8, s. 49.

Recognized party under former Act

212 Every political party that was a recognized party under the former Act, immediately before January 1, 2012, is deemed to be a registered party under this Act. 2011, c. 5, s. 183.

**SUSPENSION AND DEREGISTRATION
OF A REGISTERED PARTY**

Suspension

213 (1) The Chief Electoral Officer shall suspend a registered party if the registered party fails to

- (a) publish an audited financial statement pursuant to Section 252;
- (b) file a report of election expenses pursuant to Section 253;
- (c) file an annual financial report pursuant to Section 254;
- or
- (d) file a report respecting tax receipts pursuant to Section 255.

(2) Notwithstanding subsection (1), where the failure to meet the requirements under subsection (1) occurs during an election, the suspension may not begin until the day after election day.

(3) Where a registered party is suspended, the Chief Electoral officer shall immediately notify, in writing, the official agent and the two principal officers of the registered party of the effective date of the suspension and the reason for the suspension.

(4) During the period in which a registered party is suspended, the registered party remains registered but shall not

- (a) accept a contribution;
- (b) issue a tax receipt; or
- (c) make or receive a transfer.

(5) Where a registered party publishes or files the reports required by subsection (1) within 30 days of being suspended, the Chief Electoral Officer shall immediately revoke the suspension and notify, in writing, the official agent and the two principal officers of the revocation of the suspension and the effective date thereof.

(6) The suspension of a registered party continues until it is revoked by the Chief Electoral Officer or the registered party is deregistered. 2011, c. 5, s. 184.

Deregistration for contravention

214 (1) The Chief Electoral Officer shall deregister a registered party if the registered party has failed to publish an audited financial statement or file the required reports pursuant to subsection 213(1) within 30 days of the effective date of the suspension.

(2) At least 30 days before deregistering a registered party pursuant to subsection (1), the Chief Electoral Officer shall deliver a written notice to two principal officers of the registered party and shall give the registered party an opportunity to be heard.

(3) Notwithstanding subsection (1), the Chief Electoral Officer may decide not to deregister the registered party if the Chief Electoral Officer is satisfied that the registered party has rectified the contravention, or will rectify it within 10 days of the hearing, and the registered party does rectify the contravention. 2011, c. 5, s. 185.

Deregistration for fewer than 10 candidates

215 (1) Where fewer than 10 individuals endorsed by a registered party are candidates at a general election, the Chief Electoral Officer shall deregister the registered party in accordance with this Section.

(2) A registered party that would otherwise be deregistered under subsection (1) is entitled to remain registered if an individual who is a candidate endorsed by the registered party in the current general election is elected.

(3) Where, at the close of nominations for a general election, a registered party may be subject to deregistration under this Section following the election, the Chief Electoral Officer shall notify two principal officers of the registered party thereof at the close of nominations.

(4) Deregistration under this Section is effective on the date of the return of all of the writs for the general election.

(5) The Chief Electoral Officer shall notify, in writing, the official agent and two principal officers of the registered party of the effective date of the deregistration and the reason for the deregistration. 2011, c. 5, s. 186.

Voluntary deregistration

216 (1) A registered party may apply to the Chief Electoral Officer to be deregistered in accordance with this Section.

(2) An application for deregistration by a registered party pursuant to subsection (1) must be

(a) in writing and delivered to the Chief Electoral Officer;
and

(b) signed by two principal officers and the leader of the registered party.

(3) Subject to subsections (4) and (5), on being satisfied that an application for deregistration is authorized by the registered party for which it is made, the Chief Electoral Officer shall deregister the registered party.

(4) Where a registered party applying to be deregistered has endorsed a candidate in an election in progress, the Chief Electoral Officer shall not deregister the registered party until the day after election day.

(5) Where a candidate endorsed by the registered party applying for deregistration under subsection (4) is elected, the Chief Electoral Officer shall reject the application for deregistration and advise in writing two principal officers of the registered party of the rejection and the reason for the rejection. 2011, c. 5, s. 187.

Effect of and procedure following deregistration

217 (1) Where a registered party is deregistered, all electoral district associations of the registered party are deregistered as of the effective date of the registered party's deregistration.

(2) Where a registered party is deregistered, the Chief Electoral Officer shall

- (a) place a notice to that effect in the Royal Gazette;
- (b) place a notice to that effect on the Elections Nova Scotia website; and
- (c) record the effective date of the deregistration in the register.

(3) Where a registered party is deregistered, the official agent of the deregistered party shall immediately return to the Chief Electoral Officer all tax receipts that were provided to the official agent under Section 283. 2011, c. 5, s. 188.

Public funding repayment

218 (1) The Chief Electoral Officer shall calculate the amount of any public funding advanced to a registered party pursuant to Section 220 that relates to a period subsequent to the effective date of the deregistration.

(2) The Chief Electoral Officer shall advise the official agent and two principal officers of the deregistered party, in writing, of the amount calculated under subsection (1).

(3) Upon receiving notification under subsection (2), the deregistered party shall immediately pay that amount to the Chief Electoral Officer who shall transmit it to the Minister of Finance and Treasury Board for deposit to the General Revenue Fund. 2011, c. 5, s. 189.

Report respecting tax receipts

219 The official agent of a deregistered party shall file with the Chief Electoral Officer within 60 days of the effective date of deregistration, a report respecting tax receipts in accordance with Section 255 for the period commencing January 1st of the year in which the party was deregistered and ending on the effective date of deregistration. 2011, c. 5, s. 190.

PAYMENTS TO REGISTERED PARTIES

Calculation and payment

220 (1) Each fiscal year the Chief Electoral Officer shall cause to be paid out of the General Revenue Fund to each registered party \$1.53 for each vote received by candidates endorsed by that registered party in the most recent general election.

(2) Any reduction in the amount to which a registered party is entitled, as a result of a general election, is effective at the beginning of the next fiscal year.

(3) Any increase in the amount to which a registered party is entitled, as a result of a general election, is effective upon the candidates being declared elected and, for greater certainty, the increase is to be prorated for the remainder of the fiscal year.

(4) The Chief Electoral Officer shall cause the amounts determined pursuant to subsection (1) to be paid in two equal instalments in April and October.

(5) The amount set out in subsection (1) must be increased at the beginning of each year by the percentage increase in the previous year in the Consumer Price Index for the Province published by Statistics Canada using the annual 2010 index as the base. 2011, c. 5, s. 191.

REGISTRATION OF AN ELECTORAL
DISTRICT ASSOCIATION**Application for registration**

221 (1) An application for registration as an electoral district association must be submitted by the official agent of a registered party within 30 days after the meeting to form the electoral district association, in the prescribed form, and include

- (a) the full name of the electoral district association;
- (b) the name of the registered party for which the electoral district association is the local organization;
- (c) the name, residential address and telephone number of two principal officers of the electoral district association;
- (d) the name, residential address and telephone number of the electoral district association's official agent;
- (e) the address where the books, records and accounts, including those pertaining to contributions and to expenditures by the electoral district association, are maintained;
- (f) the financial institution and account number of all accounts held by the electoral district association and the identification of accounts into which all money is to be deposited;
- (g) where the electoral district association has appointed an auditor, the name, address and telephone number of the auditor;

(h) a statement signed by the leader of the registered party confirming that the registered party endorses the electoral district association as the local organization of the registered party;

(i) a statement of the assets and liabilities of the electoral district association as of the date not earlier than 60 days before the application is submitted to the Chief Electoral Officer; and

(j) any other information of an administrative nature required by the Chief Electoral Officer.

(2) Where the Chief Electoral Officer requires further information to clarify or verify any information contained in the application for registration or the financial statement, the electoral district association shall file such further information with the Chief Electoral Officer. 2011, c. 5, s. 194; 2015, c. 17, s. 81.

Limit on electoral district associations

222 A registered party may not have more than one registered electoral district association for an electoral district. 2011, c. 5, s. 194.

Political party must be registered first

223 Where an application under Section 221 is made in conjunction with an application for the registration of a political party, an electoral district association endorsed by the leader of the political party may not be registered until after the political party is registered. 2011, c. 5, s. 194.

Duties of Chief Electoral Officer

224 (1) On receipt of the application pursuant to Section 221, the Chief Electoral Officer shall

(a) examine the application and determine whether the electoral district association meets the requirements for registration in Section 221; and

(b) inform two principal officers of the electoral district association and the leader of the registered party that endorsed the electoral district association, in writing,

(i) where the electoral district association does not fully comply with Section 221, how the application does not comply, and

(ii) where the Chief Electoral Officer requires additional information, the additional information required.

(2) Where the electoral district association's application complies with Section 221, the Chief Electoral Officer shall register the electoral district association and inform two principal officers of the electoral district association and the leader of the registered party that endorsed the electoral district association, and confirm the date of registration.

(3) An electoral district association whose application does not meet the requirements for registration may amend its application but, where the requirements are not met within 60 days of its receipt of notice under subsection (1), its application ceases to be effective.

- pleted (4) The examination required under subsection (1) must be completed
- (a) within 30 days after the application is received unless subclause (1)(b)(i) or (ii) or clause (b) or (c) applies;
 - (b) where a writ of election is issued after the application is received but before the examination is completed, within 60 days after election day; or
 - (c) where the application is received during an election, within 60 days after election day but not on or before election day. 2011, c. 5, s. 195.

Information to be updated

225 (1) An electoral district association shall update with the Chief Electoral Officer, in the prescribed form, information required by subsection 221(1) within 10 days of any change in the information.

(2) An electoral district association shall confirm or update with the Chief Electoral Officer, in the prescribed form, by March 31st of each year the information required by subsection 221(1), except clause 221(1)(h). 2011, c. 5, s. 196; 2015, c. 17, s. 82.

Electoral district association registered under former Act

226 Every electoral district association that was registered under the former Act, at the time the former Act was repealed, is deemed to an electoral district association under this Act. 2011, c. 5, s. 197.

SUSPENSION AND DEREGISTRATION OF AN ELECTORAL DISTRICT ASSOCIATION

Suspension

227 (1) The Chief Electoral Officer shall suspend an electoral district association if the electoral district association fails to

- (a) file an annual report by March 31st of each year, confirming the information in subsection 221(1); or
- (b) file an annual financial report pursuant to Section 257.

(2) The suspension begins on the day following the date on which the electoral district association failed to meet any of the requirements in subsection (1) and remains in effect until the earlier of

- (a) the date on which the electoral district association files the report under subsection (1); and
- (b) 30 days following the date on which the suspension commenced.

(3) Where an electoral district association is suspended, the Chief Electoral Officer shall immediately notify, in writing, the official agent of the electoral district association, two principal officers of the electoral district association and the leader of the registered party that endorsed the electoral district association of the effective date of the suspension and the reason for the suspension.

(4) During the period in which an electoral district association is suspended, the electoral district association remains registered but shall not

- (a) accept a contribution; or
- (b) make or receive a transfer.

(5) Where an electoral district association complies with subsection (1) within 30 days of being suspended by filing the reports required by subsection (1), the Chief Electoral Officer shall immediately revoke the suspension and notify, in writing, the official agent, two principal officers and the leader of the registered party that endorsed the electoral district association, of the revocation of the suspension and the effective date.

(6) The suspension of an electoral district association continues until it is revoked by the Chief Electoral Officer or the electoral district association is deregistered. 2011, c. 5, s. 198.

Deregistration for contravention

228 (1) The Chief Electoral Officer shall deregister an electoral district association if the electoral district association has failed to file one or the other, or both, of the reports required by subsection 227(1) within 30 days of the effective date of the suspension.

(2) At least 30 days before deregistering the electoral district association pursuant to subsection (1), the Chief Electoral Officer shall deliver a written notice to two principal officers of the electoral district association and the leader of the registered party that endorsed the electoral district association and shall give the two principal officers of the electoral district association and the leader of the registered party that endorsed the electoral district association an opportunity to be heard.

(3) Notwithstanding subsection (1), the Chief Electoral Officer may decide not to deregister the electoral district association if the Chief Electoral Officer is satisfied that the electoral district association has rectified the contravention, or will rectify it within 10 days of the hearing.

(4) Where the electoral district association has not rectified the contravention within 10 days of the hearing, the Chief Electoral Officer shall deregister the electoral district association. 2011, c. 5, s. 199.

Voluntary deregistration

229 (1) The Chief Electoral Officer shall deregister an electoral district association if the electoral district association applies for deregistration in accordance with this Section.

(2) An application for deregistration by an electoral district association must be

- (a) made to the Chief Electoral Officer in writing;
- (b) signed by two principal officers of the electoral district association; and

(c) signed by the leader of the registered party that endorsed the electoral district association.

(3) Upon receipt of the application for deregistration under subsection (2), the Chief Electoral Officer shall deregister the electoral district association. 2011, c. 5, s. 200.

Effect of registered party deregistration

230 Where a registered party is deregistered, the Chief Electoral Officer shall deregister all of its electoral district associations, effective as of the date on which the registered party is deregistered. 2011, c. 5, s. 201.

Public notice

231 Where an electoral district association is deregistered, the Chief Electoral Officer shall

- (a) place a notice to that effect in the Royal Gazette;
 - (b) post a notice to that effect on the Elections Nova Scotia website; and
 - (c) record the effective date of the deregistration in the register.
- 2011, c. 5, s. 202.

CANDIDATE REGISTRATION

Registration as registered candidate

232 (1) The Chief Electoral Officer shall register an individual as a registered candidate under this Act if the Chief Electoral Officer

- (a) receives an application from the individual in the prescribed form before the close of nominations; and
- (b) is satisfied that the individual is a prospective candidate.

(2) An individual shall apply to be registered under this Section at the earliest of

- (a) the date on which the official agent of the individual accepts a contribution;
- (b) the date on which the official agent of the individual accepts a transfer from a registered party or an electoral district association; and
- (c) the date on which the official agent of the individual incurs an expense in anticipation of an election.

(3) Where an individual receives a certificate accepting the individual's nomination as a candidate pursuant to Section 69, the individual is deemed to have been registered as a registered candidate under this Section.

(4) The Chief Electoral Officer may receive an individual's application for registration for an election in an electoral district before a writ of election

is issued for the electoral district, in which case the application is an application for registration as a registered candidate in the next election in the electoral district.

(5) An application for registration under subsection (1) must be delivered to the Chief Electoral Officer in the prescribed form and must include

(a) the name, residential address and telephone number of the official agent; and

(b) the name, address and telephone number of the prospective candidate's auditor where the prospective candidate has appointed an auditor prior to the application.

(6) The Chief Electoral Officer shall confirm the registration of a registered candidate, in the prescribed form, and state the effective date of the registration.

(7) A registered candidate shall not purport to be endorsed by a registered party unless the registered candidate provides to the Chief Electoral Officer a statement, signed by the leader of the registered party, that the registered candidate is an endorsed candidate of the registered party.

(8) A registered candidate shall not purport to be endorsed by a registered party if the registered party has withdrawn its endorsement of the registered candidate and has notified the registered candidate of the withdrawal of its endorsement. 2011, c. 5, s. 203; 2013, c. 17, s. 3; 2015, c. 17, s. 83.

No contributions or expenses until registered

233 A prospective candidate shall not accept a contribution or transfer, or incur an expense in consequence of an election until such time as the candidate receives confirmation of registration pursuant to subsection 232(6) or is deemed to be registered pursuant to subsection 232(3). 2011, c. 5, s. 204.

Notice of change in particulars

234 Where there is any change in the particulars provided in the application for registration pursuant to subsection 232(5), including withdrawal of the registration, or in the registered candidate's status as an endorsed candidate of a registered party, the registered candidate shall notify the Chief Electoral Officer in writing of the change in particulars within five days of the change and, upon receipt of any such notice, the Chief Electoral Officer shall vary the register accordingly. 2011, c. 5, s. 205; 2013, c. 17, s. 4.

Termination of registration

235 (1) Where a registered candidate withdraws from the election for which the individual is a registered candidate, the registration of the registered candidate terminates on the date the notice of withdrawal is delivered to the Chief Electoral Officer.

(2) Where a registered candidate is not nominated as a candidate pursuant to Section 69, the registration of the registered candidate terminates at the close of nominations.

(3) Where the registration of a registered candidate terminates under subsection (1) or (2), the individual is prohibited from accepting contributions under this Act as of the time of termination.

(4) The termination of a registered candidate's registration under this Section does not impede or impair the ability of that individual or the official agent of that individual from winding down the registered candidate's campaign or fulfilling the registered candidate's or official agent's obligations under this Act. 2011, c. 5, s. 206.

Effect of return of writ

236 (1) Where a prospective candidate receives a certificate accepting the prospective candidate's nomination pursuant to subsection 69(2), the individual's status as a registered candidate terminates upon the return of the writ in that election in the candidate's electoral district.

(2) The termination of a candidate's registration under this Section does not impede or impair the ability of that individual or the official agent of that individual from winding down the candidate's campaign or fulfilling their obligations under this Act. 2011, c. 5, s. 207.

Prospective candidate must re-register following an election

237 Where an individual is a prospective candidate following an election in which the individual had been a candidate, the individual must become a registered candidate in accordance with Section 232 before undertaking any of the actions listed in subsection 232(2). 2011, c. 5, s. 208.

FINANCIAL INSTITUTIONS

Must be located in Province

238 A financial institution into which all money is deposited on behalf of a registered party, electoral district association or candidate must be located in the Province. 2011, c. 5, s. 209.

Registered party's accounts

239 All money accepted on behalf of a registered party must be deposited into one or more accounts established at the financial institution identified to the Chief Electoral Officer under clause 209(2)(i). 2011, c. 5, s. 210.

Electoral district association's account

240 All money accepted on behalf of an electoral district association must be deposited into the account established at the financial institution identified to the Chief Electoral Officer under clause 221(1)(f). 2011, c. 5, s. 211.

Candidate's account

241 (1) All money accepted on behalf of a candidate must be deposited into the account established at the financial institution.

(2) A separate account is not required under subsection (1) if a candidate's financial activity is less than \$500.

(3) An account established at a financial institution to receive money on behalf of a candidate must be closed no later than the time by which the candidate is required to dispose of excess contributions under Section 300. 2011, c. 5, s. 212; 2020, c. 8, s. 50.

TRANSFERS

Not contributions

242 Except as otherwise provided in this Part, a registered party and any of its electoral district associations and candidates may transfer services, money or property between one another and the transferred services, money or property are not considered to be contributions but must be recorded by the official agent of the registered party, electoral district association and candidate. 2011, c. 5, s. 213.

Prohibited transfers

243 (1) A fund or trust established for the benefit of a registered party may not transfer money or property to an electoral district association or candidate.

(2) An electoral district association may not transfer services, money or property to another electoral district association or a candidate other than the candidate in the electoral district.

(3) A candidate may not transfer services, money or property to another candidate or an electoral district association other than the electoral district association in the electoral district in which the individual is a candidate.

(4) Subject to subsection (5), an electoral district association may not transfer services or property to a registered party or a candidate if the services or property would qualify as election expenses under this Act if purchased directly by the registered party or a candidate.

(5) An electoral district association may transfer to a candidate literature, objects or materials of an advertising nature for use during an election for the purpose of promoting or opposing, directly or indirectly, the election of a candidate or the program or policy of a registered party or candidate.

(6) Where a transfer is made under subsection (5), the electoral district association shall issue an invoice to the candidate's campaign for the value of the advertising material transferred and the candidate's campaign shall pay the invoice.

(7) Those entities from whom a registered party, electoral district association or candidate shall not accept, as a transfer, services, money or property include

- (a) a federal political party;
- (b) a federal electoral district association;
- (c) a federal candidate;
- (d) a political party in another province of Canada;
- (e) an electoral district association in another province of Canada; and

(f) a candidate in another province of Canada. 2011, c. 5, s. 214; 2013, c. 17, s. 5; 2020, c. 8, s. 51.

Deemed election expense

244 The cost of literature, objects or materials of an advertising nature transferred to a candidate by an electoral district association pursuant to subsection 243(5) is deemed to be an election expense incurred by the candidate. 2013, c. 17, s. 6.

LOANS

When loan becomes a contribution

245 (1) A loan to a registered party, electoral district association, candidate or registered third party is not a contribution except as provided in this Section.

(2) Where a loan is made to a registered party, electoral district association, candidate or registered third party at a rate of interest less than the bank prime rate, if the difference between the interest payable at the bank prime rate at the time the loan was made and the interest paid is more than \$50, then that amount is a contribution.

(3) The Chief Electoral Officer shall publish the bank prime rate on the Elections Nova Scotia website and update the bank prime rate whenever it changes.

(4) Where a payment on a loan to a registered party, electoral district association, candidate or registered third party is made by a person other than the registered party, electoral district association, candidate or registered third party, the payment is a contribution and attributed to the person who made the payment.

(5) Where a payment on a loan to a registered party, electoral district association, candidate or registered third party is wholly or partly unpaid six months after becoming due, the outstanding amount of the payment is a contribution attributed to the person who made the loan but nothing in this subsection affects the rights of the lender to recover the payment.

(6) Subsection (5) does not apply to a loan by a financial institution.

(7) Where a payment on a loan becomes a contribution under subsection (4) or (5), the contribution is deemed to have been made as of the date of the original loan agreement and for the purpose of subsections 266(3) and (4) is deemed to be a contribution on the date the loan was made.

(8) An individual may guarantee a loan up to a maximum contribution of \$5,000 less any contributions by that individual in that calendar year to a registered party, its electoral district associations or candidates.

(9) No organization may guarantee a loan. 2011, c. 5, s. 215; 2013, c. 17, s. 7; 2015, c. 17, s. 84.

Restrictions

246 (1) A candidate or registered third party shall not lend campaign funds or money received as a contribution to any person.

(2) An electoral district association may lend money only to its registered party or its nominated candidate.

(3) No individual shall lend money to a registered party, electoral district association, candidate or registered third party

(a) that exceeds the maximum allowable contribution to a single party in a calendar year; or

(b) for a term of more than two years, including any renewal or refinancing.

(4) Without restriction on the term or amount of a loan,

(a) a financial institution or a registered party may make a loan to any registered party, electoral district association, candidate or registered third party; and

(b) an electoral district association may make a loan to its registered party or its candidate.

(5) For greater certainty, nothing in this Act restricts the ability of an individual, financial institution, registered party, electoral district association, candidate or registered third party from acting as a guarantor of a loan. 2011, c. 5, s. 216; 2020, c. 8, s. 52.

No tax receipt

247 A tax receipt may not be issued for a contribution that arises from a loan pursuant to subsection 245(2) or a loan that becomes a contribution pursuant to subsection 245(4) or (5). 2011, c. 5, s. 217.

Reporting

248 (1) A registered party, electoral district association, candidate or registered third party, the official agent of a registered party, electoral district association or candidate or the financial agent of a registered third party shall not accept a loan unless there is a loan agreement in writing setting out

(a) the amount of the loan;

(b) the term of the loan;

(c) the name and address of the lender;

(d) the name and address of any guarantor; and

(e) the details of any assignment of reimbursement made,

and the loan agreement must be included with the disclosure statement filed pursuant to Section 271.

(2) The official agent of a registered party, electoral district association or candidate or financial agent of the registered third party, to whom a loan was made, shall file a report with the Chief Electoral Officer, in the prescribed form,

within 60 days of the loan being repaid in full and identify the source of funds used to repay the loan.

(3) Where a loan has a balance outstanding at the end of the calendar year in which the loan was made, the official agent of the registered party, electoral district association or candidate or financial agent of the registered third party that borrowed the funds must file a report with the Chief Electoral Officer, in the prescribed form, stating the outstanding balance and describing any changes to the loan agreement.

(4) Where a loan has a balance outstanding at the end of a calendar year subsequent to the year in which the loan was made, the official agent of the registered party, electoral district association or candidate or financial agent of the registered third party that borrowed the funds must file a report with the Chief Electoral Officer, in the prescribed form, stating the outstanding balance and describing any changes to the loan agreement.

(5) The reports required under subsections (3) and (4) giving details of the balance and any changes to the loan agreement must be filed by the official agent on or before

(a) March 31st of the year following the year for which the loan is being reported if an electoral district association, candidate or registered third party borrowed the funds; or

(b) April 30th of the year following the year for which the loan is being reported if a registered party borrowed the funds.

(6) The Chief Electoral Officer shall publish the details of all loan balances outstanding at the same time the Chief Electoral Officer is required to publish disclosure statements under this Act. 2011, c. 5, s. 218.

Outstanding amount of a payment

249 (1) No person may be charged with an offence by reason of the outstanding amount of a payment on a loan being a contribution pursuant to subsection 245(5) or the payment of the outstanding amount by a guarantor unless the person had no bona fide intent to repay the loan.

(2) Where the outstanding amount of a payment on a loan to a registered party that is a contribution pursuant to subsection 245(5) or the payment of the outstanding amount by a guarantor of a registered party exceeds the contributions permitted by this Act, the amount of the excess contribution must be deducted from the payments made to the registered party pursuant to Section 220. 2011, c. 5, s. 219.

FINANCIAL STATEMENTS AND REPORTS

Prescribed form

250 The statements and reports required to be filed with the Chief Electoral Officer under this Act must be in the prescribed form and contain the information or particulars required to be disclosed under this Act. 2011, c. 5, s. 220.

Further information

251 (1) When information about the financial affairs of a registered party, electoral district association, candidate or registered third party is reasonably required to clarify or verify the information contained in a statement or report or other information filed under this Act, the Chief Electoral Officer may request such information in writing.

(2) Within 30 days after receiving a request pursuant to subsection (1) or within any extended period the Chief Electoral Officer may allow, the official agent of a registered party, electoral district association or candidate or financial agent of a registered third party shall provide the information. 2011, c. 5, s. 221.

REGISTERED PARTY REPORTING**Audited financial statements**

252 (1) Within 120 days after the end of each fiscal year of a registered party, the registered party shall publish its audited financial statement as of the end of the fiscal year.

(2) For the purpose of subsection (1), a registered party's audited financial statements are published when

- (a)** they are produced and made readily available to the public free of charge;
- (b)** they are distributed using the registered party's website; and
- (c)** an original is provided to the Chief Electoral Officer.

(3) The Chief Electoral Officer shall publish the audited financial statements provided under clause (2)(c) by posting the audited financial statements on the Elections Nova Scotia website.

(4) The Chief Electoral Officer shall accept a registered party's audited financial statements if the Chief Electoral Officer is satisfied that the audited financial statements meet the requirements of this Act.

(5) The Chief Electoral Officer shall return any audited financial statements that are not accepted to the registered party and give details of why the audited financial statements do not meet the requirements of the Act.

(6) A registered party whose audited financial statements are rejected shall provide any new or further material or information required by the Chief Electoral Officer to bring the audited financial statements within the requirements of the Act. 2011, c. 5, s. 222.

Election expenses report

253 (1) Within 120 days after the day fixed for return of the writ of election for a by-election or the writs of election for a general election, the official agent of a registered party shall file with the Chief Electoral Officer a report of election expenses in the prescribed form accompanied by the invoices, receipts and other vouchers or certified copies of them and a list of those documents and an affi-

davit of the official agent verifying the report and stating that no payment not permitted by the Act was made with the official agent's knowledge and consent and that, to the best of the agent's knowledge and belief, every expense incurred is entered in the report.

(2) Where election expenses of the registered party exceed \$500, the report in subsection (1) must be accompanied by an auditor's report prepared in accordance with Section 207 respecting election expenses incurred by or on behalf of the registered party.

(3) Within 10 days after receiving each report of election expenses, the Chief Electoral Officer shall publish a summary of election expenses reported in the prescribed form and in such manner as the Chief Electoral Officer determines, including on the Elections Nova Scotia website.

(4) The Chief Electoral Officer shall preserve the report, invoices, receipts and other vouchers for a period of six months and during that period shall permit any elector, during ordinary office hours, to inspect and make copies or extracts therefrom upon payment of the actual cost of providing copies of the requested report, invoices, receipts or other vouchers. 2011, c. 5, s. 223; 2020, c. 8, s. 53.

Annual financial report

254 (1) A registered party shall file in the prescribed form, an annual financial report that includes

- (a) a balance sheet;
- (b) a statement of income and expenses;
- (c) a disclosure statement pursuant to Section 271;
- (d) a statement of interest accrued on amounts deposited pursuant to subsection 268(2);
- (e) a statement of transfers pursuant to Sections 242 and 243;
- (f) a statement of fundraising events; and
- (g) a statement of loans pursuant to Section 245.

(2) The report referred to in subsection (1) must be delivered to the Chief Electoral Officer on or before April 30th of the year immediately after the calendar year to which the report refers.

(3) The disclosure statement referred to in clause (1)(c) must be accompanied by an auditor's report prepared in accordance with Section 207. 2011, c. 5, s. 224; 2013, c. 17, s. 8.

Tax receipts report

255 (1) A registered party shall on or before April 30th of the year immediately after the calendar year to which the report refers, file with the Chief Electoral Officer in the prescribed form a report respecting tax receipts that includes

- (a) a reconciliation of tax receipts issued to the registered party by the Chief Electoral Officer pursuant to Section 283; and

(b) duplicates of all tax receipts issued pursuant to subsection 284(1).

(2) The report in subsection (1) must be accompanied by an auditor's report prepared in accordance with Section 207 respecting

(a) the total contributions received by the registered party for which the official agent has issued a tax receipt; and

(b) the total contributions received by an electoral district association on whose behalf the official agent of the registered party has issued a tax receipt. 2011, c. 5, s. 225.

Annual update of registration information

256 A registered party shall confirm or update its registration annually, in the prescribed form, with the Chief Electoral Officer on or before April 30th pursuant to subsection 211(2). 2011, c. 5, s. 226.

ELECTORAL DISTRICT ASSOCIATION REPORTING

Annual financial report

257 (1) An electoral district association shall file with the Chief Electoral Officer in the prescribed form, an annual financial report that includes

- (a) a balance sheet;
- (b) a statement of income and expenses;
- (c) a disclosure statement pursuant to Section 271;
- (d) a statement of interest accrued on amounts deposited pursuant to subsection 268(2);
- (e) a statement of transfers pursuant to Sections 242 and 243;
- (f) a statement of fundraising events; and
- (g) a statement of loans pursuant to Section 245.

(2) The report referred to in subsection (1) must be accompanied by copies of all receipts issued for the contributions received together with such invoices and other vouchers, or certified copies thereof, evidencing the expenditures of the electoral district association as the Chief Electoral Officer may require of that electoral district association from time to time.

(3) The report referred to in subsection (1) must be filed with the Chief Electoral Officer on or before March 31st of the year immediately after the calendar year to which the report refers.

(4) A copy of a bank statement referred to as at December 31st for each account identified in the electoral district association's registration under Section 221 must be included with the annual financial report referred to in subsection (1).

(5) The disclosure statement referred to in clause (1)(c) must be accompanied by an auditor's report prepared in accordance with Section 207 if the total contributions reported exceed \$10,000.

(6) Where an electoral district association has total contributions and other income, excluding transfers, of more than \$20,000 in any calendar year, the annual financial report of an electoral district association must be accompanied by a review engagement report prepared by an independent public accountant. 2011, c. 5, s. 227; 2013, c. 17, s. 9; 2015, c. 17, s. 85.

Annual update of registration information

258 An electoral district association must confirm or update its registration annually, in the prescribed form, with the Chief Electoral Officer on or before March 31st pursuant to subsection 225(2). 2011, c. 5, s. 228.

CANDIDATE REPORTING

Election expenses report

259 (1) Within 80 days after the day fixed for return of writ of election for a by-election or the writs of election for a general election, the official agent of a candidate shall electronically file with the Chief Electoral Officer a report of all expenses incurred or accrued during the campaign from the date of registration until the report is filed, in the prescribed form and signed and acknowledged by the candidate, together with

- (a) all invoices, bank statements, receipts and other vouchers, or certified copies of them;
- (b) a balance sheet;
- (c) a statement of income and expense;
- (d) a statement of any transfers made under Sections 242 and 243;
- (e) a statement of loans, including any deemed contributions or guarantees made under Section 245;
- (f) a statement of fundraising events held by or for the benefit of the candidate;
- (g) a disclosure statement that includes all matters that would be required in a disclosure statement made under Section 271;
- (h) a list of those documents; and
- (i) an affidavit sworn by the official agent that verifies the report and states that no payment not permitted by this Act was made with the official agent's knowledge and consent and that, to the best of the official agent's knowledge and belief, every expense incurred is entered in the report.

(2) Where the official agent provides the Chief Electoral Officer with a written request within 80 days after the day fixed for return of the writ, the Chief Electoral Officer may permit a non-electronic submission of the report.

(3) Notwithstanding subsection (1), the Chief Electoral Officer may approve an extension of the period for filing pursuant to subsection (1) for up to 30 days upon written application by the official agent of the candidate.

(4) Where election expenses exceed \$500, the report in subsection (1) must be accompanied by an auditor's report prepared in accordance with Section 207 respecting election expenses incurred by or on behalf of the candidate.

(5) Within 10 days after receiving each report of election expenses, the Chief Electoral Officer shall publish a summary of election expenses reported in the prescribed form and in such manner as the Chief Electoral Officer determines, including on the Elections Nova Scotia website.

(6) The Chief Electoral Officer shall preserve the report, bank statements, invoices, receipts and other vouchers for a period of 12 months after election day and during that period shall permit any elector, during ordinary office hours to inspect and make copies or extracts therefrom upon payment of the actual cost of providing copies of the requested report, bank statements, invoices, receipts or other vouchers. 2011, c. 5, s. 229; 2015, c. 17, s. 86; 2020, c. 8, s. 54.

Annual financial report

260 (1) A candidate shall file in the prescribed form, an annual financial report that includes

- (a) a balance sheet;
- (b) a statement of income and expenses;
- (c) a disclosure statement pursuant to Section 271;
- (d) a statement of transfers pursuant to Sections 242 and 243;
- (e) a statement of fundraising events; and
- (f) a statement of loans pursuant to Section 245.

(2) The annual financial report in subsection (1) must be filed for each period that begins when the individual became a registered candidate and ends with the earliest of

- (a) the date on which the individual ceases to be a candidate, before an election is held, in which case it must be delivered to the Chief Electoral Officer no later than 80 days after the date the individual ceases to be a candidate;
- (b) an election or by-election in the candidate's electoral district, in which case it must be delivered to the Chief Electoral Officer within 80 days after the day fixed for return of the writ of election; and
- (c) the end of the calendar year if no election for which the individual became a registered candidate is held, in which case it must be delivered to the Chief Electoral Officer no later than March 31st of the year immediately after the calendar year to which the report refers.

(3) The disclosure statement referred to in clause (1)(c) must be accompanied by an auditor's report prepared in accordance with Section 207 if

(a) the statement is submitted on behalf of an individual who was a registered candidate, and the total contributions are more than \$5,000 for the reporting period; or

(b) the statement is submitted on behalf of an individual who was a candidate pursuant to subsection 69(2). 2011, c. 5, s. 230.

Tax receipts report

261 (1) The official agent of each candidate shall, within 80 days after the day fixed for the return of the writ of election, file with the Chief Electoral Officer a report in the prescribed form respecting tax receipts issued by the official agent.

(2) The report referred to in subsection (1) must be accompanied by an auditor's report prepared in accordance with Section 207. 2011, c. 5, s. 231.

Disposal of excess contributions report

262 (1) The official agent of each candidate shall file with the Chief Electoral Officer a report in the prescribed form respecting the disposal of excess contributions pursuant to Section 300.

(2) The report referred to in subsection (1) must be delivered to the Chief Electoral Officer

(a) within one month after the candidate receives the candidate's reimbursement of election expenses; or

(b) where the candidate is not entitled to reimbursement, within two months after the official agent files a report of election expenses. 2011, c. 5, s. 232.

QUALITY OF REPORTING

Must meet requirements of Act and regulations

263 (1) The Chief Electoral Officer shall accept any statement or report filed under this Act if the Chief Electoral Officer is satisfied that the information contained in the statement or report meets the requirements of this Act and the regulations.

(2) The Chief Electoral Officer shall return any statement or report that is not accepted to the registered party, electoral district association, candidate or registered third party who filed the statement or report, and give notice of how the information contained in the statement or report does not meet the requirements of this Act and the regulations.

(3) A registered party, electoral district association, candidate or registered third party whose statement or report is not accepted by the Chief Electoral Officer shall file any new or further material or information required by the Chief Electoral Officer to bring the content of the statement or report within the requirements of this Act and the regulations. 2011, c. 5, s. 233.

CONTRIBUTIONS

Only as permitted by Act

264 (1) Except as permitted by this Act, no person shall make a contribution to

(a) a registered party, electoral district association, candidate or registered third party;

(b) an official agent or trust for a registered party, electoral district association or candidate; or

(c) a financial agent for a registered third party.

(2) Except as permitted by this Act, no

(a) registered party, electoral district association, candidate or registered third party;

(b) official agent or trust for a registered party, electoral district association or candidate; or

(c) financial agent for a registered third party,

shall accept a contribution. 2011, c. 5, s. 234.

Record required

265 (1) The official agent or financial agent shall record the full name and residential address, other than a post office box unless that is the only address available, of each contributor together with the amount of the contribution and the date on which the contribution was received.

(2) The information recorded by an official agent or financial agent under subsection (1) must be recorded in a single ledger.

(3) The ledger used to record information under subsection (1) may be in the form of an electronic record.

(4) Contributions recorded by an official agent must be recorded on a cumulative basis for the purpose of the contribution limits in subsections 266(3) and (4) and the disclosure requirement in Section 271. 2011, c. 5, s. 235; 2013, c. 17, s. 10.

By individuals

266 (1) An individual resident in the Province may make a contribution to one or more registered parties, electoral district associations, candidates or registered third parties.

(2) Where an individual was resident in the Province and is temporarily residing outside the Province while

(a) serving as a member of the Canadian Armed Forces;

(b) engaged in the service of the Government of Canada or the Government of the Province;

(c) attending an educational institution;

(d) engaged as an employee of an international organization of which Canada is a member,

the individual and members of the individual's immediate family who have temporarily left the Province with the individual are deemed to be resident in the Province for the purpose of making a contribution.

(3) Subject to subsection 268(1), the total contributions by an individual to each registered party and all electoral district associations and candidates of that registered party must not exceed \$5,000 in any calendar year.

(4) Subject to subsection 268(1), the total contributions by an individual to each independent candidate must not exceed \$5,000 in any calendar year.

(5) The total contributions by an individual to all registered third parties must not exceed \$5,000 in any calendar year.

(6) No organization shall make a contribution to a registered party, electoral district association, candidate or registered third party.

(7) No organization shall purchase tickets to, or otherwise pay any amount to participate in, a fundraising event for a registered party, electoral district association, candidate or registered third party.

(8) For the purpose of this Section, a candidate who expends the candidate's own money for electoral purposes is deemed to have made a contribution as a candidate to the candidate's own campaign to the extent of the expenditure.

(9) For greater certainty, where an employee provides services to a registered party, electoral district association, candidate or registered third party and the employee receives remuneration from the employee's employer for providing those services, the employer is deemed to have made a contribution in the amount of that remuneration.

(10) Notwithstanding subsection (9), the provision by an employer of a paid leave of absence or salary to an employee while the employee is a candidate is not a contribution, provided the candidate has been employed by the employer for at least six months and the amount paid to the employee is not increased in the six months prior to election day beyond the Consumer Price Index for the Province published by Statistics Canada using the annual 2010 index as the base.

(11) An organization shall not remunerate an employee for services provided to a registered party, electoral district association, candidate or registered third party.

(12) No individual or organization shall reimburse, directly or indirectly, any other individual, including an employee, for a contribution made by the individual or employee.

(13) No individual or organization shall enter into an agreement for the provision of payment for goods or services to a registered party, electoral district association, candidate or registered third party that includes a term that any individ-

ual will make a contribution, directly or indirectly, to a registered party, electoral district association, candidate or registered third party.

(14) An individual may, by testamentary disposition, make contributions to registered parties and electoral district associations in accordance with Section 268 and, for the purpose of those contributions, the individual and the individual's estate are deemed to be a single individual. 2011, c. 5, s. 236; 2013, c. 17, s. 11; 2015, c. 17, s. 87.

Making and receiving

267 (1) An individual may make a contribution by

(a) giving it directly to the official agent of a registered party, electoral district association or candidate or financial agent of a registered third party; or

(b) giving it to another individual, appointed in the prescribed form by the official agent of the registered party, electoral district association or candidate or financial agent of a registered third party to collect and receive contributions on behalf of the official agent or financial agent.

(2) Notwithstanding clause (1)(b), the official agent of a candidate shall not appoint a candidate to collect or receive contributions.

(3) Where an official agent or financial agent appoints another individual to accept contributions on behalf of the official agent or financial agent, the appointment must be made before the individual collects or receives a contribution.

(4) The date on which a contribution is deemed to be received by the official agent of a registered party, electoral district association or candidate or financial agent of a registered third party is the earliest of

(a) the date on which the contribution is made to the official agent or financial agent pursuant to clause (1)(a);

(b) the date on which the contribution is made to an individual appointed to collect or receive a contribution on behalf of the official agent or financial agent pursuant to clause (1)(b); and

(c) the date on which the contribution is mailed, couriered or sent by means other than being made directly to the official agent or financial agent or an individual appointed by the official agent or financial agent for the purpose of accepting contributions.

(5) No person or organization other than an individual appointed by the official agent of a registered party, electoral district association or candidate or the financial agent of a registered third party shall collect or receive a contribution on behalf of an official agent.

(6) An individual who makes a contribution by cheque, credit card or similar instrument shall make it payable directly to a registered party, electoral district association, candidate or registered third party.

(7) When collecting or receiving a contribution from a contributor, an individual appointed under clause (1)(b) shall make a transmittal record in duplicate containing the

- (a) full name and residential address, other than a post office box unless that is the only address available, of each contributor;
- (b) date on which the contribution was collected or received;
- (c) amount or value of the contribution; and
- (d) name of the individual collecting or receiving it.

(8) The individual collecting or receiving a contribution under subsection (7) shall promptly transmit the original contribution, along with the transmittal record, to the official agent of the registered party, electoral district association or candidate or financial agent of a registered third party to whom the contribution was made.

(9) The individual collecting or receiving a contribution under subsection (7) shall retain the copy of the transmittal record.

(10) Where an official agent of a registered party, electoral district association or candidate or financial agent of a registered third party receives a contribution through an individual appointed under clause (1)(b) that is not accompanied by a transmittal record, the official agent of the registered party, electoral district association or candidate or financial agent of a registered third party, as the case may be, shall, within 10 days of receipt from such individual

- (a) return the contribution unused to the contributor and advise the Chief Electoral Officer in writing that the contribution has been returned; or
- (b) where it is not possible to return the contribution, pay the amount of the contribution to the Chief Electoral Officer who shall forward that amount to the Minister of Finance and Treasury Board for deposit to the General Revenue Fund.

(11) Nothing in this Section prevents a professional fundraiser, event organizer, call centre or other similar entity retained for fundraising purposes by a registered party, electoral district association, candidate or registered third party from doing one or both of the following:

- (a) soliciting a contribution on behalf of a registered party, electoral district association, candidate or registered third party;
- (b) collecting information from an individual who wishes to make a contribution and forwarding the information to a registered party, electoral district association, candidate or registered third party.

2011, c. 5, s. 237.

Testamentary contributions

268 (1) A contribution made by an individual to a registered party or electoral district association under subsection 266(14) may exceed the amount permitted by subsection 266(3).

(2) Where a contribution made under subsection 266(14) exceeds the amount permitted by subsection 266(3), the registered party or electoral district association to which the contribution is made shall deposit the contribution, less the permitted amount, in a trust account maintained by the registered party or electoral district association at a financial institution.

(3) Money deposited under subsection (2) is held in trust for the registered party or electoral district association that deposited it.

(4) A registered party or electoral district association shall once in each calendar year, commencing the year after a deposit is made under subsection (2), withdraw from the amount deposited, including any interest earned thereon, an amount equal to the lesser of

- (a) \$5,000; and
- (b) the amount remaining in the trust account.

(5) A registered party or electoral district association shall not

- (a) except in accordance with subsection (4), withdraw any amount from an amount deposited under subsection (2); or
 - (b) borrow against an amount deposited under subsection (2).
- 2013, c. 17, s. 12.

One official agent or financial agent to record contribution

269 (1) Notwithstanding the requirement of an individual accepting a contribution on behalf of an official agent or financial agent to prepare a transmittal record under subsection 267(7), only one official agent or financial agent is permitted to record a contribution.

(2) A contribution deposited into an account established on behalf of a registered party, electoral district association, candidate or registered third party is deemed to be received by the official agent or financial agent who maintains the account.

(3) The official agent of a registered party, electoral district association or candidate or financial agent of a registered third party shall record the full name and residential address, other than a post office box unless that is the only address available, of each contributor together with the amount of the contribution.

(4) The official agent who records a contribution under subsection (3) is responsible for filing a disclosure statement pursuant to Section 271. 2011, c. 5, s. 238.

When contributions may be accepted

270 (1) A registered party, electoral district association and registered third party may accept contributions at any time.

(2) An individual may, through the individual's official agent, accept a contribution from the date the individual becomes a registered candidate to the earliest of

- (a) the date on which the individual ceases to be a registered candidate before the close of nominations;
- (b) the date on which the individual ceases to be a candidate up to the close of polls election day; and
- (c) the close of polls on election day. 2011, c. 5, s. 239.

DISCLOSURE OF CONTRIBUTIONS

Disclosure statement

271 (1) On or before April 30th in each year, every official agent of a registered party shall file with the Chief Electoral Officer a disclosure statement in the prescribed form showing the full name and residential address, other than a post office box unless that is the only address available, of each contributor whose contributions received by that official agent during the previous calendar year equal or exceed \$200 in total and the amount of the total contributions by that contributor.

(2) On or before March 31st in each year, every official agent of an electoral district association shall file with the Chief Electoral Officer a disclosure statement in the prescribed form showing the full name and residential address, other than a post office box unless that is the only address available, of each contributor whose contributions received by that official agent during the previous calendar year exceed \$200 in total and the amount of the total contributions by that contributor.

(3) The official agent of a candidate shall file in the prescribed form a disclosure statement showing the full name and residential address, other than a post office box unless that is the only address available, of each contributor whose contributions received by that official agent exceed \$200 in total and the amount of the total contributions by that contributor on or before

- (a) 80 days after the date fixed for return of the writ where an election is held in the electoral district; or
- (b) March 31st of the year following the year being reported where an election was not held in the electoral district in the year being reported. 2011, c. 5, s. 240; 2015, c. 17, s. 88.

Anonymous contribution

272 An official agent or an individual appointed by the official agent to collect or receive contributions pursuant to clause 267(1)(b) shall not accept an anonymous contribution in any amount and where any anonymous contribution cannot be returned to the contributor, it must be remitted to the Chief Electoral Officer who shall transmit it to the Minister of Finance and Treasury Board for deposit to the General Revenue Fund. 2011, c. 5, s. 241.

Annual \$100 limit

273 An official agent or an individual appointed by the official agent to collect or receive contributions pursuant to clause 267(1)(b) shall not accept from any individual in any calendar year cash contributions totalling more than \$100. 2011, c. 5, s. 242.

Beneficial owner only

274 (1) No individual shall contribute to any registered party, electoral district association or candidate funds not beneficially belonging to the individual or funds that have been given or provided to that individual by another individual or organization for the purpose of contributing those funds unless the individual contributing the funds is the spouse of the person to whom the funds beneficially belong.

(2) No individual shall accept from any other individual or organization funds that are given or provided to the individual to reimburse a contribution made to any registered party, electoral district association or candidate by that individual. 2011, c. 5, s. 243.

Illegal contribution

275 Where an official agent becomes aware after accepting a contribution that the contribution was made in contravention of this Act, the official agent shall

- (a)** return the contribution within 30 days of becoming aware of the contravention;
- (b)** advise the Chief Electoral Officer in the prescribed form that the contribution has been returned; and
- (c)** provide proof satisfactory to the Chief Electoral Officer that the contribution has been returned. 2011, c. 5, s. 244.

Exemptions available to eligible individual

276 For greater certainty, the exemptions to the definition of “contributions” in Section 195 are available only to an individual eligible to make a contribution under this Act. 2011, c. 5, s. 245.

Calculating attributable contribution

277 (1) A net profit of more than \$50 that is derived from the sale or auction of goods, services or property sold on behalf of a registered party, electoral district association, candidate or registered third party is a contribution attributable to the individual who purchased the goods, services or property from the registered party, electoral district association, candidate or registered third party.

(2) Where the total amount paid by an individual for a fundraising event held on behalf of a registered party, electoral district association, candidate or registered third party minus the value of the benefit received by the individual is more than \$50, the amount of the fee paid that exceeds the benefit received is a contribution to the registered party, electoral district association, candidate or registered third party and the contribution is attributable to the individual who paid the fee.

(3) Notwithstanding subsection (2), a registered party provincial conference, convention or annual general meeting held by a registered party is deemed not to be a fundraising event and the total fee paid by an individual is a contribution if the fee is only for registration and does not entitle the individual to a benefit other than registration.

(4) Notwithstanding the exemptions in clause (e) of the definition of “contributions” in Section 195, where the total amount paid by an individual for a

fundraising event, less the benefit received by the individual is less than \$50, the official agent of a registered party, electoral district association or candidate may elect to record the amount paid less the value of the benefit received as a contribution.

(5) Where an official agent elects to record a contribution under subsection (4), the official agent shall do the same for all individuals who participated in the fundraising event.

(6) An amount recorded as a contribution under subsection (4) must be added to other contributions made by the same individual in accordance with subsection 265(4). 2011, c. 5, s. 246; 2013, c. 17, s. 13.

Gifts to contributors

278 A registered party, electoral district association or candidate may give a gift of nominal value to a contributor and the gift is not considered a benefit to the contributor if the fair market value of the gift is no more than 10% of the contribution and the gift is not provided in the form of cash or a gift certificate. 2011, c. 5, s. 247.

Donation in kind

279 (1) The value of a donation in kind contribution is the fair market value of the goods, services or property at the time the donation in kind is received.

(2) An individual who provides goods, services or property directly to participants in a fundraising event held on behalf of a registered party, electoral district association or candidate without compensation is deemed to have made a donation in kind contribution to the registered party, electoral district association or candidate and the contribution is valued at the fair market value of the goods, services or property at the time they are provided to the participants.

(3) A self-employed individual who normally sells or otherwise charges for services and who provides those services to a registered party, electoral district association or candidate is deemed to have made a donation in kind contribution to the registered party, electoral district association or candidate and the contribution is valued at the regular fee or amount that the self-employed individual would normally charge for the services.

(4) An individual who sells goods, services or property to a registered party, electoral district association or candidate at an amount less than fair market value is deemed to have made a donation in kind contribution to the registered party, electoral district association or candidate and the contribution is valued at the difference between the fair market value of the goods, services or property at the time they were sold and the price paid by the registered party, electoral district association or candidate for the goods, services or property.

(5) An individual's donation in kind contributions that total more than \$50 in a calendar year are cumulative pursuant to subsection 265(4). 2011, c. 5, s. 248.

By nomination candidate or leadership contestant

280 (1) Money or property conveyed by a nomination candidate or leadership contestant to a registered party is deemed to be a contribution to the registered party and must be disclosed pursuant to subsection 271(1) of this Act.

(2) The contributions in subsection (1) must be attributed on a proportionate basis to the individuals who gave money or property to the nomination candidate or leadership contestant.

(3) The total amount contributed to a registered party under subsection (1) must not exceed the sum of

(a) the amount of any money or value of any property given to a nomination candidate or leadership contestant by an individual that would have been permitted as a contribution to a registered party if it were made directly to the registered party; and

(b) the amount of any money or value of any property received from a registered party or electoral district association by a nomination candidate or leadership contestant.

(4) Money or property from a nomination candidate or leadership contestant must not be accepted by another leadership contestant, electoral district association or candidate.

(5) The amount by which the total of fees charged by a registered party to leadership contestants exceeds the total cost of holding the leadership convention is deemed to be a contribution to the registered party and the contribution must be attributed on a proportionate basis to individuals who gave money or property to the leadership contestants. 2011, c. 5, s. 249.

Return of excess contributions

281 (1) Where an individual makes contributions to a registered party and all candidates and electoral district associations of that party totalling more than the amount permitted by subsection 266(3), the registered party, candidate or electoral district association, as the case may be, shall return to the individual the amount in excess of the permitted amount.

(2) Where an individual makes contributions to an independent candidate totalling more than the amount permitted by subsection 266(4), the independent candidate shall return to the individual the amount in excess of the permitted amount.

(3) Where on a single day an individual makes contributions to two or more of a registered party and all candidates and electoral district associations of that party totalling more than the amount permitted by subsection 266(3) and immediately preceding that day the amount permitted by subsection 266(3) has not been exceeded, the registered party, candidates and electoral district associations, as the case may be, shall return to the individual the amount in excess of that amount in the same proportions relative to each that the contributions received by them on that day are relative to each other. 2011, c. 5, s. 250; 2013, c. 17, s. 14.

Publication of disclosure statements

282 (1) On or before June 30th in each year, the Chief Electoral Officer shall publish on the Elections Nova Scotia website the disclosure statements of registered parties and electoral district associations for the previous calendar year.

(2) On or before 110 days following the return of a writ of election the Chief Electoral Officer shall publish on the Elections Nova Scotia website the disclosure statements of candidates in a by-election or a general election.

(3) Where an extension for submission of a candidate's financial report published under subsection (2) has been requested and granted in accordance with subsection 259(3), the publication date is extended by one day per day of extension.

(4) The publication of a disclosure statement by the Chief Electoral Officer under subsections (1) and (2) shall not include the residential address of a contributor but only the community name. 2011, c. 5, s. 251; 2015, c. 17, s. 89.

TAX RECEIPTS**Use of prescribed form**

283 (1) The Chief Electoral Officer shall prescribe the form for use as an official tax receipt to be issued, including electronically, by official agents for the purpose of the *Income Tax Act*.

(2) The Chief Electoral Officer shall cause to be printed a sufficient supply of tax receipt forms for the candidates, and as requested by the registered parties, and provide them

- (a) to the official agent of such a registered party; and
- (b) to returning officers to distribute to the official agent of each candidate.

(3) The official agent of a registered party shall file annually, in the prescribed form, a reconciliation of all tax receipts received from the Chief Electoral Officer.

(4) The reconciliation pursuant to subsection (3) must report separately tax receipts issued by the registered party for

- (a) contributions received by the registered party; and
- (b) contributions received by an electoral district association for which the registered party issued a tax receipt under subsection 284(1).

(5) The official agent of a candidate shall return all unused tax receipts to the Chief Electoral Officer within 30 days of election day. 2011, c. 5, s. 252; 2015, c. 17, s. 90; 2016, c. 7, s. 8.

Who may issue

284 (1) A tax receipt may be issued by the official agent of a registered party, at any time, for

(a) the actual amount of a monetary contribution received on behalf of the registered party; or

(b) the price paid by a participant, less the benefit received by that participant, for a fundraising event held by a registered party or by an electoral district association if

(i) a statement of fundraising event revenue and expenses in the prescribed form is delivered to the Chief Electoral Officer no later than the earlier of

(A) 120 days after the date the fundraising event is held, and

(B) March 31st following the calendar year in which the fundraising event is held, and

(ii) the calculation of total fees paid by all participants, less the benefits received by those participants, has been approved by the Chief Electoral Officer.

(2) For greater certainty, a tax receipt issued pursuant to clause (1)(b) for a fundraising event held by an electoral district association must be issued on a tax receipt separate and apart from any other tax receipt issued by an official agent to the same individual.

(3) An electoral district association may not issue tax receipts.

(4) A tax receipt may be issued by the official agent of a registered candidate for a contribution received, including one in transit, from the time after the writ is issued and the individual is registered as a candidate to the close of poll on election day for

(a) the actual amount of a monetary contribution; or

(b) the price paid by a participant, less the benefit received by that participant, for a fundraising event if

(i) a statement of fundraising event revenue and expenses in the prescribed form is delivered to the Chief Electoral Officer no later than 30 days after the date the fundraising event is held, and

(ii) the calculation of total fees paid by all participants, less the benefits received by those participants, has been approved by the Chief Electoral Officer. 2011, c. 5, s. 253; 2020, c. 8, s. 55.

No tax receipt

285 A tax receipt may not be issued for

(a) amounts exempt from the definition of contributions;

(b) a contribution realized through the sale or auction of goods, services or property;

- (c) a contribution realized through a lottery or raffle;
- (d) a donation in kind contribution;
- (e) loan contributions under Section 245; or
- (f) money contributed to a registered party by a leadership contestant or nomination candidate or fees paid to a registered party by a leadership contestant that are contributions under Section 280. 2011, c. 5, s. 254.

Required information

286 (1) Every tax receipt issued by an official agent of a registered party must show clearly, in a manner that cannot be readily altered,

- (a) the full name of the registered party;
- (b) the serial number of the tax receipt;
- (c) the name of the official agent as recorded in the register maintained by the Chief Electoral Officer;
- (d) the date on which the tax receipt was issued;
- (e) the calendar year during which the contribution was received;
- (f) the full name and residential address of the individual making the contribution;
- (g) the amount of the contribution; and
- (h) the signature of the official agent, which may be a facsimile signature.

(2) Every tax receipt issued by an official agent of a candidate must show clearly, in a manner that cannot be readily altered

- (a) the name of the candidate;
- (b) the serial number of the tax receipt;
- (c) the name of the official agent;
- (d) the date on which the tax receipt was issued;
- (e) the date on which the contribution was received;
- (f) the date of the election day;
- (g) the full name and residential address of the individual making the contribution;
- (h) the amount of the contribution; and
- (i) the signature of the official agent.

(3) A tax receipt may be issued only to

- (a) one individual; and
- (b) notwithstanding subsection 274(1), the individual who made the contribution. 2011, c. 5, s. 255.

Duplicate copies

287 (1) An official agent of a registered party shall file duplicate copies of all tax receipts issued by the registered party with the Chief Electoral Officer.

(2) The official agent of a candidate shall file duplicate copies of all tax receipts issued to contributors with the Chief Electoral Officer at the same time the official agent returns unused tax receipts to the Chief Electoral Officer. 2011, c. 5, s. 256; 2020, c. 8, s. 56.

Replacement receipt

288 For the purpose of Section 287, a tax receipt issued to replace a previously issued tax receipt must show clearly that it is a replacement receipt and, in addition to its own serial number, must show the serial number of the tax receipt originally issued. 2011, c. 5, s. 257.

Spoiled tax receipt

289 (1) All spoiled tax receipts must be marked “cancelled” and such tax receipts, together with the duplicates thereof, must be filed by the official agent with the Chief Electoral Officer or returning officer, as the case may be, together with the duplicates of tax receipts required to be filed with the Minister of Finance and Treasury Board pursuant to subsection 77(3) of the *Income Tax Act*.

(2) Every tax receipt on which

- (a) the date on which the contribution was received;
- (b) the year during which the contribution was received; or
- (c) the amount of the contribution,

was incorrectly or illegibly entered must be regarded as spoiled. 2011, c. 5, s. 258.

ELECTION EXPENSES SPENDING LIMITS**Registered party maximum**

290 (1) The election expenses of a registered party during a general election must not exceed the aggregate of \$2.29 multiplied by the number of electors in the electoral districts in which the party fields one or more candidates for election.

(2) The official agent of a registered party shall not incur election expenses during a by-election to an amount greater than \$5,723.20. 2011, c. 5, s. 259.

Candidate maximum

291 (1) The election expenses of a candidate must not exceed during any election the aggregate of

- (a) \$5.72 per elector in respect of the number of electors in the electoral district up to 5,000 electors;
- (b) \$4.86 per elector in respect of the number of electors in the electoral district in excess of 5,000 and not in excess of 10,000; and

(c) \$4.29 per elector in respect of the number of electors in the electoral district in excess of 10,000.

(2) Where more than one candidate is to be elected in an election in an electoral district, the election expenses of all candidates of the same registered party must not exceed the amounts prescribed by subsection (1), which amounts may be divided equally among those candidates.

(3) The maximum expenses set out in Section 290 and this Section must be increased or decreased in accordance with the Consumer Price Index for the Province published by Statistics Canada using the annual 2010 index as the base and the latest available index, as determined by the Chief Electoral Officer, as the current index.

(4) During an election, the Chief Electoral Officer shall calculate the maximum election expenses permitted pursuant to Sections 290 and this Section for the election based on the most current list of electors at the time the writ of election or a by-election and provide this calculation to each official agent of a registered party or candidate by publishing the calculation on the Elections Nova Scotia website.

(5) Notwithstanding subsection (4), where the final list of electors provided to the registered parties under Section 61 is greater than on the most current list of electors under the issuance of the writ or writs, the maximum expenses of a registered candidate or candidates must be adjusted upward. 2011, c. 5, s. 260.

ELECTION EXPENSES

Who may incur or pay

292 (1) During an election no person other than the official agent of a candidate or registered party, or a representative of such official agent authorized in writing by the official agent, shall incur or authorize election expenses on behalf of a candidate or a registered party.

(2) No person shall accept or execute an order for election expenses on behalf of a candidate or a registered party that is not given by an official agent of a candidate or registered party, or by a representative of such an agent authorized in writing by the official agent.

(3) No person shall

(a) claim or receive a price different from the person's regular price for similar work, service or merchandise outside the election for election expenses incurred during an election; or

(b) accept different remuneration or renounce remuneration for election expenses.

(4) Notwithstanding subsection (3), a person may contribute, without remuneration, the person's personal services or the use of the person's vehicle, if the person does so freely and not as part of the person's work in the service of an employer.

(5) Notwithstanding the other provisions of this Section, a candidate may pay the candidate's own personal expenses during an election up to the amount of \$1,000 and, subject to clauses (c) to (f) in the definition of "election expenses" in Section 195, the expenses so paid, not including any publicity expense, form part of the candidate's election expenses.

(6) A candidate who pays personal expenses pursuant to subsection (5) shall give the candidate's official agent a detailed statement of the payments. 2011, c. 5, s. 261; 2015, c. 17, s. 91.

Payment and claims

293 (1) Any payment of \$25 or more for election expenses must be evidenced by a receipt that provides all the particulars required for auditing each item of work or material and the rate or unit price used for computing the amount of the payment.

(2) Every person to whom an amount is due for election expenses shall present the person's claim not later than 30 days after election day to the official agent or, where the agent has died or resigned or is incapable and has not been replaced, to the leader of the registered party or to the candidate.

(3) The right of a person to recover election expenses is barred unless the person presents the person's claim within the time specified in subsection (2) or, in the event of the person's death, the claim is presented by the person's personal representative within 30 days of the grant of probate or letters of administration. 2011, c. 5, s. 262.

Failure to report

294 (1) Where the candidate's report and affidavit pursuant to Section 259 are not delivered within the period specified in subsection 259(1) or within the extended period approved by the Chief Electoral Officer pursuant to subsection 259(3), the candidate is disqualified from sitting in the House of Assembly until the report and affidavit are delivered to the Chief Electoral Officer, unless a judge by order excuses the delay.

(2) Where the report of election expenses and affidavit of a registered party pursuant to Section 253 are not delivered within the period specified in subsection 253(1), the party leader is disqualified from sitting in the House of Assembly until the report and affidavit are delivered to the Chief Electoral Officer, unless a judge by order excuses the delay. 2011, c. 5, s. 263.

Error in report

295 (1) Where a report of election expenses or the associated affidavit contains an error, the official agent, candidate or leader of a registered party may request

- (a) a judge; or
- (b) the Chief Electoral Officer,

to direct the necessary correction and, where the judge or Chief Electoral Officer is satisfied that the correction should be made, the judge or Chief Electoral Officer shall cause the report to be amended.

(2) Where, in the opinion of the judge, a substantial change is made by reason of a correction pursuant to subsection (1), the judge may order the publication of a summary of the amended election expense report.

(3) Where

(a) pursuant to subsection (2), the judge orders publication; or

(b) in the opinion of the Chief Electoral Officer, a substantial change is made by reason of a correction pursuant to subsection (1),

the Chief Electoral Officer shall publish a summary of the amended election expense report on the Elections Nova Scotia website.

(4) Where a candidate or leader of a registered party establishes before a judge that the absence, death, illness or misconduct of an official agent or other reasonable cause prevents the preparation of a report prescribed by Section 253 or 259, the judge may make any order that the judge considers necessary to enable the applicant to obtain all the information and documents to make the report and affidavit and grant such further delay as the circumstances appear to the judge to require.

(5) Failure to comply with an order made under this Section is punishable in the same manner as failure to appear or testify before the court. 2011, c. 5, s. 264.

Differentiation in report

296 (1) In the report required by Sections 253 and 259, an official agent shall report separately election expenses that are

(a) paid;

(b) unpaid and uncontested; and

(c) unpaid and contested.

(2) An official agent, candidate or leader of a registered party shall not pay a claim that is contested except in compliance with a judgment of a court in favour of the creditor after hearing of the case and not upon a confession of judgment or an agreement of settlement.

(3) Notwithstanding subsection (2), a judge may authorize the payment of a contested claim or of a claim not presented within the specified time in subsection 293(2) if it is established before the judge that the contestation or delay in filing results from a bona fide error or oversight and that the payment will not increase the expenses to an amount exceeding the limit fixed by Section 290 or 291. 2011, c. 5, s. 265.

Notice of court application

297 No such application may be heard without notice of at least three clear days to the Chief Electoral Officer and to each of the other candidates for election in the electoral district or in the case of the leader of a registered party, to each of the other registered party leaders. 2011, c. 5, s. 266.

Powers of Chief Electoral Officer

298 The Chief Electoral Officer may, by directive,

- (a) prescribe certain expenses or categories of expenses as being or not being family and accessibility expenses;
- (b) establish maximum amounts that may be claimed by a candidate for family and accessibility expenses or maximum amounts that may be claimed for a particular category of family and accessibility expenses; and
- (c) establish guidelines for determining whether a family and accessibility expense incurred by a candidate is a reasonable expense incurred as a result of the candidate's candidacy. 2020, c. 8, s. 57.

REIMBURSEMENT OF
CANDIDATE ELECTION EXPENSES

Calculation and payment

299 (1) The Chief Electoral Officer shall reimburse each candidate who has been declared elected or who has received not less than 10% of the valid votes cast in an election in which the individual was a candidate by making payment to the official agent of the candidate in respect of the candidate's election expenses to an amount not exceeding \$1.43 for each elector on the final list of electors.

(2) In an electoral district in which a registered party endorsed more than one individual who was nominated as a candidate, the total reimbursement made under subsection (1) may not exceed \$1.43 for each elector whose name was on the final list of electors and the reimbursement must be divided equally among those candidates.

(3) After the official agent of a candidate has delivered the report of the election expenses of a candidate as required by this Act, the Chief Electoral Officer shall

- (a) approve, as soon as possible, payment of 75% of the reimbursement to which a candidate is entitled if the Chief Electoral Officer is satisfied that election expenses in at least that amount have been incurred; and
- (b) approve the remaining amount of reimbursement to which a candidate is entitled if the Chief Electoral Officer has determined that the report of election expenses is accurate and that the expenses claimed are election expenses as defined in Section 195.

(4) The reimbursement provided for in this Section is increased or decreased in accordance with the Consumer Price Index for the Province published by Statistics Canada using the annual 2010 index as the base and the latest available index, as determined by the Chief Electoral Officer, as the current index.

(5) During an election, the Chief Electoral Officer shall calculate the maximum reimbursement payable with respect to a candidate's election expenses pursuant to this Section for the election and shall publish the calculations on the Elections Nova Scotia website.

(6) As soon as possible after a writ of an election or by-election is issued, the Chief Electoral Officer shall calculate the interim reimbursement pursuant to this Section based on the most current list of electors at the beginning of the election and shall publish the calculations on the Elections Nova Scotia website.

(7) After the official count is completed, the Chief Electoral Officer shall adjust the amount of the interim reimbursement if the final list of electors contains a larger number of electors and shall republish the calculations on the Elections Nova Scotia website. 2011, c. 5, s. 267.

DISPOSAL OF EXCESS CONTRIBUTIONS

Calculation and payment

300 (1) Where the aggregate of all contributions received by an official agent of a candidate for which the official agent has issued a receipt for income tax purposes is in excess of the amount required by the candidate to pay the aggregate of

- (a) the deposit;
- (b) election expenses;
- (c) auditor's fees in excess of the amount for which reimbursement is provided; and
- (d) costs with respect to a recount incurred by the candidate in relation to the election,

the amount of such excess must be paid by the official agent

(e) where the political affiliation of the candidate is shown on the ballot paper as a registered party, to any local organization or association of members of the party in the electoral district of the candidate or, where there is no local organization or association, to the official agent of the registered party; or

(f) in any other case, to the Minister of Finance and Treasury Board

(i) within one month after the candidate receives the candidate's reimbursement of election expenses pursuant to this Act, or

(ii) where the candidate is not entitled to reimbursement, within two months after the filing by the official agent of the election expense report.

(2) Where an official agent of the candidate pays any invoices for election and non-election costs subsequent to the filing of the financial report, these payments must be supported by approved invoices and vouchers for all charges when the final report is submitted pursuant to Section 262.

(3) Where, after payment to the Minister of Finance and Treasury Board of an excess amount pursuant to this Section, an official agent is required to make a further payment, the official agent may apply to the Chief Electoral Officer for the repayment to the official agent of an amount not exceeding the lesser of

(a) the excess amount paid by the official agent to the Minister of Finance and Treasury Board; or

(b) the amount of such further payment,

and, upon receipt of a certificate from the Chief Electoral Officer to the effect that such further payment has been or may properly be made by the official agent, the Minister of Finance and Treasury Board shall pay out of the General Revenue Fund to the official agent to whom a certificate relates the amount certified by the Chief Electoral Officer. 2011, c. 5, s. 268; 2015, c. 17, s. 92.

INSPECTION OF RECORDS

By Chief Electoral Officer

301 (1) The Chief Electoral Officer may conduct inspections of the records of registered parties, electoral district associations, candidates, registered third parties, official agents and financial agents that relate or may relate to

(a) information that is or should be in any statements, forms or reports required to be filed with the Chief Electoral Officer under this Act;

(b) information that shows the basis for any calculation that has been made in order to determine the amount of a contribution; or

(c) any information that is required to be filed with the Chief Electoral Officer under this Act.

(2) The Chief Electoral Officer may conduct an inspection pursuant to Section 318 as part of a preliminary review respecting a complaint. 2011, c. 5, s. 269.

Access to premises and records

302 On reasonable notice at any reasonable time, the Chief Electoral Officer, or a representative of the Chief Electoral Officer, may visit the premises of a registered party, electoral district association, candidate, registered third party, official agent and financial agent to inspect and make copies of their records. 2011, c. 5, s. 270.

ELECTION ADVERTISING

Must be authorized

303 (1) A candidate or registered party, or a person acting on behalf of a candidate or registered party, who causes election advertising to be conducted shall mention in or on the message that its transmission was authorized by the official agent of the candidate or registered party, as the case may be.

(2) No person shall transmit any election advertising referred to in subsection (1) that does not comply with subsection (1).

(3) Constituency office signage for a member of the House of Assembly that is in place on or before the issuance of the writ is exempt from election advertising rules. 2011, c. 5, s. 271; 2015, c. 17, s. 93.

No transmission by Government means

304 No person shall knowingly conduct election advertising or cause it to be conducted using a means of transmission of the Government. 2011, c. 5, s. 272.

No one to prevent transmission

305 (1) No person shall prevent or impair the transmission to the public of an election advertising message without the consent of a person with authority to authorize its transmission.

(2) Subsection (1) does not apply with respect to

(a) the prevention or impairment, by a public authority, of an unlawful transmission if reasonable notice has first been given to the person who authorized the transmission; or

(b) the removal by an employee of a public authority of a sign, poster or banner if the posting of it is a hazard to public safety. 2011, c. 5, s. 274.

THIRD PARTY ELECTION ADVERTISING**Limits**

306 (1) A third party shall not incur election advertising expenses of a total amount of more than \$10,000 during an election in relation to a general election.

(2) Not more than \$2,000 of the total amount referred to in subsection (1) may be incurred to promote or oppose the election of one or more candidates in a given electoral district, including by

(a) naming them;

(b) showing their likenesses;

(c) identifying them by their respective political affiliations; or

(d) taking a position on an issue with which they are particularly associated.

(3) The limit set out in subsection (2) only applies to an amount incurred with respect to a leader of a registered party to the extent that it is incurred to promote or oppose the election of the leader of a registered party in a given electoral district.

(4) A third party shall not incur election advertising expenses of a total amount of more than \$2,000 in a given electoral district during a by-election.

(5) The amounts set out in subsections (1), (2) and (4) are increased at the beginning of each year by the percentage increase in the previous year in the Consumer Price Index for the Province published by Statistics Canada using the annual 2010 index as the base. 2011, c. 5, s. 275.

Offence

307 A third party shall not circumvent, or attempt to circumvent, a limit set out in Section 306 in any manner, including by splitting itself into two or more third parties for the purpose of circumventing the limit or acting in collusion with another third party so that their combined election advertising expenses exceed the limit. 2011, c. 5, s. 276.

Third party must be identified and authorize

308 (1) A third party shall identify itself in any election advertising placed by it and indicate that it has authorized the advertising.

(2) No person shall transmit any election advertising referred to in subsection (1) that does not comply with subsection (1). 2011, c. 5, s. 277.

Registration

309 (1) A third party shall register within seven days of incurring election advertising expenses of a total amount of \$500 and may not register before the issue of the writ.

(2) An application for registration must be sent to the Chief Electoral Officer in the prescribed form and must include

- (a) the name, address and telephone number of
 - (i) where the third party is an individual, the individual,
 - (ii) where the third party is a corporation, the corporation and the officer who has signing authority for it, and
 - (iii) where the third party is a group, the group and a person who is responsible for the group;
- (b) the signature of the individual, officer or person referred to in subclause (a)(i), (ii) or (iii), respectively, as the case may be;
- (c) the address and telephone number of the office of the third party where its books and records are kept and of the office to which communications may be addressed; and
- (d) the name, address and telephone number of the third party's financial agent.

(3) An application under subsection (2) must be accompanied by a declaration signed by the financial agent accepting the appointment.

(4) Where the third party is a trade union, corporation or other entity with a governing body, the application must include a copy of the resolution passed by its governing body authorizing it to incur election advertising expenses.

(5) The Chief Electoral Officer shall, after receiving an application, determine whether the requirements set out in subsections (1) to (4) are met and shall then notify the person who signed the application whether the third party is registered.

(6) Where the Chief Electoral Officer refuses to register a third party, the Chief Electoral Officer shall give reasons for the refusal.

(7) A third party may not be registered under a name that, in the opinion of the Chief Electoral Officer, is likely to be confused with the name of a candidate, registered party or other registered third party.

(8) The registration of a third party is valid only for the election period during which the application is made, but the third party continues to be subject to the requirement to file an election advertising report under subsection 313(1). 2011, c. 5, s. 278; 2015, c. 17, s. 95.

Financial agent

310 (1) A third party that is required to register under subsection 309(1) shall appoint a financial agent who may be a person who is authorized to sign an application for registration made under that subsection.

(2) The following persons may not act as the financial agent of a registered third party:

- (a) a member of the House of Assembly;
- (b) a candidate;
- (c) an auditor acting for a registered party, an electoral district association or a candidate;
- (d) an election officer or an employee of Elections Nova Scotia;
- (e) an individual who does not have full capacity to enter into contracts;
- (f) an individual who, at any time in the previous seven years, has been convicted of an offence under this Act or the former Act.

(3) A financial agent may authorize a person to accept contributions or incur election advertising expenses, but that authorization does not limit the responsibility of the financial agent. 2011, c. 5, s. 279.

Registry of third parties

311 The Chief Electoral Officer shall maintain, for the period that the Chief Electoral Officer considers appropriate, a registry of third parties in which is recorded, in relation to each registered third party, the information referred to in subsection 309(2). 2011, c. 5, s. 280.

Contribution to registered third party

312 (1) Every contribution made during an election to a registered third party for election advertising purposes must be accepted by, and every election advertising expense incurred on behalf of a third party must be authorized by, its financial agent.

(2) No registered third party shall use a contribution for election advertising if the registered third party does not know the name and address of the individual who made the contribution. 2011, c. 5, s. 281.

Election advertising report

313 (1) Every third party that is required to be registered in accordance with subsection 309(1) shall file an election advertising report in the prescribed form with the Chief Electoral Officer within four months after election day.

(2) An election advertising report must contain

(a) in the case of a general election,

(i) a list of election advertising expenses referred to in subsection 306(2) and the time and place of the broadcast or publication of the advertisements to which the expenses relate, and

(ii) a list of all election advertising expenses other than those referred to in subclause (i) and the time and place of broadcast or publication of the advertisements to which the expenses relate; and

(b) in the case of a by-election, a list of election advertising expenses referred to in subsection 306(4) and the time and place of the broadcast or publication of the advertisements to which the expenses relate.

(3) Where a third party has not incurred expenses referred to in clause (2)(a) or (b), that fact must be indicated in its election advertising report.

(4) The election advertising report must include

(a) the amount of contributions for election advertising purposes that were received in the period beginning six months before the issue of the writ and ending on election day;

(b) for each individual who made contributions of a total amount of more than \$200 for election advertising purposes during the period referred to in clause (a), the person's name, address and the amount and date of each contribution; and

(c) the amount, other than an amount of a contribution referred to in clause (a), that was paid out of the third party's own funds for election advertising expenses.

(5) Where the third party is unable to identify which contributions were received for election advertising purposes in the period referred to in clause (4)(a), it shall list the names and addresses of every individual who donated a total of more than \$200 to it during that period.

(6) An election advertising report must include the signed declarations of the financial agent and, if different, of the person who signed the application made under subsection 309(2) that the report is accurate.

(7) A registered third party shall, at the request of the Chief Electoral Officer, provide the original of any bill, voucher or receipt in relation to an election advertising expense that is in an amount of more than \$50. 2011, c. 5, s. 282.

Correction to report

314 The Chief Electoral Officer may make a correction in a report referred to in subsection 313(1) if the error does not materially affect the substance of the report. 2011, c. 5, s. 283.

Names and reports to be published

315 The Chief Electoral Officer shall, in the manner the Chief Electoral Officer considers appropriate, publish

- (a) the names and addresses of registered third parties, as they are registered; and
- (b) within six months after election day, reports made under subsection 313(1). 2011, c. 5, s. 284; 2015, c. 17, s. 96.

PART III

COMPLIANCE AND ENFORCEMENT

Injunction

316 (1) Where the Chief Electoral Officer has reasonable grounds to believe that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to this Act, the Chief Electoral Officer may, during an election period, after taking into account the nature and seriousness of the act or omission, the need to ensure fairness of the electoral process and the public interest, apply to a judge for an injunction described in subsection (2).

(2) Where the judge, on application by the Chief Electoral Officer under subsection (1), is satisfied that there are reasonable grounds to believe that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to this Act, and that the nature and seriousness of the act or omission, the need to ensure fairness of the electoral process and the public interest justify the issuing of an injunction, the judge may issue an injunction ordering any person named in the application to do one or both of the following:

- (a) refrain from committing any act that it appears to the judge is contrary to this Act; and
- (b) do any act that it appears to the judge is required by this Act.

(3) No injunction may be issued under subsection (2) unless at least 48 hours notice is given to each person named in the application or the urgency of the situation is such that service of notice would not be in the public interest. 2011, c. 5, s. 285.

Public Inquiries Act

317 For the purpose of exercising jurisdiction pursuant to this Act, the Chief Electoral Officer has all the powers, privileges and immunities of a commis-

sioner appointed pursuant to the *Public Inquiries Act* and may establish rules of procedure for the purpose of this Act. 2011, c. 5, s. 286.

Investigation

318 (1) The Chief Electoral Officer may, on the Chief Electoral Officer's own initiative, or at the request of another person, conduct an investigation into any matter that might constitute an offence under this Act.

(2) The Chief Electoral Officer may engage the services of any person necessary to assist with the duties of the Chief Electoral Officer pursuant to this Part. 2011, c. 5, s. 287.

Notice of investigation

319 Before completing an investigation, the Chief Electoral Officer shall notify any person who is the subject of an investigation that the person is being investigated and inform the person of the nature of the matter being investigated, unless the Chief Electoral Officer believes that doing so would compromise or impede the investigation. 2011, c. 5, s. 288.

Notice of no further action

320 Where, upon conclusion of the investigation, the Chief Electoral Officer decides to take no further action, the Chief Electoral Officer shall notify any person who is the subject of the investigation of that decision. 2011, c. 5, s. 289.

Notice to person who requested investigation

321 Where the investigation was initiated at the request of another person, the Chief Electoral Officer shall also notify that person of the decision. 2011, c. 5, s. 290.

Chief Electoral Officer may publish outcome

322 (1) Where the Chief Electoral Officer believes that it is in the public interest to make public the outcome of an investigation, the Chief Electoral Officer may do so on a public website and by such other means as the Chief Electoral Officer considers appropriate, and may include in the information provided the name of the person and the nature of the matter investigated.

(2) Notwithstanding subsection (1), the Chief Electoral Officer shall not disclose any information respecting

- (a) the residential address;
- (b) the residential telephone number;
- (c) the spouse; or
- (d) the dependent children,

of the person investigated. 2011, c. 5, s. 291.

Prosecution

323 (1) A prosecution for an offence under this Act may not be commenced without the consent of the Chief Electoral Officer.

(2) Where the Chief Electoral Officer, upon conclusion of the investigation, believes on reasonable grounds that an offence under this Act has been committed and is of the view that the public interest so requires, the Chief Electoral Officer may refer the matter to the Director of Public Prosecutions who, subject to this Act, shall determine whether to commence a prosecution. 2011, c. 5, s. 292.

Frivolous or vexatious allegation

324 (1) Where the Chief Electoral Officer determines that an allegation of a contravention of this Act is frivolous or vexatious, the Chief Electoral Officer shall dismiss the matter and may refer the matter to the Director of Public Prosecutions who, subject to this Act, shall determine whether to commence a prosecution.

(2) The Chief Electoral Officer shall publish on a public website and by any other means the Chief Electoral Officer considers appropriate a summary of each allegation the Chief Electoral Officer determines to be frivolous or vexatious, and any order made by the Chief Electoral Officer pursuant to subsection (1), which must include the name of the person against whom the order was made but must not include the person's residential address or residential telephone number. 2011, c. 5, s. 293.

COMPLIANCE AGREEMENTS

Procedure for entering into

325 (1) In this Section and Sections 326 to 330, "contracting party" means a person who enters into a compliance agreement with the Chief Electoral Officer pursuant to subsection (2).

(2) Subject to subsection 326(2), the Chief Electoral Officer may issue a notice of non-compliance to notify a person whom the Chief Electoral Officer believes, on reasonable grounds, has committed, is about to commit or is likely to commit, an act or omission that would constitute an offence under this Act.

(3) The issuance of a notice of non-compliance does not preclude the Chief Electoral Officer from taking any further action the Chief Electoral Officer determines is required to ensure compliance.

(4) Subject to subsection 326(2), the Chief Electoral Officer may enter into a compliance agreement, for the purpose of ensuring compliance with this Act, with a person whom the Chief Electoral Officer believes on reasonable grounds has committed, is about to commit or is likely to commit an act or omission that could constitute an offence under this Act.

(5) A compliance agreement may contain any terms and conditions that the Chief Electoral Officer considers necessary to ensure compliance with this Act, including undertakings related to training, community service and new administrative procedures.

(6) Before entering into a compliance agreement, the Chief Electoral Officer shall advise the prospective contracting party of the right to be represented by counsel and give the prospective contracting party an opportunity to obtain counsel.

(7) A compliance agreement may include a statement by the contracting party in which the contracting party admits responsibility for the act or omission that constitutes the offence.

(8) The fact that a compliance agreement was entered into, and any statement referred to in subsection (7), is not admissible in evidence against the contracting party in any proceedings. 2011, c. 5, s. 294; 2015, c. 17, s. 97.

Involvement of Director of Public Prosecutions

326 (1) Where a matter was not referred to the Director of Public Prosecutions before a compliance agreement is entered into, no referral may be made for an act or omission that led to the compliance agreement unless the contracting party breaches the compliance agreement.

(2) Where a matter has already been referred to the Director of Public Prosecutions, whether or not a prosecution has been initiated, the Director may remit the matter back to the Chief Electoral Officer if, after consultation with the Chief Electoral Officer, the Director considers that a compliance agreement would better serve the public interest.

(3) Where a compliance agreement is entered into, any prosecution of the contracting party for an act or omission that led to it is stayed and, unless the contracting party breaches the compliance agreement, the Director of Public Prosecutions may not resume the prosecution.

(4) The Chief Electoral Officer and the contracting party may renegotiate the terms of the compliance agreement at the request of the Chief Electoral Officer or contracting party at any time before it is fully executed.

(5) The Chief Electoral Officer shall provide the contracting party with a copy of a compliance agreement, immediately after it is entered into or renegotiated.

(6) Where the matter has been referred to the Director of Public Prosecutions, the Chief Electoral Officer shall also provide a copy of the compliance agreement to the Director. 2011, c. 5, s. 295.

Notice of compliance

327 (1) Where the Chief Electoral Officer is of the opinion that the compliance agreement has been complied with, the Chief Electoral Officer shall cause a notice to that effect to be served on the contracting party.

(2) Where the matter has been referred to the Director of Public Prosecutions, the Chief Electoral Officer shall also provide a copy of the notice to the Director.

(3) Service of the notice terminates any prosecution of the contracting party that is based on the act or omission in question and prevents the Chief Electoral Officer from referring the matter to the Director of Public Prosecutions and the Director from instituting such a prosecution. 2011, c. 5, s. 296.

Breach

328 (1) Where the Chief Electoral Officer is of the opinion that a contracting party has breached a compliance agreement, the Chief Electoral Officer shall serve a notice of default on the contracting party, informing the contracting party that the Chief Electoral Officer may refer the matter to the Director of Public Prosecutions for any action the Director considers appropriate or, where a prosecution was stayed by virtue of subsection 326(3), it may be resumed.

(2) Where the matter has been referred to the Director of Public Prosecutions, the Chief Electoral Officer shall also provide a copy of the notice of default to the Director. 2011, c. 5, s. 297.

Court may dismiss proceedings

329 A court shall dismiss proceedings against a contracting party in relation to the subject-matter of a compliance agreement if it is satisfied on a balance of probabilities that the contracting party has not breached the compliance agreement or, in the case of partial compliance and taking into account the contracting party's performance with respect to the agreement, it is of the opinion that the continuation of proceedings would be unfair. 2011, c. 5, s. 298.

Publication of notice of non-compliance and notice of agreement

330 (1) The Chief Electoral Officer may publish by any means that the Chief Electoral Officer has issued a notice of non-compliance.

(2) The Chief Electoral Officer shall publish as soon as practicable on a public website and by any other means that the Chief Electoral Officer considers appropriate a notice that sets out, in the case of a compliance agreement entered into under Section 325, the contracting party's name, the act or omission in question and a summary of the compliance agreement and shall update the published information as soon as practicable upon the disposition of the compliance agreement but shall not make public the residential address or residential telephone number of any person who is the subject of a compliance agreement. 2011, c. 5, s. 299; 2015, c. 17, s. 98; 2020, c. 8, s. 58.

PART IV**OFFENCES****At polling station**

331 Every person is guilty of an offence who, directly or indirectly,

(a) at or about a polling station, interferes or attempts to interfere with an elector when marking a ballot, or otherwise attempts to ascertain the name of the candidate for whom an elector is about to vote or has voted;

(b) communicates information about the manner in which a ballot has been marked in the person's presence in a polling station;

(c) induces or endeavours to induce an elector to show the elector's ballot so as to make known the name of the candidate for whom the elector has cast the elector's vote; or

(d) communicates information obtained in a polling station as to the candidate for whom an elector at the polling station is about to vote or has voted. 2011, c. 5, s. 300.

Breach of ballot secrecy

332 (1) Subject to Sections 115 and 139, every person is guilty of an offence who

(a) openly declares in a polling station for whom the person intends to vote or has voted; or

(b) shows the person's ballot to permit the name of the candidate, for whom the person has voted, to be known.

(2) Every person is guilty of an offence who takes a photograph with an electronic device of the person's ballot. 2011, c. 5, s. 301; 2015, c. 17, s. 99.

Summons of returning officer

333 Every person is guilty of an offence who refuses without cause or neglects to attend on the summons of a returning officer issued under this Act. 2011, c. 5, s. 302.

During advance poll or election day poll

334 Every person is guilty of an offence who

(a) supplies, carries or wears any flag, ribbon, emblem, badge or other item with the intent to distinguish the user as the supporter of a candidate or a registered party within or on the exterior surface of a building in which a polling station is located where voting is taking place, without written permission of the Chief Electoral Officer;

(b) organizes or participates in a parade, demonstration, or broadcast using a loud speaker or a public address system, in support of a candidate or a registered party during the advance poll or election day poll. 2011, c. 5, s. 303; 2020, c. 8, s. 59.

No campaign advertising

335 Every person is guilty of an offence who posts or displays within or on the exterior surface of a building in which a returning office or polling station is located, any literature, emblem, ribbon, flag, banner, card, bill, poster or device that supports or opposes a candidate or a registered party, without written permission of the Chief Electoral Officer. 2011, c. 5, s. 304; 2016, c. 7, s. 9; 2020, c. 8, s. 60.

General

336 A person is guilty of an offence who

(a) fails or refuses to comply with any of the provisions of this Act; or

(b) while performing the duties of the election officer, engages in politically partisan activity. 2011, c. 5, s. 305.

False statement that candidate has withdrawn

337 Every person is guilty of an offence who knowingly makes, distributes or publishes a false statement that a candidate has withdrawn. 2011, c. 5, s. 306.

False statement respecting candidate

338 Every person is guilty of an offence who, during an election, knowingly makes, distributes or publishes a false statement of fact about a candidate's character or conduct for the purpose of influencing the election. 2011, c. 5, s. 307.

Obstructing lawful campaigning

339 Every person is guilty of an offence who obstructs a candidate or a candidate's representative in lawfully campaigning. 2011, c. 5, s. 308.

Disruption of election process

340 Every person is guilty of an offence who

- (a) acts, incites others to act or conspires to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of the election;
- (b) removes, mutilates, defaces or alters any notice or document required by this Act to be posted; or
- (c) impedes or obstructs an enumerator in the performance of the enumerator's duties under this Act. 2011, c. 5, s. 309.

Offences by employer

341 An employer who refuses, or by intimidation, undue influence, or in any other way, interferes with the use by an employee of the three consecutive hours for voting, or fails to pay the employee, as provided in Section 155, is guilty of an offence. 2011, c. 5, s. 310.

False tax receipt

342 Every person who issues a tax receipt purporting to be for a contribution received by or on behalf of a registered party or candidate is guilty of an offence unless the contribution indicated in the tax receipt was made to or for the benefit of the registered party or candidate. 2011, c. 5, s. 311.

False statement

343 Every person who knowingly makes a false statement in any application, statement, report, return or other document filed with the Chief Electoral Officer under this Act is guilty of an offence. 2011, c. 5, s. 312.

False information regarding contribution

344 Every person who knowingly gives to an official agent or financial agent, or any other person authorized to receive contributions on behalf of an official agent or financial agent, false information in respect of any contribution or alleged contribution is guilty of an offence. 2011, c. 5, s. 313.

Offences respecting filing of reports

345 Every person is guilty of an offence who

(a) fails to file with the Chief Electoral Officer a statement, report, return or other document or information required under this Act within the specified time period;

(b) files with the Chief Electoral Officer a statement, report, return or other document or information that substantially fails to disclose the information required under this Act; or

(c) fails substantially to provide such clarifying or verifying information with respect to a statement, report, return or other document or information filed with the Chief Electoral Officer under this Act as may be required by the Chief Electoral Officer. 2011, c. 5, s. 314.

Penalty for Section 259 offence

346 (1) An official agent who fails to file the report of election expenses required by Section 259 is guilty of an offence and liable on summary conviction to a fine of \$50 for each day that the person fails to file the report to a maximum of the greater of \$500 and the amount of the expenses eligible for reimbursement.

(2) An official agent who fails to submit the report within 12 months of election day may not receive reimbursement for election expenses or audit fees. 2015, c. 17, s. 100.

Penalty for Section 64 offence

347 A candidate or registered party that fails to destroy the list of electors and report the destruction as required by subsection 64(2) within 30 days of the close of polls on election day may be subject to a penalty, to be imposed in the sole discretion of the Chief Electoral Officer, of \$50 for each day that the candidate or registered party fails to destroy the list and report the destruction to a maximum of \$1,500. 2020, c. 8, s. 61.

Penalty for Section 252 or 253 offence

348 A registered party that

(a) fails to publish its annual financial statements as required by Section 252 within 120 days after the end of a fiscal year; or

(b) fails to file a report of election expenses as required by Section 253 within 120 days after the day fixed for return of the writ of election for a by-election or the writs of election for a general election,

may be subject to a penalty, to be imposed in the sole discretion of the Chief Electoral Officer, of \$50 for each day that the registered party fails to file the report to a maximum of \$1,500. 2020, c. 8, s. 61.

Penalty for Section 264 offence

349 Every person that contravenes Section 264 is guilty of an offence and liable on summary conviction to a fine

(a) in the case of a registered party, not exceeding \$50,000; and

- (b) in all other cases, not exceeding \$5,000. 2011, c. 5, s. 315.

Penalty for Section 290 or 291 offence

350 (1) Every registered party that contravenes Section 290 is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000.

(2) Every candidate who contravenes Section 291 is guilty of an offence and is liable to a fine not exceeding \$50,000. 2011, c. 5, s. 316.

Offence by official agent or officer

351 Every official agent or other officer of a registered party or a candidate who, while acting on behalf of the registered party or candidate, is responsible for a contravention of Section 290 or 291 is guilty of an offence. 2011, c. 5, s. 318.

Failure to make proper payment

352 Every official agent who fails to make a payment as required by Section 296, or who knowingly makes a payment that is less than the amount that the official agent is required to pay under Section 296, is guilty of an offence. 2011, c. 5, s. 317.

Prohibited use of information

353 Every person who uses all or any part of information disclosed under this Act for commercial or business purposes or for any other purpose not intended by this Act is guilty of an offence. 2011, c. 5, s. 319.

Penalty for Section 294 offence

354 A person who sits in the House of Assembly contrary to Section 294 is guilty of an offence and liable on summary conviction to a fine of \$500 for each day on which the person so sits. 2011, c. 5, s. 320.

Penalty for Section 313 offence

355 A third party that fails to file its election advertising report as required by Section 313 within four months after election day may be subject to a penalty, to be imposed in the sole discretion of the Chief Electoral Officer, of \$50 for each day that the third party fails to file the report, to a maximum of \$1,500. 2020, c. 8, s. 62.

Failure to provide required information

356 Every person who fails to comply with a written request to provide a record containing the information required under this Act about a contribution that the person accepted, or an expense that the person incurred or approved, is guilty of an offence. 2011, c. 5, s. 321.

Further offences

357 Every person is guilty of an offence who

- (a) wilfully contravenes subsection 394(1) or (2) or, being a sponsor of an election survey, wilfully contravenes subsection 394(3);
- (b) wilfully contravenes Section 395; or

- (c) wilfully contravenes Section 396. 2011, c. 5, s. 322.

Summary Proceedings Act

358 (1) Every person is guilty of an offence who contravenes or fails to comply with this Act and, where no other fine is provided, is liable on summary conviction to a fine not exceeding \$5,000.

(2) The *Summary Proceedings Act* applies to every proceeding taken against a person charged with an offence under this Act.

(3) A prosecution for an offence under this Act may be instituted not later than one year after the day on which the Chief Electoral Officer has reasonable grounds to believe that an offence under this Act has been committed, but in any case, not later than five years after the day on which the offence was committed. 2011, c. 5, s. 323.

Default of penalty

359 (1) Where a candidate is subject to a penalty under Section 347 and the penalty has not been paid, the penalty may be deducted from the candidate's reimbursement for election expenses or audit fees, in the sole discretion of the Chief Electoral Officer.

(2) Where a registered party is subject to a penalty under Section 347 or 348 and the penalty has not been paid, the penalty may be deducted from any reimbursement amount to be paid to the registered party under Section 220, in the sole discretion of the Chief Electoral Officer. 2020, c. 8, s. 63.

Who may be prosecuted

360 A prosecution for an offence under this Act may be instituted against a registered party, electoral district association or other organization in the name of the organization and, for the purpose of the prosecution, the organization is deemed to be a person. 2011, c. 5, s. 324.

Attempts and accessories

361 Every person is guilty of an offence and liable to the same punishment as the person who commits it who

(a) attempts to commit or is an accessory after the fact to the commission of; or

(b) aids, abets, counsels or procures the commission of,
an offence punishable under this Act. 2011, c. 5, s. 325.

No privilege in answering question

362 (1) Subject to subsections (2) and (3), no person is excused from answering any question put to the person in any proceeding under this Act concerning any election or the conduct of any person thereat or in relation thereto on the ground of privilege.

(2) The evidence of an elector to show for whom the elector voted during an election is not admissible in evidence in any proceeding under this Act.

(3) No answer given by any person claiming to be excused on the ground of privilege may be used in any other proceedings under this Act but the person presiding at the proceeding shall give the witness a certificate that the witness claimed the right to be excused on such ground and made full and true answers to the satisfaction of that person. 2011, c. 5, s. 326.

CORRUPT PRACTICES

Offences

363 (1) Every person is guilty of an offence who, directly or indirectly, offers a bribe to induce or influence another person to

- (a) vote or refrain from voting;
- (b) vote or refrain from voting for or against a particular candidate;
- (c) nominate or refrain from nominating a person as a candidate; or
- (d) run or refrain from running as a candidate or to withdraw as a candidate.

(2) Every person is guilty of an offence who, directly or indirectly, accepts or agrees to accept a bribe offered in circumstances described in subsection (1).

(3) Every person is guilty of an offence who, directly or indirectly, solicits a bribe in circumstances described in subsection (1). 2011, c. 5, s. 327.

Exceptions

364 Section 363 does not extend to any food or drink given or provided by

- (a) a registered party, a registered candidate or a candidate sponsoring a meeting;
- (b) a person at the person's place of residence; or
- (c) a person supplying lunches to agents at a polling station. 2011, c. 5, s. 328.

Offences respecting voting

365 (1) Every person is guilty of an offence who

- (a) directly or indirectly, uses or threatens to use force or violence or threatens to inflict an injury, damage, harm or loss, upon a person
 - (i) to induce or compel the person to vote or refrain from voting, or
 - (ii) because that person voted or refrained from voting; or
- (b) impedes or prevents an elector from exercising the right to vote.

(2) Every person is guilty of an offence who uses false pretenses to induce an elector to vote or refrain from voting, or to vote or refrain from voting for or against a particular candidate. 2011, c. 5, s. 329.

Offence respecting list of electors

366 Every person is guilty of an offence who knowingly makes a false statement in order to have an elector's name omitted or deleted from the list of electors. 2011, c. 5, s. 330.

Further offences respecting list of electors

367 Every person is guilty of an offence who knowingly makes a false statement in order to have

(a) the name of a dead or fictitious person added to or kept on the list of electors; or

(b) the name of a person who is not an elector, including the person making the false statement, added to or kept on the list of electors. 2011, c. 5, s. 331.

False information or statement

368 Every person is guilty of an offence who

(a) knowingly provides false or misleading information when required or authorized by this Act to provide information; or

(b) knowingly makes a false or misleading statement or oath when required by this Act to make a statement or oath. 2011, c. 5, s. 332.

Illegal use of list of electors

369 Every person is guilty of an offence who uses, authorizes or permits the use of information contained in the Register of Electors, or list of electors used at any election, for a purpose other than an electoral purpose. 2011, c. 5, s. 333.

Misleading statement during an investigation

370 Every person is guilty of an offence who obstructs, hinders or makes a false or misleading statement to the Chief Electoral Officer or a person appointed by the Chief Electoral Officer when conducting an investigation. 2011, c. 5, s. 334.

Offence respecting election materials and ballots

371 Every person entrusted with the care, custody and delivery of election materials and supplies, ballot paper, ballots and other election related documents is guilty of an offence who knowingly fails to deliver them as instructed by an election officer. 2011, c. 5, s. 335.

Offences respecting voting

372 Every person is guilty of an offence who

(a) knowingly votes or applies to vote in an election when not eligible to do so;

- (b) having already voted in an election, either votes or applies to vote in the same election or in an election in another electoral district that has the same election day;
- (c) induces or causes another person to vote knowing that the other person is not eligible to vote;
- (d) obtains a ballot in the name of another person, whether the other person is alive, dead or fictitious;
- (e) applies to be included in a list of electors in the name of some other person, whether that person is living, dead or fictitious; or
- (f) applies to be included in a list of electors for a polling division in which the person is not resident with intent to be improperly included in that list. 2011, c. 5, s. 336.

Offences respecting ballot

373 Every person is guilty of an offence who, not being authorized by this Act, wilfully

- (a) has a ballot or ballot paper in the person's possession;
- (b) alters, defaces or destroys a ballot;
- (c) supplies a ballot to any person;
- (d) deposits a paper other than a ballot in a ballot box;
- (e) takes a ballot out of a polling station;
- (f) delivers to the deputy returning officer, to be placed in a ballot box, anything other than the ballot given to that person by the deputy returning officer;
- (g) destroys, defaces, alters, takes, opens or otherwise interferes with a ballot, poll record, ballot box or a prescribed document or envelope used at or prepared for an election;
- (h) prints or reproduces a ballot, or a paper that is capable of being used as a ballot, or prints more ballots than the person is authorized to print;
- (i) places any writing, number or mark on a ballot so that an elector may be thereby identified; or
- (j) being a deputy returning officer, puts the deputy returning officer's initials on the back of a paper that is not a ballot but is capable of being used as one. 2011, c. 5, s. 337.

Offences by election officer

374 A person is guilty of an offence who

- (a) accepts an appointment or acts as an election officer when not eligible;
- (b) acts as an election officer without lawful authority;
- (c) being an election officer, knowingly falsifies a list of electors or poll record, enumerators' index sheet, or other election document,

whether by making a false addition, deletion or otherwise with intent to falsify it; or

(d) being an election officer, knowingly miscounts ballots under Sections 152 to 154. 2011, c. 5, s. 338.

Offences by candidate

375 (1) Every prospective candidate or candidate is guilty of an offence who, during an election,

(a) agrees, at the request of any person, to follow a course of action that will prevent the prospective candidate or candidate from exercising freedom of action in the House of Assembly, or to resign therefrom if called upon by any person;

(b) makes a payment, advance, loan or transfer, except in relation to the personal expenses of the prospective candidate or candidate, for the purpose of the election, other than through the candidate's official agent;

(c) receives a contribution, transfer, proceeds of a loan or any other money for the purpose of the election, other than through the candidate's official agent;

(d) makes or promises to make any subscription or donation for a religious, charitable, educational, athletic or philanthropic purpose, or to any club, society or association in exchange for receiving the votes of one or more persons;

(e) makes or promises to make a bet or wager upon the result of the election or on any event or contingency relating to it; or

(f) pays or promises to pay the wages or earnings of an elector lost as a result of casting or agreeing to cast the elector's vote. 2011, c. 5, s. 339.

Additional offences

376 (1) Every official agent who wilfully

(a) incurs election expenses exceeding the maximum fixed by Section 290 or 291;

(b) delivers or files a false report or affidavit;

(c) produces a falsified invoice, receipt or other voucher;

(d) produces a falsified record of a contribution or tax receipt; or

(e) after the delivery of the official agent's report, pays a claim otherwise than as permitted by Section 296,

is guilty of an offence.

(2) A candidate or party leader whose official agent has been guilty of any of the acts mentioned in subsection (1) is also guilty of an offence unless it is established that the act could not have affected the result of the election or that the candidate or party leader, as the case may be, had taken in good faith all possible and reasonable precautions to carry out the election honestly according to

the requirements of this Act or that the act of the official agent was committed without the knowledge of the candidate or party leader.

(3) A candidate or party leader who wilfully incurs, pays or authorizes any election expense otherwise than as permitted by this Act is guilty of an offence. 2011, c. 5, s. 340.

Obstruction

377 Every person who obstructs any person carrying out an audit, inquiry, investigation, inspection or examination under this Act or withholds from the person or conceals or destroys any records, documents or things relevant to the audit, inquiry, investigation, inspection or examination is guilty of an offence. 2011, c. 5, s. 341.

Threat of force

378 Every person who, directly or indirectly, uses or threatens to use force or violence, or threatens to inflict an injury, damage, harm or loss upon another person to induce or compel the other person to make or refrain from making a contribution is guilty of an offence. 2011, c. 5, s. 342.

Controverted Elections Act

379 Every person who commits a breach of any of the provisions of Sections 363 to 378 may be found guilty of a corrupt practice under the *Controverted Elections Act*. 2011, c. 5, s. 343.

Effect of conviction under Controverted Elections Act

380 Every person who is reported under the *Controverted Elections Act* as having been found guilty of a corrupt practice, in addition to any other punishment provided herein, is during the five years after the report, incapable of being elected to or of sitting in the House of Assembly, or of holding any office to which the person was appointed by the Governor in Council. 2011, c. 5, s. 344.

Candidate's election is void

381 Subject to Section 382, where it is found by the judge trying an election petition under the *Controverted Elections Act* that a corrupt practice has been committed by or with the actual knowledge and consent of a candidate during an election, the candidate's election, where the candidate has been elected, is void. 2011, c. 5, s. 345.

Candidate or agent guilty

382 No election is void under Section 381 unless the act or omission that constituted the corrupt practice was done or omitted by

- (a) the candidate in person;
- (b) the candidate's official agent; or
- (c) an agent of the candidate with the actual knowledge or consent of the candidate. 2011, c. 5, s. 346.

Perjury

383 Where a witness, on whose testimony a person has become disqualified under Sections 381 and 382, is convicted of perjury with respect to the testimony, a court shall, upon being satisfied that the disqualification was procured by reason of the perjury, order that the disqualification thereupon cease. 2011, c. 5, s. 347.

Penalty for corrupt practice

384 A person who is found guilty of a corrupt practice is liable on summary conviction to an additional fine of not more than \$10,000 or to imprisonment for a term of not more than one year or to both a fine and imprisonment. 2011, c. 5, s. 348.

PART V**GENERAL****Public notice**

385 Where an election officer is authorized or required to give a public notice by this Act, the notice may be by advertisement or by posting on the Elections Nova Scotia website or by such means of communication as the Chief Electoral Officer considers will best effect the intended purpose. 2011, c. 5, s. 349.

Oath

386 (1) An oath authorized or required under this Act, may be taken before

(a) the person who is expressly required by this Act to administer it; or

(b) where no person is expressly required to administer it, before the Chief Electoral Officer, the Assistant Chief Electoral Officer, a returning officer, election clerk, revision assistant, supervising deputy returning officer, deputy returning officer, poll clerk, presiding officer, deputy presiding officer, write-in ballot coordinator, judge, barrister, notary public, justice of the peace or commissioner for taking affidavits.

(2) An oath authorized or required under this Act must be administered at no cost. 2011, c. 5, s. 350.

Chief Electoral Officer may advance or postpone deadline

387 Except in the case of election day, the Chief Electoral Officer may advance or postpone a day on which this Act provides for the doing or carrying out of any act or thing to the first day immediately following or preceding such day that is not a holiday and, in that event, the Chief Electoral Officer shall immediately give notice on the Elections Nova Scotia website and by such other means of communication as the Chief Electoral Officer considers will best effect the intended purpose and, in writing, to the leaders of the registered parties. 2011, c. 5, s. 351.

Mistake or non-compliance with Act

388 No election may be declared invalid by reason of

- (a) non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes;
- (b) any want of qualification in the persons signing nomination documents received by the returning officer under the provisions of this Act; or
- (c) any mistake in the use of the forms,

if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that the non-compliance or mistake did not affect the result of the election. 2011, c. 5, s. 352.

Powers after amendment of Act

389 After the passing of any amendment to this Act, the Chief Electoral Officer may

- (a) consolidate the amendment in copies of the Act for distribution; and
- (b) correct and reprint all forms, instructions, procedures, codes of conduct, policies and guidelines affected thereby. 2011, c. 5, s. 353.

Writ issued within six months of amendment

390 No amendment to this Act applies in any election for which a writ is issued within six months from the passing of the amendment. 2011, c. 5, s. 354.

Tariff of fees and expenses

391 (1) Upon the recommendation of the Chief Electoral Officer, the Governor in Council may make

- (a) a tariff of fees and expenses to be paid by Elections Nova Scotia
 - (i) to any person for services and expenses under this Act, and
 - (ii) to any person for services, including payment for accounting programs or software, to registered parties, electoral district associations, official agents and candidates to assist in complying with this Act; and
- (b) a tariff of fees to be paid to Elections Nova Scotia for products created or supplied by Elections Nova Scotia,

and may revise and amend the tariffs.

- (2) Where it appears to the Chief Electoral Officer that
 - (a) the fees and expenses provided for by the tariffs are not sufficient remuneration for services required to be performed or expenses required to be incurred;
 - (b) a claim for any necessary services performed or expenses incurred is not covered by the tariffs; or
 - (c) the tariffs do not provide for fees and expenses for additional election officers appointed under subsection 85(5),

the Chief Electoral Officer may authorize the payment of such remuneration, fees for services or payment of expenses as the Chief Electoral Officer considers just and reasonable.

(3) An account for services or expenses payable under this Section must be

(a) accompanied by satisfactory vouchers showing disbursements made, if any;

(b) certified by the returning officer for services and expenses under clause (1)(a); and

(c) authorized by the Chief Electoral Officer in accordance with the tariff of fees and expenses or pursuant to clause (1)(b) or subsection (2).

(4) The fees, expenses and compensation authorized under this Section, and expenses incurred by the Chief Electoral Officer under this Act, must be paid out of the General Revenue Fund.

(5) The tariff of fees and expenses made pursuant to the former Act continues in force until amended or repealed. 2011, c. 5, s. 355.

Election Commission

392 (1) There is a commission to be known as the “Election Commission” which shall

(a) make recommendations to the Chief Electoral Officer respecting amendments to this Act or any related enactment that, in the opinion of the Election Commission, would improve the elections process or the administration of this Act, which may be included by the Chief Electoral Officer in the Chief Electoral Officer’s report pursuant to clause 192(1)(d);

(b) advise the Chief Electoral Officer regarding the administrative conduct of elections and the administration of the electoral finance regime;

(c) advise the Chief Electoral Officer regarding the piloting of a procedure, equipment or technology pursuant to Section 393; and

(d) advise the Chief Electoral Officer regarding the initiation or conduct of studies pursuant to subsections 21(4) and (5).

(2) The Election Commission is composed of

(a) a person appointed by the Governor in Council to be the Chair of the Election Commission; and

(b) two persons appointed by each of the leaders of a recognized party as defined by the *House of Assembly Act*.

(3) The Chair holds office for a term of five years and may be reappointed.

(4) The Chair is removable only for cause by the Governor in Council acting upon a resolution of the House of Assembly.

(5) A person appointed to the Election Commission by a leader of a recognized party within the meaning of the *House of Assembly Act* holds office for a term of two years unless the person is sooner replaced by the leader of that registered party.

(6) Where persons are appointed to the Election Commission by the leader of a party and the party ceases to be a recognized party within the meaning of the *House of Assembly Act*, those persons cease to be members of the Commission.

(7) Only persons entitled to be registered as electors at a general election may be appointed to the Election Commission by the Governor in Council or a leader of a recognized party.

(8) No person may be appointed or act as a member of the Election Commission who is

- (a) a candidate in a Provincial or federal election; or
- (b) a member of the House of Assembly or a member of the Parliament of Canada.

(9) One half of the members of the Election Commission at a duly constituted meeting constitute a quorum and any vacancy on the Election Commission does not impair the right of the remaining members of the Election Commission to act.

(10) The Chair and each other member of the Election Commission must be compensated for reasonable expenses incurred in the performance of duties and the Chair and each member of the Election Commission must be paid such remuneration as the Governor in Council determines.

(11) The Chief Electoral Officer is entitled to receive notice and attend all meetings of the Election Commission and make observations and suggestions on any subject under discussion at such meetings.

(12) The Election Commission shall consult with such disabilities organizations or associations or such individuals as it considers necessary before making recommendations to or advising the Chief Electoral Officer in respect of matters pertaining to accessibility for persons with disabilities. 2011, c. 5, s. 356.

Directive to use alternative procedure, equipment or technology

393 (1) Notwithstanding any other provision of this Act or the regulations, when requested to do so by a resolution by a majority vote of the House of Assembly or with the unanimous approval of a motion of the Election Commission, the Chief Electoral Officer may direct the use at a by-election, or in up to one third of the total electoral districts at a general election, of a process, procedure, equipment or technology that is different from that required by this Act if the procedure, equipment or technology relates to any of the following:

- (a) voting;

- (b) elector registration;
- (c) the form of ballot;
- (d) the list of electors;
- (e) polling divisions;
- (f) polling stations;
- (g) counting of votes;
- (h) the manner of reporting, filing, disclosing, recording and publishing information and receiving payment;
- (i) the adaptation of voting procedures to enable electors with disabilities to vote without assistance;
- (j) electoral finance.

section (1) **(2)** The Chief Electoral Officer may initiate a directive under sub-

- (a) on the advice of the Election Commission; or
- (b) on the Chief Electoral Officer's own initiative if, in the opinion of the Chief Electoral Officer, it will enhance access, efficiency or the integrity of the vote or improve the electoral finance regime.

(3) A directive of the Chief Electoral Officer under subsection (1) must describe in detail the procedure, equipment or technology to be used and must refer to the provisions of this Act that will be varied or will not apply to the by-election or to one or more of the electoral districts at the general election.

(4) An election must not be held in accordance with a directive under this Section unless the Chief Electoral Officer has

- (a) provided a copy of the directive to each registered party; and
- (b) published the directive on the Elections Nova Scotia website,

at least 60 days before the writ is issued for the by-election or general election.

(5) A by-election or an election in one or more districts of a general election held in accordance with a directive under this Section is not invalidated by a failure to comply with this Act if the non-compliance is authorized by the directive.

(6) Within six months after election day for a by-election or election day in one or more districts of a general election to which a directive applies, the Chief Electoral Officer shall transmit a report to the House of Assembly through the Speaker that includes

- (a) information on the procedure, equipment or technology used in accordance with the directive and its effectiveness; and
- (b) recommendations with respect to amendments to this Act that are required for the purpose of adopting the procedure,

equipment or technology used in accordance with the directive or otherwise adapted as recommended by the Chief Electoral Officer.

(7) The Speaker shall table the report referred to in subsection (6) before the House of Assembly if it is sitting or, where it is not sitting, at the next ensuing sitting.

(8) On request, the Chief Electoral Officer shall provide a person with a copy of a directive under subsection (1).

(9) An oath that is prescribed by the Chief Electoral Officer for use under the piloting provisions of the Act must be published on the Elections Nova Scotia website.

(10) The Chief Electoral Officer may modify, replace or supplement a directive published on the Elections Nova Scotia website if the Chief Electoral Officer considers it necessary to do so in order to deal with an emergency situation or other circumstance during the election, which modification, replacement or supplement must be published on the website as soon as practicable. 2011, c. 5, s. 357; 2020, c. 8, s. 64.

Election public opinion poll

394 (1) The first person who transmits the results of an election public opinion poll, other than one that is described in Section 396, to the public during an election period and any person who transmits them to the public within 24 hours after they are first transmitted to the public must provide the following information together with the results:

- (a) the name of the sponsor of the public opinion poll;
- (b) the name of the individual or organization that conducted the public opinion poll;
- (c) the date on which or the period during which the public opinion poll was conducted;
- (d) the population from which the sample of respondents was drawn;
- (e) the number of people who were contacted to participate in the public opinion poll; and
- (f) the margin of error, if any, in respect of the data obtained.

(2) In addition to the information referred to in subsection (1), the following must be provided in the case of a transmission to the public by means other than broadcasting:

- (a) the wording of the public opinion poll questions in respect of which data is obtained; and
- (b) the means by which a report referred to in subsections (3) and (4) may be obtained.

(3) A sponsor of an election public opinion poll shall, at any time during an election after the results of the public opinion poll are transmitted to the

public, provide, on request, a copy of a written report on the results of the public opinion poll, as transmitted under subsection (1).

(4) The report referred to in subsection (3) must include, as applicable,

- (a) the name and address of the sponsor of the public opinion poll;
- (b) the name and address of the person or organization that conducted the public opinion poll;
- (c) the date on which or the period during which the public opinion poll was conducted;
- (d) information about the method used to collect the data from which the public opinion poll results are derived, including
 - (i) the sampling method,
 - (ii) the population from which the sample was drawn,
 - (iii) the size of the initial sample,
 - (iv) the number of individuals who were asked to participate in the public opinion poll and the numbers and respective percentages of them who participated in the public opinion poll, refused to participate in the public opinion poll, and were ineligible to participate in the public opinion poll,
 - (v) the dates and time of day of the interviews,
 - (vi) the method used to recalculate data to take into account in the public opinion poll the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the public opinion poll questions, and
 - (vii) any weighting factors or normalization procedures used in deriving the results of the public opinion poll; and
- (e) the wording of the public opinion poll questions and the margins of error, if any, in respect of the data obtained.

(5) A sponsor may charge a fee of up to 25¢ per page for a copy of a report provided under subsection (4). 2011, c. 5, s. 358.

Public opinion poll not based on recognized polling methods

395 The first person who transmits the results of an election public opinion poll that is not based on recognized polling methods to the public during an election period and any person who transmits them within 24 hours after the results are first transmitted to the public must indicate that the public opinion poll was not based on recognized polling methods. 2011, c. 5, s. 359.

No new public opinion poll results on election day

396 No person shall knowingly cause to be transmitted to the public on election day the results of a public opinion poll that have not previously been transmitted to the public. 2011, c. 5, s. 360.

Regulations

- 397 (1)** The Governor in Council may make regulations
- (a) defining or further defining any word or expression used in this Act;
 - (b) prescribing persons or classes of persons for the purpose of subclause 117(c)(ii);
 - (c) respecting the payment of auditors appointed pursuant to this Act;
 - (d) respecting any matter necessary or advisable to effectively carry out the intent and purpose of Part II.

(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*. 2011, c. 5, s. 361; 2020, c. 8, s. 65.

Political Contributions Regulations

398 The *Political Contributions Regulations* made under Sections 21 and 32 of the *Members and Public Employees Disclosure Act* are repealed except for the forms contained in those regulations, which continue in force until replaced by new or amended forms prescribed pursuant to this Act. 2011, c. 5, s. 372.

Chief Electoral Officer appointment

399 The Chief Electoral Officer appointed pursuant to the former Act continues in office until a Chief Electoral Officer is appointed pursuant to this Act. 2011, c. 5, s. 373.

Assistant Chief Electoral Officer and returning officers

400 The Assistant Chief Electoral Officer and the returning officers appointed pursuant to the former Act continue in office. 2011, c. 5, s. 374.

CHAPTER E-6

An Act Respecting Electrical Installation and Inspection

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Act does not apply.....	3
Administration	4
Inspectors	5
Regulations and fees	6
New or altered installation	7
Inspection of consumer installation	8
Inspection of existing installation	9
Duty of contractor	10
Right of entry and inspection	11
Duty to allow access	12
Obstruction of inspector.....	13
Accessibility for inspection.....	14
Liability	15
Offence and penalty	16

Short title

1 This Act may be cited as the *Electrical Installation and Inspection Act*. R.S., c. 141, s. 1.

Interpretation

2 In this Act,

“approved” means approved by the Chief Inspector or of a standard approved by the Chief Inspector;

“Chief Inspector” means the Chief Inspector appointed under this Act;

“consumer” means any corporation, commission, company, person, association of persons, or their lessees, trustees, liquidators or receivers, utilizing or intending to utilize electrical power or energy directly for any purpose including heat, light or power purposes;

“contractor” means any person, corporation, company, firm, organization or partnership performing or engaging to perform, either for the person’s or its own use or benefit, or for that of another and with or without remuneration or gain, any work with respect to an electrical installation or any other work to which this Act applies, but does not include a public utility as defined in this Act;

“electrical installation” means the wires, machinery, apparatus, appliances, devices, material and equipment used or intended for use by a consumer for the receipt, distribution or use of electrical power or energy;

“Fire Marshal” means the Fire Marshal appointed under the *Fire Safety Act*;

“inspector” means an inspector appointed under this Act, and includes the Chief Inspector;

“Minister” means the Minister of Labour, Skills and Immigration;

“public utility” includes any corporation, commission, company, person, association of persons, or their lessees, trustees, liquidators or receivers, that own or hereafter own or may own, operate, manage or control or may be incorporated for the purpose of owning, operating, managing or controlling any plant or equipment for the production, transmission, delivery or furnishing of electrical power or energy for any purpose including heat, light or power purposes, either directly or indirectly to or for the public. R.S., c. 141, s. 2.

Act does not apply

3 This Act does not apply to

(a) the insertion or replacement of approved lamps in sockets or receptacles, the insertion or replacement of approved fuses controlling circuits or equipment, the connection of approved portable electrical equipment to supply circuits by means of attached plugs or the use or operation of the same provided that the connection does not overload the circuit conductors; or

(b) any electrical installation exempted from the provisions of this Act by the regulations. R.S., c. 141, s. 3; 1995-96, c. 16, s. 210.

Administration

4 The Minister is charged with the general administration of this Act and the regulations. R.S., c. 141, s. 4.

Inspectors

5 (1) The Minister may appoint persons in the public service to be inspectors for the purpose of this Act and may designate one of the persons so appointed to be Chief Inspector, who has the general supervision and direction of the inspectors.

(2) The Fire Marshal has and may exercise all the powers of the Chief Inspector. R.S., c. 141, s. 5.

Regulations and fees

6 (1) With the approval of the Governor in Council, the Fire Marshal may make regulations respecting electrical installations for the purpose of preventing fire and injury to persons and property, including, without restricting the generality of the foregoing, regulations

(a) adopting and constituting as regulations with respect to any matter enumerated in this Section all or part of any relevant codes, rules or standards and amendments thereto with or without modifications in lieu of or in addition to other regulations under this Section;

- (b) prescribing the duties of inspectors and regulating their conduct while in the discharge of their duties;
- (c) respecting the granting of permission for the connection, including temporary connection, of any electrical installation to sources of electrical power or energy;
- (d) providing for the issuing of certificates of approval or permits for anything approved or done or permitted to be done under this Act or the regulations;
- (e) regulating, controlling or prohibiting the installation, erection, use, sale or other disposal of electrical materials and equipment within the Province;
- (f) prescribing that no contractor may carry on business in any area of the Province designated in the regulations unless the contractor holds a licence under the regulations;
- (g) respecting the licensing of contractors, including the form, content and duration of licences, and the revocation or suspension of licences;
- (h) prescribing the manner of giving and serving notices and orders given or issued under this Act or the regulations;
- (i) respecting the granting of extensions of time for anything required to be done under this Act or the regulations;
- (j) exempting any electrical installation from the provisions of this Act;
- (k) providing for procedures for the inspection of an electrical installation or an alteration or addition to an electrical installation;
- (l) providing for the approval by the Chief Inspector of procedures made by public utilities for the inspection of an electrical installation or an alteration or addition to an electrical installation;
- (m) exempting a public utility or an inspector from the inspection of an electrical installation, alteration or addition to an electrical installation;
- (n) respecting the inspection of electrical installations and alterations or additions to electrical installations.

(2) Fees and charges to be payable in respect of inspections, certificates, licences and permits made or issued pursuant to this Act or the regulations must be set by the Nova Scotia Utility and Review Board. R.S., c. 141, s. 6; 1992, c. 8, s. 26; 2002, c. 6, s. 53.

New or altered installation

7 (1) No electrical installation nor any alteration or addition to an electrical installation may be made except in conformity with this Act and the regulations.

(2) Where under this Act a duty is imposed upon a public utility to inspect an electrical installation or an alteration or addition to an electrical instal-

lation, the inspection must be carried out by a person approved by the Fire Marshal for that purpose. R.S., c. 141, s. 7.

Inspection of consumer installation

8 (1) Subject to the regulations, every public utility or an inspector shall inspect the electrical installation of a consumer applying for a supply of electrical power or energy.

(2) Where the electrical installation does not conform to the regulations, the public utility or an inspector shall so notify the consumer and the contractor, specifying wherein the electrical installation does not so conform, and the public utility shall not make a connection nor be required to make a connection with the electrical installation nor supply any electrical power or energy to the consumer until the electrical installation is in conformity with the regulations. R.S., c. 141, s. 8; 2002, c. 6, s. 53.

Inspection of existing installation

9 (1) Where a public utility or an inspector has reason to believe that an electrical installation may not conform to the regulations, the public utility or the inspector may inspect the electrical installation.

(2) Where an inspection is made and the public utility or the inspector is of the opinion that the electrical installation does not conform to the regulations, the public utility or the inspector shall give the consumer notice in writing of its or the inspector's findings and may include in the notice an order directing the consumer to cause the electrical installation to conform to the regulations within a reasonable period of time to be stated in the notice.

(3) Where the consumer fails to cause the electrical installation to conform to the regulations within the period of time stated in the notice, the public utility shall, unless the period of time is extended by the Chief Inspector, disconnect or discontinue the supply of electrical energy or power to the electrical installation until the electrical installation is made to conform to the regulations.

(4) Where the period of time stated in the notice is extended by the Chief Inspector and the consumer fails to cause the electrical installation to conform to the regulations within the extended period of time, the public utility shall disconnect or discontinue the supply of electrical energy or power to the electrical installation until the electrical installation is made to conform to the regulations. R.S., c. 141, s. 9.

Duty of contractor

10 (1) Every contractor, before making any alterations or additions to an electrical installation, shall notify an inspector or the public utility supplying electrical power or energy to the electrical installation that such alterations or additions will be made, giving the date when the alterations or additions will be commenced.

(2) Subject to the regulations, an inspector or the public utility shall inspect the alterations or additions mentioned in subsection (1) during the making and on the completion thereof, and the contractor or consumer shall not

connect the alterations or additions to the original electrical installation until they shall have been so inspected.

(3) Where the alterations or additions mentioned in subsection (1) do not conform with the regulations, an inspector or the public utility shall so notify the contractor and the consumer, specifying wherein the alterations or additions do not so conform, and the contractor or consumer shall not connect the alterations or additions to the original electrical installation unless and until they are in conformity with the regulations. R.S., c. 141, s. 10; 2002, c. 6, s. 53.

Right of entry and inspection

11 For the purpose of this Act, an inspector or a public utility may

(a) at all reasonable times enter any premises including those of a consumer or contractor; and

(b) inspect and examine all electrical installations or electrical materials and equipment. R.S., c. 141, s. 11.

Duty to allow access

12 Every consumer or contractor shall give every inspector and public utility or its agent such access at all reasonable times to the premises of the consumer or contractor as may be necessary for the purpose of inspecting electrical installations and alterations and additions. R.S., c. 141, s. 12.

Obstruction of inspector

13 No person shall obstruct or attempt to obstruct an inspector or a public utility in the performance of the inspector's or its duties or the exercise of the inspector's or its powers under this Act. R.S., c. 141, s. 13.

Accessibility for inspection

14 No person shall cover up or make inaccessible for inspection any electrical installation or alterations or additions until the same shall have been inspected and approved under this Act. R.S., c. 141, s. 14.

Liability

15 Nothing in this Act or the regulations or the issuance of any order under the authority of this Act renders any inspector or public utility, while acting under or pursuant to this Act or the regulations, liable for any injury, loss or damage caused to a person or property by reason of a defect in any electrical installation or electrical materials or equipment. R.S., c. 141, s. 15.

Offence and penalty

16 Every public utility, consumer, contractor or other person who violates or fails to observe any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a penalty of not more than \$1,000. R.S., c. 141, s. 16.

CHAPTER E-7

An Act Respecting Electricity

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Public Utilities Act.....	3
Minister has supervision and management	4
Board review of interconnections process	5
Wholesale customers and electricity.....	6
Program for customer to generate electricity	7
Customer may generate and sell electricity	8
Advanced metering infrastructure program	9
Fee structure requirement.....	10
Regulations.....	11
Application of Public Utilities Act to retail suppliers	12
Retail customers and renewable low-impact electricity	13
Authority to act as retail supplier.....	14
Retail supplier licence.....	15
Limits on transfer or assignment of licence.....	16
Nova Scotia Power Incorporated obligations.....	17
Renewable electricity standards.....	18
Feed-in tariff program	19
Qualifying generators.....	20
Expiration of community feed-in tariff approval	21
Generation facilities	22
Procurement of renewable low-impact electricity or energy storage.....	23
Request for proposals.....	24
Agreements for procurement	25
Green Choice Program.....	26
Participants.....	27
Regulations.....	28
Low-impact electricity-generation facility interconnection programs.....	29
Energy-storage project.....	30
Green Button program	31
Minister may delegate.....	32
Regulations.....	33

Short title

1 This Act may be cited as the *Electricity Act*. 2004, c. 25, s. 1.

Interpretation

2 (1) In this Act,
“Board” means the Nova Scotia Utility and Review Board;
“energy storage” means any technology or process that is capable of storing energy from the electricity grid for the purpose of returning part or all of that energy to the grid at a later time or to provide ancillary services;

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

“municipal utility” means the Board of Commissioners of the Berwick Electric Commission, The Electric Light Commissioners for Riverport, in the County of Lunenburg or an electric utility of the Municipality of the District of Guysborough, the Town of Antigonish, the Town of Lunenburg or the Town of Mahone Bay;

“plant or equipment” has the same meaning as in the *Public Utilities Act*;

“public utility” means any person that transmits, delivers or furnishes electric power or energy and is regulated as a public utility under the *Public Utilities Act*, but does not include a retail supplier;

“retail customer” means a person who uses, for the person’s own consumption in the Province, electricity that the person did not generate;

“retail supplier” means a person who is authorized to sell renewable low-impact electricity in accordance with this Act and the regulations, but does not include a wholesale customer;

“wholesale customer” means Nova Scotia Power Incorporated or a municipal utility.

(2) Commencing on such date as prescribed in the regulations, “renewable electricity” includes hydroelectricity, whether generated in or imported into the Province.

(3) For greater certainty, the presence of generators or energy storage devices on customer premises does not constitute a “substantially different circumstance” for the purpose of Section 76 of the *Public Utilities Act*. 2004, c. 25, s. 2; 2010, c. 14, s. 1; 2011, c. 15, s. 1; 2013, c. 34, s. 2; 2015, c. 31, s. 22; 2022, c. 12, s. 1; 2022, c. 19, s. 1; 2023, c. 6, s. 1.

Public Utilities Act

3 Notwithstanding Section 137 of the *Public Utilities Act*, where there is a conflict between this Act and that Act, this Act prevails. 2010, c. 14, s. 2.

Minister has supervision and management

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may establish and administer policies, programs, standards, guidelines, objectives, codes of practice, directives and approval processes under this Act. 2010, c. 14, s. 2.

Board review of interconnections process

5 (1) The Board shall conduct a review of Nova Scotia Power Incorporated’s interconnections process to ensure the best value for ratepayers and consistency and predictability for generators.

(2) The Board shall undertake the review pursuant to subsection (1) as soon as is reasonably possible and shall make the results of the review public. 2022, c. 12, s. 2.

Wholesale customers and electricity

6 (1) Effective on the date prescribed in the regulations and, for greater certainty, notwithstanding Section 371 of the *Municipal Government Act*, wholesale customers may purchase electricity from any competitive supplier.

(2) Nova Scotia Power Incorporated shall develop and file with the Board for approval an open access transmission tariff to enable the purchase of electricity for the purpose of subsection (1) and, for greater certainty, Section 90 of the *Public Utilities Act* does not apply.

(3) The tariff referred to in subsection (2) must ensure open and non-discriminatory access to wholesale customers.

(4) Nova Scotia Power Incorporated shall develop and maintain a system to facilitate the import and export of electricity from the Province for the purpose of this Section.

(5) The Board has all the power and authority necessary to implement this Section. 2004, c. 25, s. 3.

Program for customer to generate electricity

7 (1) In this Section, “customer” means all metered accounts registered to the same person or entity under the same rate code in a distribution zone.

(2) A public utility may develop and maintain a program that permits any customer to generate electricity for the customer’s own use and to sell any excess electricity to the public utility at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by the public utility.

(3) Notwithstanding subsection (2), Nova Scotia Power Incorporated shall develop and maintain a program that permits a customer to generate electricity for the customer’s own use and to sell electricity to Nova Scotia Power Incorporated at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by Nova Scotia Power Incorporated.

(4) A program developed under subsection (3) only applies

(a) to a customer who wishes to install a generator with a nameplate capacity of more than 27 kilowatts;

(b) if the generator and the customer’s load are not connected to the same meter; or

(c) to other customer classes as prescribed by the regulations.

(5) Only electricity generated by a customer that is renewable low-impact electricity qualifies for the program referred to in subsection (3).

(6) Nova Scotia Power Incorporated may not compensate a customer for electricity generated in excess of that customer's consumption in a calendar year.

(7) A program developed and maintained pursuant to subsection (2) or (3) must receive the approval of the Board before it is implemented by the public utility.

(8) The public utility shall collect the data as prescribed by the regulations and provide the Minister with information derived from the data at such times and in such form as the Minister may determine.

(9) The Governor in Council may make regulations respecting any aspect of a program developed or maintained under subsection (2) or (3), including

(a) program requirements and conditions, including customer classes;

(b) participant eligibility requirements;

(c) the application process;

(d) duties of the public utility with respect to the program;

(e) project limitations, including limitations with respect to generator nameplate capacities;

(f) the identification of and conditions respecting equipment to be used to

(i) measure the amount of electricity produced by a generator and the time it is supplied,

(ii) measure the amount of electricity supplied to the customer by the public utility and the time it is supplied, and

(iii) measure the amount of electricity supplied to the public utility by the customer's generator and the time it is supplied;

(g) standards that must be adhered to;

(h) enforcement measures and mechanisms;

(i) costs, fees and penalties;

(j) obligations relating to data collection, reporting and the sharing of information;

(k) the sale of renewable low-impact electricity to the public utility;

(l) oversight of the program by the Board;

(m) requirements or conditions with respect to any agreement between a customer and the public utility;

(n) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(10) The exercise by the Governor in Council of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*, 2022, c. 12, s. 3.

Customer may generate and sell electricity

8 (1) A Nova Scotia Power Incorporated customer may, as of right, with no requirement to participate in a Nova Scotia Power Incorporated program, install a renewable low-impact generator or energy storage device with a total nameplate capacity of 27 kilowatts or less.

(2) A customer who generates the customer's own electricity shall ensure the equipment meets the standards prescribed by the regulations.

(3) Subject to subsection (4), Nova Scotia Power Incorporated shall purchase excess electricity from a customer who has installed a renewable low-impact generator or energy storage device with a nameplate capacity of 27 kilowatts or less to generate electricity for the customer's own use.

(4) Nova Scotia Power Incorporated shall purchase electricity under subsection (3) up to a maximum of the customer's total usage per calendar year at a rate equivalent to the rate paid by the customer, but is not required to compensate a customer for electricity generated by the customer in excess of the customer's total consumption in a calendar year.

(5) Nova Scotia Power Incorporated shall develop standard terms and conditions for all customers, including customers who generate their own electricity.

(6) Customers who generate their own electricity are not required to enter into a contractual agreement with Nova Scotia Power Incorporated for the sale of their generated electricity if the nameplate capacity of the customer's generator is 27 kilowatts or less.

(7) Nova Scotia Power Incorporated shall transition all existing net-metering customers who were issued contracts for the purchase of their generated electricity to the program referred to in subsection (3), but shall continue to abide by the terms of those contracts, including payment for excess energy generated by the customer, until those contracts are terminated pursuant to subsection (8).

(8) A contract between Nova Scotia Power Incorporated and a net-metering customer in effect as of April 22, 2022, may be terminated when

- (a) the customer's electrical service is disconnected;
- (b) the customer has not generated any electricity for a period of 12 calendar months; or
- (c) the customer's generating facility is not in compliance with the terms of the contract. 2022, c. 12, s. 4.

Advanced metering infrastructure program

9 (1) Unless a customer has opted out of Nova Scotia Power Incorporated's advanced metering infrastructure program, Nova Scotia Power Incorporated shall ensure that, on or before July 1, 2022, all customer meters are updated

and have the capacity to measure the electricity generated by a customer unless granted an extension by the Board.

(2) Nova Scotia Power Incorporated shall read customer meters and bill customers, and perform such other duties as may be prescribed by the regulations. 2022, c. 12, s. 4.

Fee structure requirement

10 A public utility may not create a fee structure, nor impose system access charges, that discourage customers from developing, installing and using their own renewable low-impact energy generators or energy storage devices. 2022, c. 12, s. 4.

Regulations

- 11 (1) The Governor in Council may make regulations
- (a) prescribing the duties of a public utility respecting net-metering;
 - (b) setting standards for equipment used by customers to generate their own electricity.

(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*. 2022, c. 12, s. 4.

Application of Public Utilities Act to retail suppliers

- 12 Notwithstanding the *Public Utilities Act*,
- (a) a retail supplier is not a public utility to which the *Public Utilities Act* applies unless the retail supplier is deemed to be a public utility by the regulations; and
 - (b) the *Public Utilities Act* applies to a retail supplier who is deemed to be a public utility by the regulations, subject to any restrictions prescribed by the regulations. 2013, c. 34, s. 3.

Retail customers and renewable low-impact electricity

- 13 (1) Effective October 18, 2022,
- (a) a retail supplier who meets the requirements in Section 14 may sell to a retail customer; and
 - (b) a retail customer, other than a customer of a municipal utility, may purchase from such a retail supplier,

renewable low-impact electricity generated within the Province.

(2) In any sale pursuant to subsection (1), the retail supplier shall transfer or assign all emission credits or allowances arising from the use of renewable energy sources to the retail customer.

(3) Nova Scotia Power Incorporated shall not refuse to provide service to a retail customer on the basis that the customer purchases renewable low-impact electricity from a retail supplier.

(4) The Board has all the power and authority necessary to implement this Section. 2013, c. 34, s. 3; 2015, c. 31, s. 24.

Authority to act as retail supplier

14 (1) No person shall act or purport to act as a retail supplier unless the person has been issued a retail supplier licence pursuant to Section 15.

- (2) Subsection (1) does not apply to a person who is
- (a) deemed to be a public utility by the regulations; or
 - (b) a member of a class or category of retail suppliers prescribed by the regulations. 2013, c. 34, s. 3.

Retail supplier licence

15 (1) A person may apply for a retail supplier licence in the form and manner prescribed by the regulations.

(2) Subject to any qualifications prescribed by the regulations, the Board may issue a retail supplier licence to an applicant, subject to any terms and conditions the Board considers appropriate and any terms and conditions prescribed by the regulations.

(3) The holder of a retail supplier licence may apply to amend the licence in the form and manner prescribed by the regulations.

(4) Where an application is made pursuant to subsection (3), the Board may

- (a) amend the retail supplier licence, subject to any terms and conditions the Board considers appropriate and any terms and conditions prescribed by the regulations;
- (b) cancel the retail supplier licence and grant a new retail supplier licence, subject to any terms and conditions the Board considers appropriate and any terms and conditions prescribed by the regulations; or
- (c) deny the application.

(5) The Board may, in its discretion, and shall, where prescribed by the regulations, amend, suspend, reinstate or cancel a retail supplier licence. 2013, c. 34, s. 3.

Limits on transfer or assignment of licence

16 No person shall transfer or assign a retail supplier licence unless the Board, in its discretion, permits the person to do so or the transfer or assignment is permitted by the regulations. 2013, c. 34, s. 3.

Nova Scotia Power Incorporated obligations

17 (1) Notwithstanding Section 90 of the *Public Utilities Act*, on or before September 1, 2015, Nova Scotia Power Incorporated shall develop in consultation with stakeholders, and file with the Board for approval, any tariffs, procedures and standards of conduct and any amendments to existing tariffs, procedures

and standards of conduct that are necessary to facilitate the purchase of renewable low-impact electricity as provided for in Section 13, including

- (a) a new or amended open access transmission tariff;
- (b) a distribution tariff;
- (c) a new or amended backup/top-up service tariff;
- (d) a new or amended non-dispatchable supplier spill tariff;
- (e) new or amended interconnection procedures;
- (f) new or amended market rules; and
- (g) any other tariffs, procedures or standards of conduct prescribed by the regulations or that the Board requires Nova Scotia Power Incorporated to develop or amend in order to facilitate the purchase of renewable low-impact electricity as provided for in Section 13.

(2) In reviewing and approving the tariffs, procedures and standards of conduct required to be developed or amended pursuant to this Section, the Board must be guided by the following principles:

- (a) customers of Nova Scotia Power Incorporated and persons who, as of March 18, 2014, were independent power producers or hold feed-in tariff approvals within the meaning of the regulations are not to be negatively affected if some retail customers choose to purchase renewable low-impact electricity from a retail supplier;
- (b) retail suppliers and their customers are to be responsible for all costs related to the provision of service by retail suppliers to their customers that would otherwise be the responsibility of Nova Scotia Power Incorporated and its customers. 2013, c. 34, s. 3.

Renewable electricity standards

18 (1) A person who sells or supplies electricity to a customer shall comply with the renewable electricity standards set out in the regulations.

(2) Renewable electricity standards referred to in subsection (1) must require that a minimum amount of electricity is produced from renewable sources. 2004, c. 25, s. 4; 2011, c. 15, c. 2.

Feed-in tariff program

19 (1) A public utility shall

- (a) permit qualifying generators to connect a renewable low-impact electricity-generation facility to its electrical grid in the manner provided by the regulations; and
- (b) pay for the electricity generated in accordance with the tariff set by the Board pursuant to this Section.

(2) Where requested by the Governor in Council, the Board shall set the tariffs to be paid by a public utility pursuant to this Section.

(3) In setting a tariff pursuant to this Section, the Board shall make allowance for the matters set out in the regulations.

(4) In setting a tariff pursuant to this Section, the Board shall determine

- (a) the class or classes of generation facility that qualify for a particular tariff;
- (b) whether a tariff is to be adjusted periodically and, where it is to be adjusted, the basis for the adjustment;
- (c) the effective date for commencement of a tariff;
- (d) the duration of a tariff; and
- (e) the terms and conditions under which payment is to be made by a public utility to generators.

(5) In setting a tariff pursuant to this Section, the Board may exercise the same powers and authority granted to it under the *Public Utilities Act*.

(6) A public utility is entitled to recover through its rate base the tariffs paid by it pursuant to this Section on the basis approved by the Board under the *Public Utilities Act*.

(7) The tariffs set pursuant to this Section apply to renewable low-impact electricity generated by the following classes of generation facilities:

- (a) wind power;
- (b) biomass, including the electricity produced from a combined heat and power plant;
- (c) small-scale in-stream tidal;
- (d) developmental tidal arrays; and
- (e) other generation facilities as provided by the regulations. 2010, c. 14, s. 4.

Qualifying generators

20 (1) In order to qualify as a generator for the purpose of Section 19, the generator must be one of the following and comply with the requirements of the regulations:

- (a) a council of a band for a band located in the Province as defined under the *Indian Act* (Canada);
- (b) a municipality;
- (c) a not-for-profit body corporate;
- (d) a community economic-development corporation;
- (e) a co-operative; or
- (f) any other entity permitted by the regulations.

(2) No generator may qualify under this Section if an application to qualify was not received by the Minister before August 6, 2015.

(3) Subsection (2) does not apply to a generator who was issued a feed-in tariff approval before August 6, 2015, and whose approval was set aside by a decision following an appeal or judicial review if, where necessary, a new application to qualify is received by the Minister within six months of the date that all appeal rights from such a decision have been exhausted or abandoned.

(4) A generator that qualifies under this Section, pursuant to the regulations relating to community feed-in tariffs, shall interconnect with the electrical grid of a public utility at the distribution level and, for greater certainty, the interconnection of the generator must not, before any mitigation measures are taken into account except for a reduction in the size of the generator, be anticipated to adversely impact the public utility's transmission system.

(5) Subject to subsection (6), subsection (4) applies to all community feed-in tariff approvals issued by the Minister before, on or after December 18, 2015, and, notwithstanding any enactment or other law, no claim for compensation lies against the Crown in right of the Province in respect of the application of this subsection.

(6) Notwithstanding subsection (4), the Minister may permit a generator to interconnect a small-scale in-stream tidal-generation facility under Section 19 and this Section if the Minister is satisfied that anticipated adverse impacts to the public utility's transmission system can be mitigated through any means at the cost of the generator. 2010, c. 14, s. 4; 2015, c. 31, s. 25.

Expiration of community feed-in tariff approval

21 (1) Notwithstanding the terms or conditions of any community feed-in tariff approval given to a generator by the Minister pursuant to Sections 19 and 20 and the regulations before, on or after December 18, 2015, the approval expires if the generator is not constructed and ready for electrification within

(a) three years from the date of issuance of a community feed-in tariff approval for wind-power generation facilities;

(b) four years from the date of issuance of a community feed-in tariff approval for biomass and run-of-river hydro-generation facilities; and

(c) five years from the date of issuance of a community feed-in tariff approval for in-stream tidal-generation facilities.

(2) Notwithstanding subsection (1), where the Minister provided the generator with an extension to the term of the approval before December 18, 2015, that provided for a longer period than that provided by subsection (1), the approval expires if the generator is not constructed and ready for electrification on the date to which the approval had been extended.

(3) On and after December 1, 2015, the Minister may not extend the term of any community feed-in tariff approval. 2015, c. 31, s. 25.

Generation facilities

22 (1) In this Section, "generation facility" means a renewable low-impact electricity generation facility as prescribed by the regulations.

(2) The Minister may require a public utility to enter into a contract for the purchase of some or all of the output of a generation facility.

(3) The Minister may require a public utility to enter into a sale agreement for some or all of the output from a specific generation facility that has received a purchase agreement under subsection (2), and such output must be sold to one or more customers, as specified by the Minister.

(4) Subsection (2) applies only to a generation facility that is in operation immediately prior to April 22, 2022, and providing electricity to one or more customers, or for a proposed generation facility, if the generation facility was not previously issued a power purchase agreement under another program under this Act.

(5) The Minister shall issue a purchase agreement to the public utility and a generation facility and shall determine the terms included in the agreement.

(6) The Minister may issue a sale agreement to the public utility and a specified customer, as described in subsection (3), and shall determine the terms included in the agreement, including the specification of the customer or customers.

(7) The Minister may issue a purchase agreement only to a generation facility prescribed by the regulations.

(8) The Minister shall ensure the terms and conditions contained in an agreement referred to in subsection (2) or (3) are in the best interests of the ratepayers.

(9) A public utility is entitled to recover amounts it is required to pay for electricity supplied to it pursuant to this Section through rates approved by the Board under the *Public Utilities Act*.

(10) Notwithstanding subsection (9), the terms of an agreement referred to in subsection (2) or (3) do not require approval of the Board under the *Public Utilities Act*.

(11) The Governor in Council may make regulations respecting any aspect of an agreement referred to in subsection (2) or (3), including

(a) prescribing facilities or classes of facilities as generation facilities;

(b) the time frame for entering into a contract to purchase the generation output;

(c) setting a maximum price per kilowatt hour for the renewable low-impact electricity;

(d) the minimum term for a purchase agreement;

(e) the terms and conditions of a sale agreement referred to in subsection (3);

(f) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(12) The exercise by the Governor in Council of the authority contained in subsection (11) is a regulation within the meaning of the *Regulations Act*, 2022, c. 12, s. 6; 2023, c. 17, s. 1.

Procurement of renewable low-impact electricity or energy storage

23 (1) Where

(a) a public utility intends to procure renewable low-impact electricity or energy storage, from one or more independent power producers with generation facilities located in the Province, under a long-term power-purchase agreement or energy-storage agreement;

(b) the Governor in Council directs a procurement of renewable low-impact electricity or energy storage from one or more independent power producers with generation facilities located in the Province under a long-term power-purchase agreement or energy-storage agreement;

(c) the Governor in Council directs a procurement in relation to a program established pursuant to Section 29;

(d) the Governor in Council directs a procurement in relation to a generator within the meaning of the *Marine Renewable-energy Act*; or

(e) the Governor in Council directs a procurement of renewable low-impact electricity or energy storage in relation to a program established pursuant to Section 26,

the Governor in Council may appoint a procurement administrator to conduct a procurement for renewable low-impact electricity or energy storage.

(2) A procurement administrator appointed under subsection (1) may not be a civil servant employed by the Government at the time of the appointment.

(3) The Governor in Council may direct a single procurement to procure renewable low-impact electricity or energy storage for one or more programs listed under clause (1)(b), (c) or (e).

(4) A procurement administrator appointed under subsection (1) holds office for the term determined by the Governor in Council and subject to such conditions as are determined by the Governor in Council.

(5) The Board shall fix fees and expenses of a procurement administrator in performing the functions and duties provided in this Section.

(6) The fees and expenses referred to in subsection (5)

(a) must be paid to the procurement administrator by the Board in such amount as is determined by the Board; and

(b) may include the cost of retaining experts and legal counsel to provide the procurement administrator with advice on technical and legal matters.

(7) The Board may recover the costs under subsection (6) from public utilities in the same manner it recovers its other expenses under Section 3 of the *Public Utilities Act*.

(8) A public utility shall provide notice to the Minister at least 90 days before the date it intends to initiate a procurement under clause (1)(a). 2010, c. 14, s. 4; 2015, c. 31, s. 26; 2022, c. 12, s. 7; 2023, c. 6, s. 2.

Request for proposals

24 (1) Where the Governor in Council appoints a procurement administrator for a procurement under subsection 23(1), the procurement administrator, instead of the public utility, shall issue a request for proposals and award the contract or contracts for the procurement.

(2) The Governor in Council may make regulations relating to the content and conduct of a request for proposals undertaken by a procurement administrator, and the awarding of any contracts.

(3) The Governor in Council may make regulations limiting the parties who may participate in a request for proposals undertaken by a procurement administrator pursuant to clauses 23(1)(c) and (d).

(4) Where the Governor in Council does not appoint a procurement administrator for a procurement under clause 23(1)(a) within 60 days from the date of receipt of the notice under subsection 23(8), the public utility may issue a request for proposals and award the contract or contracts for the procurement.

(5) A public utility shall procure all electricity and energy storage under a contract awarded by a procurement administrator pursuant to a request for proposals authorized pursuant to this Section and the regulations.

(6) A procurement administrator shall evaluate responses to a request for proposals and choose successful bidders, and provide a written decision to the public utility and to each bidder in the manner and within the time prescribed by the regulations.

(7) The Governor in Council may make regulations for the purpose of subsection (6).

(8) The exercise by the Governor in Council of the authority contained in subsections (2), (3) and (7) is a regulation within the meaning of the *Regulations Act*.

(9) Within 30 days after the receipt of the written decision referred to in subsection (6), the public utility or a bidder may appeal the decision to the Board for errors of law, jurisdictional errors or breaches of natural justice. 2010, c. 14, s. 4; 2015, c. 31, s. 26; 2023, c. 6, s. 2.

Agreements for procurement

25 (1) Where a procurement administrator has selected one or more bidders for the supply of electricity or energy storage to a public utility, the public utility shall enter into the agreements necessary to evidence the procurement within 90 days of the written decision referred to in subsection 24(6).

(2) The Governor in Council may make regulations respecting the content of the agreements necessary to evidence the procurement.

(3) The Board shall allow a public utility to recover the costs of the public utility's contracts referred to in subsection (1) through its rates approved by the Board under the *Public Utilities Act*.

(4) A procurement administrator shall, in consultation with the public utility, prepare standard-form agreements to be used for procuring renewable low-impact electricity or energy storage under this Section which must be approved by the Board before any procurement.

(5) The public utility shall, in a timely manner, provide all data or information reasonably required and requested by the procurement administrator for the purpose of preparing the standard-form agreements for procuring renewable low-impact electricity or energy storage.

(6) Any dispute between the public utility and a procurement administrator must be arbitrated before the Board.

(7) The exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*. 2010, c. 14, s. 4; 2015, c. 31, s. 26; 2023, c. 6, s. 2.

Green Choice Program

26 (1) In this Section and Sections 27 and 28,

“Green Choice Program” means the program developed pursuant to subsection (2);

“participant” means a prescribed person or entity who is authorized to take part in the program referred to in subsection (2);

“supplier” means an independent power producer.

(2) The Minister shall develop and maintain the Green Choice Program to procure renewable low-impact electricity and energy storage, provided by a supplier, to meet a participant's electricity load through a billing structure set out in the regulations.

(3) A participant may apply to the Minister to take part in the Green Choice Program by submitting an application in the form and in accordance with the procedure prescribed by the regulations.

(4) The Minister may, in writing,

(a) delegate some or all of the responsibilities for the Green Choice Program to a third party, including a procurement administrator, with the requisite qualifications and experience; and

(b) revoke or revise a delegation made under clause (a) at any time. 2022, c. 12, s. 8; 2023, c. 6, s. 3.

Participants

27 (1) Nova Scotia Power Incorporated shall issue proof of renewable energy certification for all participants in the Green Choice Program on an annual basis.

(2) Nova Scotia Power Incorporated shall make any necessary billing adjustments to ensure that participants are not subject to any costs related to Nova Scotia Power Incorporated's compliance with the *Greenhouse Gas Emissions Regulations* made under subsection 27(6) and Section 117 of the *Environment Act* for electricity procured under the Green Choice Program.

(3) Nova Scotia Power Incorporated shall abide by the terms of the contracts issued under the Green Choice Program, including the participant agreements. 2022, c. 12, s. 8.

Regulations

28 (1) The Governor in Council may make regulations respecting any aspect of the Green Choice Program, including

- (a) program requirements, conditions and limitations;
- (b) participant eligibility requirements;
- (c) supplier eligibility requirements;
- (d) the form and information required for a participant's application;
- (e) a participant's application process and fees;
- (f) the responsibilities of the Minister with respect to receiving and evaluating a participant's application;
- (g) the amount and type of renewable low-impact electricity and energy storage that may be procured;
- (h) the percentage of renewable low-impact electricity that may be procured based on a participant's electricity load;
- (i) establishing time frames that set out service standards Nova Scotia Power Incorporated, the participants and suppliers must meet;
- (j) the content and requirements with respect to contracts between Nova Scotia Power Incorporated, a participant and a supplier;
- (k) the process, requirements and limitations with respect to the billing structure for a participant in the Green Choice Program;
- (l) tiered pricing for participants to reduce risk to non-participating ratepayers, which tiered pricing must be incorporated by Nova Scotia Power Incorporated into the billing structure;
- (m) a maximum amount for the tiered pricing range;
- (n) forms or agreements associated with the Green Choice Program;

- (o) obligations relating to data collection, reporting and the sharing of information;
- (p) policies and guidelines;
- (q) enforcement measures and mechanisms;
- (r) costs, fees and penalties;
- (s) how electricity procured under the Green Choice Program meets renewable low-impact electricity standards;
- (t) prescribing anything that is to be prescribed pursuant to Sections 26 and 27;
- (u) any other matter the Governor in Council considers necessary or advisable for the proper administration of the Green Choice Program.

(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*, 2022, c. 12, s. 8; 2023, c. 6, s. 4.

Low-impact electricity-generation facility interconnection programs

29 (1) The Governor in Council may make regulations establishing programs for the interconnection of a prescribed renewable low-impact electricity-generation facility to the electrical grid of a public utility.

(2) To qualify for interconnection with the electrical grid of a public utility under a program established pursuant to the regulations under subsection (1), a renewable low-impact electricity-generation facility must be awarded a contract by a procurement administrator under Sections 23 to 25.

(3) The regulations under subsection (1) must include program limits based upon energy production capacity, total energy output or public utility ratepayer impacts.

- (4) The regulations under subsection (1) may include
- (a) program requirements and conditions;
 - (b) application processes;
 - (c) approval or licensing requirements;
 - (d) the identification of equipment required to be used to
 - (i) measure the amount of electricity produced by the generator and the time that it is supplied,
 - (ii) measure the amount of electricity supplied to the customer by the public utility and the time that it is supplied,
 - (iii) measure the amount of electricity supplied to the public utility by the customer and the time that it is supplied,
 - (iv) adhere to such service or performance standards as may be prescribed, and

- (v) meet any other requirements that may be prescribed;
- (e) obligations relating to data collection, reporting, and the sharing of information with the Minister, the public utility, the owner of the generation facility or any other party;
- (f) enforcement measures and mechanisms;
- (g) costs, fees and penalties; and
- (h) any other matter or thing the Governor in Council considers necessary or advisable for the proper administration of the program.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 31, s. 27.

Energy-storage project

30 (1) In this Section, “energy-storage project” means a facility, or group of facilities, that is comprised of one or more energy-storage units and includes any structures, equipment, controls or other components to support the provision of services to the electricity system.

(2) The Minister may require a public utility to enter into an agreement for the purchase of some or all of the services provided by an energy-storage project.

(3) The Governor in Council may prescribe an energy-storage project proposed by a public utility and owned wholly or in majority by the public utility, if in the opinion of the Governor in Council the project is in the best interests of ratepayers.

(4) Subsections (2) and (3) apply only to an energy-storage project that

- (a) provides electricity system benefits;
- (b) reduces costs for ratepayers; and
- (c) is unique or innovative.

(5) For the purpose of subsection (2), upon an energy-storage project being prescribed by the Governor in Council, the Minister shall issue a standard-form energy-storage agreement to a public utility and a project owner, including pricing or compensation for services provided, with any additional terms and conditions as may be prescribed by the regulations.

(6) When prescribing an energy-storage project under subsection (3), the Governor in Council shall prescribe any terms and conditions of the project that the Governor in Council considers necessary, including the project size and location.

(7) A public utility subject to an energy-storage agreement under this Section shall, in a timely manner, provide the Minister with any operational

data or other information the Minister considers necessary to structure the agreement.

(8) The Minister shall ensure the terms and conditions contained in an energy-storage agreement under this Section are in the best interests of rate-payers.

(9) A public utility may recover amounts paid for energy storage under this Section through rates approved by the Board under the *Public Utilities Act*.

(10) A public utility shall permit any plant or equipment relating to an energy-storage project approved under this Section and the regulations to connect to its electrical grid in the manner and time frame provided by the regulations.

(11) The Governor in Council may make regulations respecting any aspect of an energy-storage project or an energy-storage agreement under this Section, including

- (a) prescribing the eligible project, including structures, equipment, controls or other components of a project;
- (b) the time frame for entering into an agreement to purchase the output from a project;
- (c) prescribing a project under subsection (3);
- (d) prescribing project terms and conditions under subsection (6);
- (e) obligations for data collection related to the use of the service, operations and economics of a project, and the format in which this information is to be provided to the Minister;
- (f) the minimum and maximum term for an agreement;
- (g) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

(12) The exercise by the Governor in Council of the authority contained in subsection (11) is a regulation within the meaning of the *Regulations Act*. 2023, c. 6, s. 5; 2023, c. 17, s. 2.

Green Button program

31 (1) In this Section,

“account holder” means a person or entity who has an account with Nova Scotia Power Incorporated;

“energy” means electricity;

“energy data” means any energy usage and account holder information identified in REQ.21.1.5t or REQ.21.2.6t in the NAESB ESPI standard, certified by the Green Button Alliance, that is collected by Nova Scotia Power Incorporated and made available to an account holder in the normal course of Nova Scotia Power Incorporated’s operations, excluding any data collected with respect to projects that are being undertaken on a trial basis.

(2) On or before September 1, 2022, Nova Scotia Power Incorporated shall present to the Board for review and approval a plan that would bring Nova Scotia Power Incorporated into compliance with the Green Button Alliance's testing and standards, including an implementation date that occurs no later than April 1, 2023.

(3) Nova Scotia Power Incorporated shall comply with such other requirements as may be prescribed by the regulations for the purpose of this Section, including publicly releasing additional data.

(4) Nova Scotia Power Incorporated shall submit to the Board or to the Minister such reports and information as the Board or the Minister, as the case may be, may require from time to time, including a summary of how many customers have opted into the Green Button program.

(5) Nova Scotia Power Incorporated shall implement the NAESB ESPI standard and ensure that its implementation of the requirements set out in this Section is certified by the Green Button Alliance to its "Connect My Data" and "Download My Data" standards on or before April 1, 2023, unless granted an extension by the Board.

(6) Nova Scotia Power Incorporated shall in accordance with the NAESB ESPI standard and any additional procedural requirements that may be established by the Board, make energy data about an account holder available to

- (a) the account holder; and
- (b) where applicable, a person or entity authorized by the account holder to receive the energy data.

(7) Nova Scotia Power Incorporated shall ensure that account holders and, where applicable, persons authorized by the account holder, have access to the account holder's energy data for at least the lesser of

- (a) the previous 24 months; and
- (b) the period of time within the previous 24 months during which the account holder had an account with Nova Scotia Power Incorporated.

(8) Nova Scotia Power Incorporated shall ensure that the energy data made available pursuant to subsections (6) and (7) provides energy usage information for intervals of one hour or less, subject to any limitations of Nova Scotia Power Incorporated's metering infrastructure.

(9) The Governor in Council may make regulations

- (a) governing the manner in which energy data must be made available by Nova Scotia Power Incorporated, including prescribing additional data to be released publicly and in what form and manner;
- (b) requiring and governing reports and information that Nova Scotia Power Incorporated must provide to the Minister, the Board or other persons or entities, including prescribing the form and manner in which the reports or information must be provided;

(c) prescribing anything that is to be prescribed pursuant to this Section.

(10) The exercise by the Governor in Council of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*, 2022, c. 12, s. 9.

Minister may delegate

32 (1) The Minister may, in writing, delegate to an employee of the Department of Natural Resources and Renewables, who, in the Minister's opinion, has the requisite qualifications and experience, any power or duty conferred or imposed on the Minister under this Act, with the exception of regulation-making powers.

(2) Where the Minister delegates a power or duty under subsection (1), the Minister may prescribe how the power or duty is to be exercised or performed and impose any requirements in relation to or restrictions on the exercise or performance of the power or duty that the Minister considers appropriate.

(3) The Minister may revoke or revise a delegation made under subsection (1). 2022, c. 12, s. 9.

Regulations

- 33 (1) The Governor in Council may make regulations
- (a) setting out the date or dates required for the purpose of subsection 2(2), 6(1), 13(1), 17(1) or 18(1);
 - (b) respecting the tariff referred to in subsection 6(2);
 - (c) respecting import and export rights;
 - (d) prescribing classes or categories of retail suppliers who are deemed to be public utilities and any provisions of the *Public Utilities Act* that do not apply with respect to them;
 - (e) prescribing classes or categories of retail suppliers who do not require retail supplier licences to act or purport to act as retail suppliers;
 - (f) prescribing tariffs, procedures and standards of conduct for the purpose of clause 17(1)(g);
 - (g) respecting renewable electricity standards, their administration and enforcement;
 - (h) prescribing terms and conditions required to be included in a power-purchase or energy-storage agreement;
 - (i) prescribing costs to be recovered in a tariff set by the Board;
 - (j) prescribing the terms that independent power producers are required to meet to qualify for the program under Section 19;
 - (k) prescribing types of generation facilities for the purpose of clause 19(7)(e);

- (l) prescribing the form of application and the procedure for considering an application by a generator to participate in the program under Section 19;
- (m) delegating responsibilities to a procurement administrator;
- (n) respecting the certification or decertification of generation facilities;
- (o) respecting the monitoring of generation facilities for compliance with this Act and the regulations;
- (p) respecting the interconnection of generation facilities with the electrical grid;
- (q) prescribing entities for the purpose of clause 20(1)(f);
- (r) providing for the development of terms and conditions required to be included in a request for proposals;
- (s) prescribing the contents of any notice required to be given to the Minister by a public utility;
- (t) prescribing the qualifications for a procurement administrator;
- (u) assigning additional responsibilities to a procurement administrator;
- (v) requiring compliance by a procurement administrator with policies and procedures;
- (w) respecting records to be maintained by, reporting by and the audit of the records of a procurement administrator;
- (x) respecting written decisions of a procurement administrator;
- (y) authorizing the Minister to appoint a renewable electricity standard regulations administrator and describing the duties and responsibilities of the administrator;
- (z) providing for administrative penalties to be assessed by a renewable electricity standard regulations administrator in order to enforce compliance with the regulations;
- (aa) providing for appeals or reviews of the decisions of a renewable electricity standard regulations administrator by the Board;
- (ab) respecting standards that biomass sources must meet in order to qualify as a source of renewable low-impact electricity;
- (ac) defining any word or expression used but not defined in this Act;
- (ad) respecting any other matter the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The Minister shall make regulations requiring the achievement of 40% renewable electricity by 2020.

(3) The Board may make regulations

(a) prescribing the form and manner of applying, and the procedure for considering an application, for a retail supplier licence or an amendment to a retail supplier licence;

(b) prescribing fees relating to any matter provided for in this Act or the regulations;

(c) prescribing the terms and conditions of a retail supplier licence;

(d) respecting the amendment, suspension, reinstatement or cancellation of a retail supplier licence;

(e) respecting the transfer or assignment of a retail supplier licence.

(4) The exercise by the Governor in Council or the Board of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2004, c. 25, s. 5; 2010, c. 14, s. 5; 2011, c. 15, s. 3; 2013, c. 34, s. 5; 2015, c. 31, s. 28; 2022, c. 12, s. 10; 2023, c. 6, s. 6.

CHAPTER E-8

An Act to Facilitate Electronic Commerce

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Application of Act.....	3
Application to Crown.....	4
Application of certain provisions.....	5
PART I	
Provision and Retention of Information	
Effect of electronic form.....	6
Consent to electronic form.....	7
Satisfaction of requirement.....	8
Effect of providing information electronically.....	9
Satisfaction of requirement for non-electronic form.....	10
Satisfaction of requirement for signature.....	11
Provision or retention of electronic document.....	12
Effect of inhibiting printing or storage.....	13
Effect of retention of electronic document.....	14
Effect of submission of single version.....	15
Operation not limited.....	16
Powers of responsible minister.....	17
Use of electronic means by minister.....	18
Payment in electronic form.....	19
PART II	
Communication of Electronic Documents	
Interpretation.....	20
Formation of contracts.....	21
Effect of interaction.....	22
Effect of material error.....	23
Deemed sending and receiving.....	24
PART III	
Carriage of Goods	
Application of Part.....	25
Satisfaction of certain requirements.....	26
PART IV	
General	
Regulations Act.....	27

Short title

1 This Act may be cited as the *Electronic Commerce Act*. 2000, c. 26, s. 1.

Interpretation

2 In this Act,

“electronic” includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;

“electronic signature” means information in electronic form that a person has created or adopted in order to sign a document and that is in, attached to or associated with the document;

“Government” means

- (a) the Government of the Province;
 - (b) any department, agency or body of the Government of the Province, other than Crown corporations incorporated by or under a law of the Province; and
 - (c) any regional municipality, town or municipality of a county or district, village or other municipal body, however designated, incorporated or established by or under a law of the Province.
- 2000, c. 26, s. 2.

Application of Act

3 (1) Subject to this Section, this Act applies in respect of the law of the Province.

(2) The Governor in Council may, by regulation, specify provisions of or requirements under the law of the Province in respect of which this Act does not apply.

(3) This Act does not apply in respect of

- (a) wills and their codicils;
- (b) trusts created by wills or by codicils to wills;
- (c) powers of attorney, to the extent that they are in respect of the financial affairs or personal care of an individual; or
- (d) documents that create or transfer interests in land and that require registration to be effective against third parties.

(4) The Governor in Council may, by regulation, amend subsection (3) to add any document or class of documents, or to remove any document or class of documents previously added under this subsection.

(5) Except for Part III, this Act does not apply in respect of negotiable instruments, including negotiable documents of title.

(6) Nothing in this Act limits the operation of any law of the Province that expressly authorizes, prohibits or regulates the use of electronic documents.

(7) For the purpose of subsection (6), the use of words and expressions like “in writing” and “signature” and other similar words and expressions does not by itself prohibit the use of electronic documents.

(8) Nothing in this Act limits the operation of the *Freedom of Information and Protection of Privacy Act* or any other statute that is intended to

- (a) protect the privacy of individuals; or
- (b) protect rights of access to information held by Government. 2000, c. 26, s. 3.

Application to Crown

4 This Act binds the Crown in right of the Province. 2000, c. 26, s. 4.

Application of certain provisions

5 The provisions of this Act relating to the satisfaction of a requirement of law apply whether the law creates an obligation or provides consequences for doing something or for not doing something. 2000, c. 26, s. 5.

PART I

PROVISION AND RETENTION OF INFORMATION

Effect of electronic form

6 Information must not be denied legal effect or enforceability solely by reason that it is in electronic form. 2000, c. 26, s. 6.

Consent to electronic form

7 (1) Nothing in this Act requires a person to use or accept information in electronic form, but a person’s consent to do so may be inferred from the person’s conduct.

(2) Notwithstanding subsection (1), the consent of the Government to accept information in electronic form may not be inferred by its conduct but must be expressed by communication accessible to the public or to those likely to communicate with it for particular purposes. 2000, c. 26, s. 7.

Satisfaction of requirement

8 A requirement under the law of the Province that information be in writing is satisfied by information in electronic form if the information is accessible so as to be usable for subsequent reference. 2000, c. 26, s. 8.

Effect of providing information electronically

9 A requirement under the law of the Province for a person to provide information in writing to another person is satisfied by the provision of the information in an electronic document

- (a) if the electronic document that is provided to the other person is accessible by the other person and capable of being retained by the other person so as to be usable for subsequent reference; and

- (b) where the information is to be provided to the Government, if
 - (i) the Government or the part of Government to which the information is to be provided has consented to accept electronic documents in satisfaction of the requirement, and
 - (ii) the electronic document meets the information technology standards and acknowledgement rules, if any, established by the Government or part of Government, as the case may be. 2000, c. 26, s. 9.

Satisfaction of requirement for non-electronic form

10 A requirement under the law of the Province for a person to provide information to another person in a specified non-electronic form is satisfied by the provision of the information in an electronic document

- (a) if the information is provided in the same or substantially the same form and the electronic document is accessible by the other person and capable of being retained by the other person so as to be usable for subsequent reference; and
- (b) where the information is to be provided to the Government, if
 - (i) the Government or the part of Government to which the information is to be provided has consented to accept electronic documents in satisfaction of the requirement, and
 - (ii) the electronic document meets the information technology standards and acknowledgement rules, if any, established by the Government or part of Government, as the case may be. 2000, c. 26, s. 10.

Satisfaction of requirement for signature

11 (1) A requirement under the law of the Province for the signature of a person is satisfied by an electronic signature.

(2) For the purpose of subsection (1), the Governor in Council may make a regulation that

- (a) the electronic signature is reliable for the purpose of identifying the person, in the light of all the circumstances, including any relevant agreement and the time the electronic signature was made; and
- (b) the association of the electronic signature with the relevant electronic document is reliable for the purpose for which the electronic document was made, in the light of all the circumstances, including any relevant agreement and the time the electronic signature was made.

(3) For the purpose of subsection (1), where the signature or signed document is to be provided to the Government, the requirement is satisfied only if

- (a) the Government or the part of Government to which the information is to be provided has consented to accept electronic signatures; and

(b) the electronic document meets the information technology standards and requirements as to method and as to reliability of the signature, if any, established by the Government or part of Government, as the case may be. 2000, c. 26, s. 11.

Provision or retention of electronic document

12 (1) A requirement under the law of the Province that requires a person to present or retain a document in original form is satisfied by the provision or retention of an electronic document if

(a) there exists a reliable assurance as to the integrity of the information contained in the electronic document from the time the document to be presented or retained was first made in its final form, whether as a paper document or as an electronic document;

(b) where the document in original form is to be provided to a person, the electronic document that is provided to the person is accessible by the person and capable of being retained by the person so as to be usable for subsequent reference; and

(c) where the document in original form is to be provided to the Government,

(i) the Government or the part of Government to which the information is to be provided has consented to accept electronic documents in satisfaction of the requirement, and

(ii) the electronic document meets the information technology standards and acknowledgement rules, if any, established by the Government or part of Government, as the case may be.

(2) For the purpose of clause (1)(a),

(a) the criterion for assessing integrity is whether the information has remained complete and unaltered, apart from the introduction of any changes that arise in the normal course of communication, storage and display; and

(b) the standard of reliability required must be assessed in the light of the purpose for which the document was made and in the light of all the circumstances.

(3) Notwithstanding subsection (1), control of an electronic document does not constitute possession of the original document for the purpose of the *Personal Property Security Act*. 2000, c. 26, s. 12.

Effect of inhibiting printing or storage

13 An electronic document is deemed not to be capable of being retained if the person providing the electronic document inhibits the printing or storage of the electronic document by the recipient. 2000, c. 26, s. 13.

Effect of retention of electronic document

14 A requirement under the law of the Province to retain a document is satisfied by the retention of an electronic document if

- (a) the electronic document is retained in the format in which it was made, sent or received, or in a format that does not materially change the information contained in the document that was originally made, sent or received;
 - (b) the information in the electronic document will be accessible so as to be usable for subsequent reference by any person who is entitled to have access to the document or who is authorized to require its production; and
 - (c) where the electronic document was sent or received, information, if any, that identifies the origin and destination of the electronic document and the date and time when it was sent or received is also retained.
- 2000, c. 26, s. 14.

Effect of submission of single version

15 Where a document may be submitted in electronic form, a requirement under a law of the Province for one or more copies of a document to be submitted to a single addressee at the same time is satisfied by the submission of a single version of an electronic document. 2000, c. 26, s. 15.

Operation not limited

16 Nothing in this Part limits the operation of any requirement under the law of the Province for information to be posted or displayed in a specified manner or for any information or document to be transmitted by a specified method. 2000, c. 26, s. 16.

Powers of responsible minister

17 (1) In this Section,

“filing” includes all manner of submitting, regardless of how it is designated;

“prescribe” includes all manner of issuing, making and establishing, regardless of how it is designated.

(2) Where a law of the Province requires a person to communicate information, the member of the Executive Council responsible for the provision may prescribe electronic means to be used for the communication of the information and the use of those means satisfies that requirement.

(3) Where a statute of the Province sets out a form, the member of the Executive Council responsible for the statute may make an electronic form that is substantially the same as the form set out in the statute and the electronic form is to be considered as the form set out in the statute.

(4) A law of the Province that authorizes the prescription of a form or the manner of filing a form includes the authority to prescribe an electronic form or electronic means of filing the form, as the case may be. 2000, c. 26, s. 17.

Use of electronic means by minister

18 (1) In the absence of an express provision in any law of the Province that electronic means may not be used or that they must be used in specified ways, a member of the Executive Council or an entity referred to under clause (b) or (c) of the definition of “Government” in Section 2 may use electronic means to create, collect, receive, store, transfer, distribute, publish or otherwise deal with documents or information.

(2) For the purpose of subsection (1), the use of words and expressions like “in writing” and “signature” and other similar words and expressions does not by itself constitute an express provision that electronic means may not be used. 2000, c. 26, s. 18.

Payment in electronic form

19 (1) A payment that is authorized or required to be made to the Government under the law of the Province may be made in electronic form in any manner specified by the Minister of Finance and Treasury Board.

(2) A payment that is authorized or required to be made by the Government may be made in electronic form in any manner specified by the Minister of Finance and Treasury Board. 2000, c. 26, s. 19.

PART II**COMMUNICATION OF ELECTRONIC DOCUMENTS****Interpretation**

20 In this Part, “electronic agent” means a computer program or any electronic means used to initiate an action or to respond to electronic documents or actions in whole or in part without review by a natural person at the time of the response or action. 2000, c. 26, s. 20.

Formation of contracts

21 (1) Unless the parties agree otherwise, an offer or the acceptance of an offer, or any other matter that is material to the formation or operation of a contract, may be expressed

(a) by means of an electronic document; or

(b) by an action in electronic form, including touching or clicking on an appropriately designated icon or place on a computer screen or otherwise communicating electronically in a manner that is intended to express the offer, acceptance or other matter.

(2) A contract may not be denied legal effect or enforceability solely by reason that an electronic document was used in its formation. 2000, c. 26, s. 21.

Effect of interaction

22 A contract may be formed by the interaction of an electronic agent and a natural person or by the interaction of electronic agents. 2000, c. 26, s. 22.

Effect of material error

23 An electronic document made by a natural person with the electronic agent of another person has no legal effect and is not enforceable if the natural person made a material error in the document and

- (a) the electronic agent did not provide the natural person with an opportunity to prevent or correct the error;
 - (b) the natural person notifies the other person of the error as soon as practicable after the natural person learns of the error and indicates that the natural person made an error in the electronic document;
 - (c) the natural person takes reasonable steps, including steps that conform to the other person's instructions to return the consideration received, if any, as a result of the error or, where instructed to do so, to destroy the consideration; and
 - (d) the natural person has not used or received any material benefit or value from the consideration, if any, received from the other person.
- 2000, c. 26, s. 23.

Deemed sending and receiving

24 (1) Unless the originator and the addressee agree otherwise, an electronic document is sent when it enters an information system outside the control of the originator or, where the originator and the addressee are in the same information system, when it becomes capable of being retrieved and processed by the addressee.

(2) An electronic document is presumed to be received by the addressee

(a) when it enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and it is capable of being retrieved and processed by the addressee; or

(b) where the addressee has not designated or does not use an information system for the purpose of receiving documents of the type sent, when the addressee becomes aware of the electronic document in the addressee's information system and the electronic document is capable of being retrieved and processed by the addressee.

(3) Unless the originator and the addressee agree otherwise, an electronic document is deemed to be sent from the originator's place of business and is deemed to be received at the addressee's place of business.

(4) For the purpose of subsection (3),

(a) where the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction to which the electronic document relates or, where there is no underlying transaction, the principal place of business of the originator or the addressee; and

(b) where the originator or the addressee does not have a place of business, the references to “place of business” in subsection (3) are to be read as references to “habitual residence”. 2000, c. 26, s. 24.

PART III

CARRIAGE OF GOODS

Application of Part

25 This Part applies to any action in connection with a contract of carriage of goods, including

- (a) furnishing the marks, number, quantity or weight of goods;
- (b) stating or declaring the nature or value of goods;
- (c) issuing a receipt for goods;
- (d) confirming that goods have been loaded;
- (e) giving instructions to a carrier of goods;
- (f) claiming delivery of goods;
- (g) authorizing release of goods;
- (h) giving notice of loss of, or damage to, goods;
- (i) undertaking to deliver goods to a named person or a person authorized to claim delivery;
- (j) granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;
- (k) notifying a person of terms and conditions of a contract of carriage of goods;
- (l) giving a notice or statement in connection with the performance of a contract of carriage of goods; and
- (m) acquiring or transferring rights and obligations under a contract of carriage of goods. 2000, c. 26, s. 25.

Satisfaction of certain requirements

26 (1) Subject to subsection (2), a requirement under the law of the Province that an action referred to in any of clauses 25(a) to (m) be carried out in writing or by using a paper document is satisfied if the action is carried out by using one or more electronic documents.

(2) Where a right is to be granted to or an obligation is to be acquired by one person and no other person and a law of the Province requires that, in order to do so, the right or obligation must be conveyed to that person by the transfer or use of a document in writing, that requirement is satisfied if the right or obligation is conveyed through the use of one or more electronic documents created by a method that gives reliable assurance that the right or obligation has become the right or obligation of that person and no other person.

(3) For the purpose of subsection (2), the standards of reliability required must be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

(4) Where one or more electronic documents are used to accomplish an action referred to in clause 25(j) or (m),

(a) no document in writing used to effect the action is valid unless the use of electronic documents has been terminated and replaced by the use of documents in writing;

(b) a document in writing issued in these circumstances must contain a statement of the termination; and

(c) the replacement of the electronic documents by documents in writing does not affect the rights or obligations of the parties involved.

(5) Where a rule of law of the Province is compulsorily applicable to a contract of carriage of goods that is set out in, or is evidenced by, a document in writing, that rule is not inapplicable to a contract of carriage of goods that is evidenced by one or more electronic documents by reason of the fact that the contract is evidenced by electronic documents instead of by a document in writing.
2000, c. 26, s. 26.

PART IV

GENERAL

Regulations Act

27 The exercise by the Governor in Council of the authority contained in subsections 3(2) and (4) and 11(2), by a member of the Executive Council of the authority contained in subsections 17(2) and (3) and 18(1) and by an entity referred to under clause (b) or (c) of the definition of “Government” in Section 2 of the authority contained in subsection 18(1) is a regulation within the meaning of the *Regulations Act*. 2000, c. 26, s. 27.

CHAPTER E-9

An Act to Provide for the Licensing and Regulating of Elevators and Certain Other Types of Lifts

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Act does not apply.....	3
Inspectors.....	4
Certificate of competency.....	5
Elevating device must be maintained.....	6
Safety code.....	7
Examination of persons by inspector.....	8
Right of entry.....	9
Powers of inspector.....	10
Licences.....	11
Approval before installation or alteration.....	12
Accidents.....	13
Obstruction of inspector.....	14
False or misleading statement.....	15
No operation without licence.....	16
No unsafe operation.....	17
No operation with excessive load.....	18
Appeal Board.....	19
Other enactments preserved.....	20
Offence.....	21
Occupational Health and Safety Act.....	22
Regulations.....	23

Short title

- 1** This Act may be cited as the *Elevators and Lifts Act*. 2002, c. 4, s. 1.

Interpretation

- 2** In this Act,
- “Appeal Board” means the Appeal Board established pursuant to this Act;
- “Chief Inspector” means the Chief Inspector appointed pursuant to this Act;
- “construction and material hoist” means a temporary hoisting mechanism used for raising or lowering persons or materials during the construction, repair, alteration or demolition of buildings, structures or works;
- “dumbwaiter” means a mechanism affixed to a building or structure, equipped with a car or platform that moves in guides in a substantially vertical direction, that has a total compartment height not exceeding four feet,

that is used exclusively for lifting or lowering freight and that serves two or more floors or permanent levels of the building or structure, and includes its hoistway enclosure;

“elevating device” means a non-portable device for hoisting and lowering or moving persons or freight and includes an elevator, dumbwaiter, escalator, moving walk, manlift, passenger ropeway, incline lift, construction and material hoist, stage lift, platform lift, stairchair lift and special elevating devices;

“elevator” means a mechanism affixed to a building or structure, equipped with a car or platform that moves in guides in a substantially vertical direction and that is used to lift or lower persons or freight in or about the building or structure, and includes its hoistway enclosure;

“escalator” means a power-driven, inclined, continuous stairway or runway affixed to a building or structure that is used for moving persons and that serves two or more floors or permanent levels of the building or structure, and includes its hoistway enclosure;

“freight” means any substance, article or thing;

“incline lift” means an elevating device that is equipped with a car or platform that moves at an angle other than vertical and that serves two or more permanent levels, but does not include a stair-platform lift;

“inspector” means an inspector appointed pursuant to this Act, and includes the Chief Inspector;

“licence” means a licence granted pursuant to this Act;

“major alteration” means a major alteration as defined in the regulations;

“manlift” means a mechanism affixed to a building or structure that has an endless belt, is hand-powered or powered and that serves two or more floors or permanent levels of a building or structure, and includes its hoistway enclosure;

“maximum capacity” means the number of persons or the weight that an elevating device may carry safely as determined under the regulations;

“mechanic” means a person who has a working knowledge of this Act and the regulations, including the applicable code document, respecting the elevating device upon which the mechanic is assigned to work and who is the holder of a certificate of competency issued pursuant to this Act;

“Minister” means the Minister of Labour, Skills and Immigration;

“operator” means a person who operates an elevating device as the whole or a part of the normal duties of that person;

“owner” means the person in charge of an elevating device as owner, tenant, agent or otherwise, but does not include an operator;

“passenger ropeway” means an elevating device that is designed and constructed to move persons along a horizontal or inclined pathway by means of a hauling rope that is driven by a non-portable power unit, and includes bar lifts, chair lifts, gondola lifts, reversible ropeways and ropetows;

“registered contractor” means a person who carries on the business of constructing, installing, altering, repairing, maintaining, servicing, inspecting, examining or testing elevating devices or parts of elevating devices. 2002, c. 4, s. 2.

Act does not apply

3 This Act does not apply to

- (a) elevating devices in private dwelling houses, unless the owner of the device requests that this Act be applied to it;
- (b) feeding machines or a belt, bucket, scoop, roller or similar type of freight conveyer;
- (c) freight ramps or platforms with a rise of 60 inches or less;
- (d) lubrication hoists or other similar mechanisms;
- (e) piling or stacking machines used within one story; or
- (f) any class or subclass of elevating device excluded by the regulations. 2002, c. 4, s. 3.

Inspectors

4 (1) For the purpose of this Act, the Minister may appoint a person in the public service to be the Chief Inspector and one or more persons to be inspectors.

(2) The Chief Inspector may employ the services of any person who holds a certificate of competency issued under this Act to inspect any elevating device and to report to the Chief Inspector with respect to the inspection.

(3) No person shall be appointed or act as an inspector who has any direct or indirect interest in the manufacture, sale, installation or maintenance of an elevating device. 2002, c. 4, s. 4.

Certificate of competency

5 No person shall construct, install, alter, repair, maintain, service, inspect, examine or test an elevating device unless that person

- (a) holds a certificate of competency issued under this Act; or
- (b) is a mechanic in training under the supervision of a person who holds a certificate of competency. 2002, c. 4, s. 5.

Elevating device must be maintained

6 (1) No owner of an elevating device shall permit the use or operation of the device unless arrangements have been made by the owner for the device to be maintained by a registered contractor.

- (2)** A registered contractor referred to in subsection (1) shall
 - (a) be registered under this Act;
 - (b) employ persons who have been issued a certificate of competency under this Act;

- (c) comply with this Act and the regulations; and
- (d) construct, install, alter, repair, maintain, service, inspect, examine or test an elevating device in accordance with the applicable safety codes.

(3) Maintenance, service, repairs, inspections, examinations or tests on licensed elevating devices must be carried out or directly supervised by a qualified mechanic who holds a certificate of competency under this Act. 2002, c. 4, s. 6.

Safety code

- 7 In carrying out an inspection pursuant to this Act, an inspector shall
- (a) apply the latest edition of the applicable safety code to new installations of elevating devices;
 - (b) apply the applicable parts of the safety code to major alterations of elevating devices as prescribed by the regulations; and
 - (c) apply the applicable parts of the safety code to the general maintenance of elevating devices as prescribed by the regulations. 2002, c. 4, s. 7.

Examination of persons by inspector

8 For the purpose of an inspection or investigation under this Act, an inspector may, by notice in writing, require the attendance before the inspector of any person at the time and place named in the notice and may examine the person under oath regarding any matter pertaining to the inspection or investigation. 2002, c. 4, s. 8.

Right of entry

9 An inspector may enter any premises where the inspector has reason to believe that an elevating device is being installed, altered or operated. 2002, c. 4, s. 9.

Powers of inspector

10 (1) An inspector may, at all reasonable times, by notice in writing, require an owner to prepare the owner's elevating device, or any part of it, for inspection.

(2) An inspector may require the owner of an elevating device to do or refrain from doing anything the inspector considers necessary during an inspection.

(3) An inspector may, by notice in writing, require an owner of an elevating device to do or refrain from doing, within the time specified in the notice, such things as the notice specifies in order to ensure compliance with this Act and the regulations. 2002, c. 4, s. 10.

Licences

11 (1) The Chief Inspector may grant a licence for any elevating device and may suspend, revoke or transfer a licence.

(2) A licence must designate the elevating device for which it is granted and the maximum capacity of the device.

(3) A licence is valid for the length of time, as specified in the regulations, for which it is granted, unless sooner suspended or revoked.

(4) A licence must be kept by the owner in a conspicuous position in the car of the elevator for which it is granted and any other licence must be kept by the owner in a conspicuous position on or adjacent to the elevating device for which it is granted.

(5) Where a licence is suspended or revoked, the Chief Inspector may cause such things to be done as the Chief Inspector considers necessary to ensure that the elevating device will not be operated contrary to this Act and the regulations. 2002, c. 4, s. 11.

Approval before installation or alteration

12 (1) No person shall commence a new installation or a major alteration of an elevating device until the drawings and specifications of the installation or alteration have been registered by the Chief Inspector and an installation permit has been issued.

(2) The drawings and specifications must be submitted in duplicate and must furnish full information as to the size, composition and arrangement of the proposed new installation or major alteration, as well as any information required by the applicable safety codes.

(3) All drawings and specifications submitted must be stamped by a professional engineer registered in the Province and must include the engineer's statement that the proposed elevating device was designed and manufactured to meet all requirements of the applicable safety codes.

(4) Where the documents for the proposed new installation or major alteration comply with this Act and the regulations, the documents must be registered by the Chief Inspector, an installation permit must be issued and one set of drawings and specifications returned to the person who submitted them. 2002, c. 4, s. 12.

Accidents

13 (1) Where an elevating device falls freely, where the emergency supporting devices have engaged or where an accident that causes injury to any person occurs on or about an elevating device, the owner shall give notice in writing with full particulars to the Chief Inspector within 24 hours.

(2) Where an accident occurs in connection with an elevating device that results in the death of any person or in injuries that may result in the death of any person, the owner shall give notice immediately after the accident to the Chief Inspector and no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident until permission is given by an inspector.

(3) On receipt of a notice pursuant to subsection (1) or (2), the Chief Inspector shall cause an investigation to be made to determine the cause of the occurrence or accident. 2002, c. 4, s. 13.

Obstruction of inspector

14 No person shall hinder or obstruct an inspector in the performance of the inspector's duties under this Act. 2002, c. 4, s. 14.

False or misleading statement

15 No person shall make a false or misleading statement in any communication, whether in writing or otherwise, to an inspector concerning any matter under this Act or the regulations. 2002, c. 4, s. 15.

No operation without licence

16 No owner of an elevating device shall operate the device or cause or permit it to be operated unless it is licensed under this Act. 2002, c. 4, s. 16.

No unsafe operation

17 (1) No person shall operate an elevating device or cause or permit it to be operated if that person has reason to believe that it is in an unsafe condition.

(2) No person shall operate an elevating device or cause or permit it to be operated in an unsafe manner. 2002, c. 4, s. 17.

No operation with excessive load

18 No person shall operate an elevating device or cause or permit it to be operated with a load in excess of its maximum capacity as designated in the licence. 2002, c. 4, s. 18.

Appeal Board

19 (1) The Minister may appoint an Appeal Board consisting of three persons, each of whom possesses the qualifications prescribed by the regulations.

(2) The Appeal Board shall hear appeals as provided for in the regulations.

(3) The members of the Appeal Board shall be paid such reasonable travelling and living expenses and such remuneration as determined by the Governor in Council. 2002, c. 4, s. 19.

Other enactments preserved

20 Nothing in this Act or the regulations affects any other Act or regulation or any municipal bylaw relating to hoistways or hoistway enclosures in so far as any such Act, regulation or bylaw imposes additional or more stringent requirements than those contained in this Act or the regulations. 2002, c. 4, s. 20.

Offence

21 (1) A person who fails to comply with or violates this Act or the regulations or any notice or order made under this Act is guilty of an offence and liable on summary conviction to a penalty of not more than \$200,000.

(2) Where a person fails to comply with or violates this Act or the regulations or any notice or order made under this Act or the regulations on more than one day, each day constitutes a separate offence. 2002, c. 4, s. 21.

Occupational Health and Safety Act

22 Where there is a conflict between this Act and the *Occupational Health and Safety Act*, this Act prevails. 2002, c. 4, s. 22.

Regulations

- 23 (1)** The Governor in Council may make regulations
- (a) designating classes or subclasses of elevating devices;
 - (b) defining a major alteration for the purpose of this Act and the regulations;
 - (c) prescribing qualifications for persons who may be appointed inspectors or who may make inspections under this Act;
 - (d) prescribing qualifications for persons who may be issued a certificate of competency;
 - (e) providing for the issue of certificates of competency to inspectors and determining the period for which the certificates continue in force and the terms upon which they may be renewed;
 - (f) providing for the issue of certificates of competency to persons other than inspectors and determining the period for which the certificates continue in force and the terms upon which they may be renewed;
 - (g) prescribing the examination fees to be paid by an applicant for a certificate of competency;
 - (h) prescribing the fee to be paid on the issue and renewal of a certificate of competency;
 - (i) prescribing the reasons for which a certificate of competency may be suspended or cancelled;
 - (j) regulating the use, location, design, construction, installation, operation, maintenance, ventilation, drainage, lighting, heating, alteration, repair, testing and inspection of elevating devices and equipment used in connection with an elevating device;
 - (k) prescribing requirements as to the form and substance of the drawings and specifications to be submitted pursuant to this Act;
 - (l) prescribing methods of determining maximum capacity for the purpose of this Act;
 - (m) applying the applicable safety code to new installations and major alterations of elevating devices;

- (n) governing the conduct of persons in or about elevating devices;
- (o) providing for and requiring the registration of contractors, prescribing the fees for the first and subsequent registrations and the conditions under which registrations may be made, suspended or cancelled;
- (p) providing for fees to be paid for the registration of drawings and specifications submitted pursuant to this Act and designating the amount of such fees;
- (q) prescribing the form of licences and the conditions under which licences or any class of licence may be granted, suspended, revoked or transferred, prohibiting the transfer of licences or any class of licence and providing for fees to be paid on the grant or transfer of licences;
- (r) prescribing the circumstances under which expenses or special fees, or both, are to be paid and designating the amount of such fees and the persons by whom such expenses or fees, or both, are to be paid;
- (s) prescribing the fees to be paid for inspections by inspectors;
- (t) prescribing the form and location of notices and markings that must be kept in or about elevating devices;
- (u) excluding from this Act any class or subclass of elevating device;
- (v) prescribing the qualifications to be possessed by members of the Appeal Board;
- (w) establishing the length of terms to be served by members of the Appeal Board;
- (x) respecting appeals to the Appeal Board;
- (y) defining any word or expression used but not defined in this Act;
- (z) respecting any other matter that the Governor in Council considers necessary or advisable to carry out effectively 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*, 2002, c. 4, s. 23.

CHAPTER E-10

An Act to Recognize Emancipation Day

Table of Contents

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

	Section
Short title.....	1
Emancipation Day.....	2

WHEREAS on August 1, 1834, the British Parliament abolished slavery in the British Empire through the *Slavery Abolition Act*, freeing approximately 800,000 enslaved Africans throughout the British colonies, including Upper and Lower Canada;

AND WHEREAS Nova Scotia is known to be the birthplace of African presence in Canada, dating back to the early 1600's, and as having the largest historic Black population in Canada;

AND WHEREAS there are 52 historic Black communities in Nova Scotia, and African Nova Scotians are a vibrant part of Nova Scotia's past and have made and continue to make valuable contributions to the fabric and success of Nova Scotia;

AND WHEREAS on December 23, 2013, the United Nations General Assembly proclaimed the years 2015 to 2024 as the International Decade for People of African Descent;

AND WHEREAS on January 30, 2018, the Government of Canada acknowledged the International Decade for People of African Descent, and on May 8, 2018, the Nova Scotia Government officially recognized this Decade;

AND WHEREAS anti-Black racism is rooted in the history of slavery, which is a part of the history of Nova Scotia;

AND WHEREAS on September 29, 2020, the Premier of Nova Scotia formally recognized and apologized for anti-Black racism and its impact on the lives of Nova Scotians of African descent;

AND WHEREAS it is important to recognize the heritage and resilience of Nova Scotia's Black community and the contributions that it has made and continues to make to Nova Scotia;

AND WHEREAS since slavery existed in Nova Scotia, it is appropriate to observe August 1st formally as Emancipation Day, to celebrate it, educate ourselves on its history and reflect on the need to eradicate systemic anti-Black racism, righting this historic wrong;

Short title

1 This Act may be cited as the *Emancipation Day Act*. 2021, c. 5, s. 1.

Emancipation Day

2 Throughout the Province, in each and every year, August 1st shall be kept and observed under the name “Emancipation Day”. 2021, c. 5, s. 2.

CHAPTER E-11

An Act Respecting Embalmers and Funeral Directors

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Supervision of Act.....	3
Registrar.....	4
Further information and material.....	5
Appointment of personnel.....	6
Board.....	7
Reappointment or re-election, vacancies and required publication.....	8
Officers, committees and presiding officer at meetings.....	9
Secretary-treasurer.....	10
Inspector and deputies.....	11
Powers.....	12
Code of ethics.....	13
Licence as prima facie evidence.....	14
Payment and use of fee.....	15
Bylaws.....	16
Complainant may be present at Inquiry.....	17
Filing of bylaws.....	18
Funeral director's licence.....	19
License as apprentice funeral director.....	20
Embalmer's licence.....	21
License as apprentice embalmer.....	22
Register.....	23
Examination for embalmer's licence.....	24
Licence of embalmer required.....	25
Licence of funeral director required.....	26
Suspension or revocation of licence of embalmer, apprentice or director.....	27
Complaints.....	28
Branch manager required.....	29
Licence to operate funeral home required.....	30
Issue of licence to operate funeral home.....	31
Form of application for and form and expiry of funeral home licence.....	32
Prohibition — insurance sales.....	33
Undertakings.....	34
Publication of information.....	35
Cancellation or suspension of funeral home licence.....	36
Deemed cancellation of funeral home licence.....	37
Notice before sale, change in location or cessation of operations.....	38
Licensing of existing funeral home.....	39
Display of licence under Act.....	40
Display and catalogue.....	41
Prohibition — special handling fees.....	42
Duties of funeral home licence holder.....	43
Regulations.....	44
Offence and penalty.....	45
Limitation period.....	46
Onus of proof.....	47

Short title

1 This Act may be cited as the *Embalmers and Funeral Directors Act*.
R.S., c. 144, s. 1.

Interpretation

2 In this Act,

“Board” means the Board appointed pursuant to this Act;

“embalmer” means any person who preserves a dead human body, entirely or in part;

“embalming” means the preservation of the dead human body, entirely or in part, by the use of chemical substances, fluids or gases, either by outward application of such chemical substances, fluids or gases on the body or by the introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs and cavities;

“funeral director” means any person who for gain takes charge of a dead human body for the purpose of burial, cremation, removal or other disposition;

“funeral home” means an establishment or facility, by whatever name called, offering or providing funeral merchandise or services to the public, including cremation services;

“licence” means a licence issued pursuant to this Act and includes a renewal thereof;

“licensed embalmer” means a person holding an embalmer’s licence pursuant to this Act;

“Minister” means the Minister of Service Nova Scotia;

“Registrar” means the Registrar of Embalmers and Funeral Directors;

“regulations” means the regulations made by the Governor in Council pursuant to this Act. R.S., c. 144, s. 2; 2018, c. 30, s. 8.

Supervision of Act

3 The Minister has the general supervision and management of this Act. R.S., c. 144, s. 3.

Registrar

4 **(1)** The Minister shall appoint a Registrar of Embalmers and Funeral Directors who has the functions and duties set out in this Act and the regulations and such other functions and duties pursuant to this Act and the regulations as the Minister may determine.

(2) The Minister may, in the absence or incapacity of the Registrar or when the office of the Registrar is vacant, authorize another person to act in the Registrar’s stead.

(3) The Minister may appoint one or more deputy registrars as required to assist the Registrar in the performance of the Registrar’s duties.

(4) A deputy registrar may perform any of the duties and exercise any of the powers of the Registrar as directed by the Registrar.

(5) The *Civil Service Act* applies to a person appointed or authorized to act pursuant to this Section. 2014, c. 39, s. 8.

Further information and material

5 The Registrar may require at any time any further information or material to be submitted by any applicant for or person issued a licence within a specified time and may require, where the Registrar considers advisable, verification by affidavit or otherwise of any information or material then or previously submitted. 2017, c. 9, s. 34.

Appointment of personnel

6 Persons required by the Minister for the administration of this Act must be appointed in accordance with the *Civil Service Act*. R.S., c. 144, s. 5.

Board

7 (1) There is a Board of Registration of Embalmers and Funeral Directors consisting of

- (a) the Registrar;
- (b) one licensed embalmer appointed by the Minister;
- (c) two licensed funeral directors appointed by the Minister;
- (d) one licensed embalmer or funeral director elected by the Funeral Services Association of Nova Scotia;
- (e) two consumer advocates appointed by the Minister who, in the opinion of the Minister, represent the public interest and who are not and have not been an embalmer, a funeral director, an owner or operator of, or the holder of an interest in, a funeral home or an employee of any of them.

(2) A member of the Board, other than the Registrar, holds office for up to three years, as determined by the Minister.

(3) A majority of the members of the Board constitute a quorum. 2018, c. 30, s. 9.

Reappointment or re-election, vacancies and required publication

8 (1) Each member of the Board is eligible for reappointment or re-election upon expiry of the term of the member as a member.

(2) Where a vacancy occurs in the Board, the Secretary-treasurer shall notify the authority that appointed or elected the person who has ceased to be a member.

(3) Where the Funeral Service Association of Nova Scotia is dissolved or fails to fill the vacancy within one year after it occurs, the remaining members of the Board may fill the vacancy.

(4) The Secretary-treasurer shall publish annually the names of the members of the Board and its officers.

(5) The Secretary-treasurer shall provide to the Minister before April 1st in each and every year a statement of assets and liabilities and expenditures and receipts for the preceding calendar year. R.S., c. 144, s. 7; 2003, c. 19, s. 7; 2014, c. 10, s. 18.

Officers, committees and presiding officer at meetings

9 (1) The Board shall elect from among its members a Chair and such other officers and committees as it considers advisable.

(2) The Chair presides at all meetings of the Board and in the absence of the Chair from a meeting another member of the Board chosen from among the other members present shall preside at the meeting.

(3) The Chair or the person presiding in the Chair's absence has a casting vote only. R.S., c. 144, s. 8.

Secretary-treasurer

10 (1) The Board shall appoint a Secretary-treasurer of the Board.

(2) The Secretary-treasurer shall keep proper books of accounts showing all fees collected and disbursements made on behalf of the Board, and shall file with the Minister a statement showing all money collected and disbursements made for the preceding year not later than April 1st in each year.

(3) The Secretary-treasurer shall mail notice of all meetings of the Board to all members at least seven days before the date of such meeting, by registered mail, except in cases of emergency. R.S., c. 144, s. 9.

Inspector and deputies

11 The Board shall appoint an inspector and may appoint one or more deputies who shall carry out such duties as the Board may prescribe, such inspector and deputies to hold office during the pleasure of the Board. R.S., c. 144, s. 10.

Powers

12 The Board is a corporation and, in addition to the powers vested in it as a corporation, it may

(a) for its purposes hold, enjoy, sell, mortgage, lease or otherwise dispose of real and personal property;

(b) engage and pay for such technical, clerical and other assistance as the Board considers necessary or advisable;

(c) fix the fees to be paid to members of the Board for their services in carrying on the work of the Board;

(d) reimburse members, officers and employees of the Board for expenses necessarily incurred in performing their duties;

(e) disburse the funds of the Board as the Board considers proper for the education of apprentices, embalmers and funeral directors within the Province;

(f) do such other acts as are necessary or incidental to the carrying out of the purpose of this Act. R.S., c. 144, s. 11.

Code of ethics

13 (1) The Board shall prepare and publish a code of ethics for embalmers and funeral directors that includes standards of conduct pertaining to the practice of embalming and the business of being a funeral director.

(2) Every person who holds an embalmer's licence, a funeral director's licence or a licence issued to an apprentice embalmer or an apprentice funeral director shall comply with the code of ethics. 2014, c. 10, s. 19; 2014, c. 47, s. 1.

Licence as prima facie evidence

14 The Board has a common seal, and any licences or certificates issued by the Board and bearing the seal of the Board must be accepted in any court as prima facie evidence of the matters therein stated. R.S., c. 144, s. 12.

Payment and use of fee

15 All fees paid pursuant to the provisions of this Act must be paid to the Board to be used for carrying out the purpose of this Act. R.S., c. 144, s. 13.

Bylaws

16 The Board may make bylaws

(a) respecting the procedure of the Board at meetings and upon the hearing of complaints that any person holding a certificate pursuant to this Act has been guilty of any violation of the law, or incompetence or misconduct;

(b) respecting the duties of and the remuneration payable to the Secretary-treasurer and staff of the Board;

(c) regulating the practice and procedure upon hearings of the Board;

(d) generally for the better carrying out of the functions of the Board. R.S., c. 144, s. 14.

Complainant may be present at inquiry

17 Bylaws made by the Board pursuant to Section 16 must provide that a person who made a complaint to the Board and is a witness at an inquiry may be present to hear all evidence presented, unless the Board determines that witnesses should be excluded from the inquiry until they have testified. 2018, c. 30, s. 10.

Filing of bylaws

18 Bylaws made by the Board pursuant to Section 16 must be filed with the Registrar. R.S., c. 144, s. 15.

Funeral director's licence

19 The Board shall issue a funeral director's licence to a person who is not less than 19 years of age, has complied with the requirements of the regulations and has paid the annual fee. R.S., c. 144, s. 16.

License as apprentice funeral director

20 The Board shall license as an apprentice funeral director a person who has complied with the requirements of the regulations and has paid the annual fee. 2014, c. 47, s. 2.

Embalmer's licence

21 The Board shall issue an embalmer's licence to a person who is not less than 19 years of age, has complied with the requirements of the regulations and has paid the annual fee. R.S., c. 144, s. 17.

License as apprentice embalmer

22 The Board shall license as an apprentice embalmer a person who has complied with the requirements of the regulations and has paid the annual fee. R.S., c. 144, s. 18.

Register

23 (1) The Board shall keep a register in which must be entered the names and residences of all persons to whom licences have been issued, with the number, date of issuance and date of expiry thereof.

(2) The Registrar or the Board may publish any of the following information with respect to licences issued by the Board in whatever form and manner the Registrar or the Board considers appropriate:

- (a) a list of persons who hold licences issued by the Board, including their names and the communities where they reside;
- (b) the type of licence issued to a licensee;
- (c) information relating to the status of a particular licence, including whether a licence has been cancelled or suspended;
- (d) where a licensee works at a funeral home, the name and address of the funeral home;
- (e) any hearings scheduled by the Board;
- (f) any decision, or summary of a decision, made by the Board following a hearing by the Board;
- (g) any convictions, fines or other penalties imposed by the courts under this Act. R.S., c. 144, s. 19; 2014, c. 10, s. 20; 2014, c. 47, s. 3; 2018, c. 30, s. 11.

Examination for embalmer's licence

24 (1) The Board shall hold at least one examination in each year for the purpose of examining applicants for licences as embalmers, such examination or examinations to be held in the communities determined by the Board.

(2) Notice of the time and place of such examinations must be given to all applicants by registered mail at least 10 days before the examination date. R.S., c. 144, s. 20.

Licence of embalmer required

25 (1) No person shall engage in the profession of embalming or preserving in any manner dead human bodies unless that person holds a licence as an embalmer from the Board.

(2) Subsection (1) does not apply to

(a) a licensed apprentice working under the direct supervision of an embalmer;

(b) a student or person employed in a recognized school of medicine. R.S., c. 144, s. 21.

Licence of funeral director required

26 (1) No person shall act as a funeral director or carry on the business of a funeral director unless that person is a licensed funeral director.

(2) Subsection (1) does not apply to a licensed apprentice funeral director working under the direct supervision of a licensed funeral director. R.S., c. 144, s. 22; 2014, c. 47, s. 4.

Suspension or revocation of licence of embalmer, apprentice or director

27 (1) Subject to the regulations, the Board may, after due inquiry, suspend or revoke the licence of an embalmer, an apprentice embalmer, a funeral director or an apprentice funeral director if at least four members of the Board find that the embalmer, apprentice embalmer, funeral director or apprentice funeral director has been guilty of non-compliance with this Act, the regulations or the bylaws or any misrepresentation, negligence, professional misconduct or fraud.

(2) Any person whose licence is suspended or revoked may appeal to a judge of the Supreme Court of Nova Scotia within three months from the date of the suspension or revocation, or such extended time as a judge of the Supreme Court thinks reasonable and the judge, upon hearing the appeal, may make such order either confirming, amending or setting aside the suspension or revocation or for further inquiries by the Board into the facts of the case and as to costs, as to the judge seems right.

(3) The appeal must be by motion, notice of which must be served upon the Secretary-treasurer of the Board at least 14 days before the time fixed for hearing the appeal, and must be founded upon a copy of the proceedings before the Board, or any committee, the evidence taken and the decision or report of the Board or any committee in the matter, certified by the Secretary-treasurer and the Secretary-treasurer shall, upon the request of any person desiring to appeal, at the expense of that person furnish that person with a certified copy of all evidence, proceedings, reports, orders and papers, upon which the Board or any committee has acted in connection with the suspension or revocation.

(4) Where a licence of any person has been revoked, the Board may issue a licence to that person where that person

- (a) satisfies the Board that that person is of good moral character and is a fit and proper person to be the holder of a licence; and
- (b) pays the prescribed fee. R.S., c. 144, s. 23; 2014, c. 47, s. 5.

Complaints

28 (1) Notwithstanding anything contained in this Act, the Minister may direct the Registrar to investigate a complaint of non-compliance with this Act, the regulations or the bylaws or any misrepresentation, negligence, professional misconduct or fraud by an embalmer, apprentice embalmer, funeral director, apprentice funeral director or funeral home.

(2) For the purpose of an investigation pursuant to this Act, the Registrar has the same power and authority in respect of embalmers, apprentice embalmers, funeral directors, apprentice funeral directors and funeral homes as the Registrar of Credit has in respect of lenders under the *Consumer Protection Act*.

(3) Upon completing the investigation, the Registrar shall report the findings to the Minister.

(4) Upon receiving the report of the Registrar, the Minister shall inform the Board of the substance of the report and may refer the matter to the Board and, where the matter is so referred, the Board shall take the appropriate action. R.S., c. 144, s. 24; 2014, c. 47, s. 6.

Branch manager required

29 Whenever any person, firm, partnership, association or corporation carrying on business in the Province as a funeral director operates a number of separate establishments or branches in different cities or towns, that person shall employ for each establishment or branch a separate manager who is a licensed funeral director and all funeral services carried out by that establishment or branch must be conducted by a licensed funeral director. R.S., c. 144, s. 25.

Licence to operate funeral home required

30 No person shall conduct, maintain, operate or manage a funeral home, or purport to be operating a funeral home, unless that person is issued a licence to do so pursuant to this Act and that licence has not expired, been cancelled or suspended. R.S., c. 144, s. 26; 2014, c. 47, s. 7.

Issue of licence to operate funeral home

31 (1) Subject to the regulations, the Registrar may issue a licence to operate a funeral home.

(2) The Registrar may, for any reasonable cause, refuse to issue or reissue a licence in respect of a funeral home.

(3) A licence is subject to such terms, conditions and restrictions as are provided by the regulations.

(4) For greater certainty, the Registrar may issue a licence to operate a funeral home to an association incorporated pursuant to the *Co-operative Associations Act*. R.S., c. 144, s. 27; 2014, c. 10, s. 21.

Form of application for and form and expiry of funeral home licence

32 (1) An application for a funeral home licence must be in the form prescribed by the regulations.

(2) The licence must be in the form prescribed by the regulations.

(3) The licence expires one year from the date on which it was issued or on such other date as prescribed by the regulations. R.S., c. 144, s. 28.

Prohibition — insurance sales

33 No person shall, at a funeral home, sell insurance other than insurance to fund pre-arranged funeral plans as defined in the *Cemetery and Funeral Services Act*, as permitted by that Act. 2014, c. 10, s. 22.

Undertakings

34 Where the Registrar has reason to believe that a person who holds a funeral home licence has contravened this Act or the regulations, the Registrar may accept from the person a written undertaking in the form and containing the terms or conditions that the Registrar considers appropriate in the circumstances, including, without limiting the generality of the foregoing, one or both of the following:

(a) an undertaking to comply with this Act and the regulations;

(b) an undertaking to refrain from engaging in an act or practice.
2014, c. 10, s. 22.

Publication of information

35 (1) The Registrar may publish any of the following information with respect to funeral home licences:

(a) a list of persons who hold funeral home licences, including their names and business addresses;

(b) any terms, conditions or restrictions to which a particular funeral home licence is subject;

(c) information relating to the status of a particular funeral home licence, including whether a licence has been cancelled or suspended;

(d) any undertakings to which a particular funeral home licence is subject;

(e) any hearings scheduled by the Registrar;

(f) any decision, or summary of a decision, made by the Registrar;

(g) any convictions, fines or other penalties imposed by the courts under this Act;

(h) any other information prescribed by the regulations.

(2) The Registrar may publish the information referred to in subsection (1) in whatever form and manner the Registrar considers appropriate. 2014, c. 10, s. 22; 2018, c. 30, s. 12.

Cancellation or suspension of funeral home licence

36 The Registrar may cancel or suspend a funeral home licence if

- (a) the licensee is not capable of providing the service required by the licence;
- (b) the funeral home described in the licence has become unsuitable for the purpose authorized by the licence;
- (c) the funeral home does not comply with the terms, conditions or restrictions of the licence;
- (d) the licensee has failed to comply with an undertaking provided by the licensee pursuant to Section 34;
- (e) the licensee has contravened this Act or the regulations; or
- (f) the funeral home does not comply with enactments applying to it. R.S., c. 144, s. 29; 2014, c. 10, s. 23.

Deemed cancellation of funeral home licence

37 A funeral home licence is deemed to be cancelled when the person to whom it was issued ceases to operate or own the funeral home for which the licence was issued. R.S., c. 144, s. 30.

Notice before sale, change in location or cessation of operations

38 Every person who holds a funeral home licence shall give written notice to the Registrar at least 30 days before an intended sale, change in location or cessation of operations of the funeral home. 2014, c. 10, s. 24.

Licensing of existing funeral home

39 Every funeral home that, on September 1, 1983, was in operation under the management of a funeral director or licensed embalmer licensed by this Act must be licensed upon the payment of the fees prescribed by the regulations and thereafter is subject to this Act and the regulations. R.S., c. 144, s. 31.

Display of licence under Act

40 Any person holding a licence pursuant to this Act shall at all times have such licence exposed to public view in the place where such person carries on business or at the place in which such person is employed. R.S., c. 144, s. 32.

Display and catalogue

41 (1) Every person who holds a funeral home licence shall maintain at the funeral home

- (a) a display of full or partial replicas of caskets and urns on offer, including full or partial replicas of the least expensive options on offer; or

(b) an up-to-date catalogue with pictures and descriptions of the caskets and urns on offer, including pictures and descriptions of the least expensive options on offer.

(2) Descriptions referred to in clause (1)(b) must meet the requirements, if any, prescribed by the regulations. 2014, c. 10, s. 25.

Prohibition — special handling fees

42 No person who holds a licence shall charge a handling fee for the use of a casket, urn or other container that is provided by the customer unless the person who holds the licence charges the same handling fee for the caskets, urns or other containers, as the case may be, that are sold by the person. 2014, c. 10, s. 25.

Duties of funeral home licence holder

43 (1) Every person who holds a funeral home licence shall

(a) ensure that human remains are labelled at all times while in the custody of the funeral home and while being transported to the funeral home, regardless whether the remains are being transported by a third-party transport service;

(b) ensure that every person transporting human remains is satisfied as to the identity of the remains at the time of initial pickup and at delivery to the intended destination; and

(c) create and follow a documented standardized process to ensure that human remains and cremated remains are continuously identified, from when the remains are picked up by a third-party transport service or are received by the funeral home and until the remains are released to the next of kin.

(2) Every person who holds a funeral home licence is responsible for ensuring that every person transporting human remains to the funeral home complies with the requirements set out in the regulations. 2018, c. 30, s. 13.

Regulations

44 (1) The Governor in Council may make regulations

(a) prescribing the functions and duties of the Registrar;

(b) prescribing the course of training and education for persons engaged in the business of embalming or funeral directing, and the qualifications of persons to be licensed and admitted to registration as embalmers, apprentice embalmers, funeral directors or apprentice funeral directors and the examination or examinations, written, oral or clinical, of persons to be licensed and admitted to registration as embalmers, apprentice embalmers, funeral directors or apprentice funeral directors;

(c) authorizing the Board to provide, prescribe, establish or approve education programs or courses of instruction for embalmers, apprentice embalmers, funeral directors or apprentice funeral directors;

- (d) prescribing the form and content of applications for funeral home licences, or requiring the form and content of applications for funeral home licences to be as required by the Registrar;
- (e) requiring applicants for funeral home licences to provide such information as the Registrar may require;
- (f) prescribing the form and content of applications for licences other than funeral home licences, or requiring the form and content of applications for licences issued by the Board to be as required by the Board;
- (g) requiring applicants for licences issued by the Board to provide such information as the Board may require;
- (h) prescribing the form of licences and the fees for licences;
- (i) respecting the terms, conditions and restrictions upon which a funeral home licence may be issued;
- (j) respecting the fees payable upon registration and by candidates for examination or registration;
- (k) respecting the annual renewal of licences issued pursuant to this Act and prescribing the fees to be payable upon such renewals and providing for revoking any licences for the non-payment of annual fees, and for the reinstating of such revoked licences;
- (l) respecting the regulation and licensing of apprentices and fees payable thereon for apprenticeship in embalming and in funeral directing;
- (m) respecting the form and content of apprenticeship reports to be submitted to the Board;
- (n) prescribing minimum standards for the premises, accommodation and equipment of a funeral director;
- (o) prescribing minimum standards for the premises, accommodation and equipment of an embalmer;
- (p) respecting standards for the premises, facilities and equipment of a funeral home;
- (q) respecting requirements for the continuous identification of human remains and cremated remains;
- (r) respecting requirements for transporting human remains;
- (s) providing for the inspection of funeral homes;
- (t) respecting the embalming materials that may be used in embalming a dead human body;
- (u) prescribing a code of professional conduct;
- (v) defining “professional misconduct”;
- (w) respecting advertising by embalmers, apprentice embalmers, funeral directors, apprentice funeral directors and funeral homes;

- (x) establishing the minimum standards for the advertisement or otherwise offering for sale of items related to funeral or embalming services, including caskets, urns and other containers;
- (y) respecting the suspension or cancellation of licences of embalmers, apprentice embalmers, funeral directors, apprentice funeral directors or funeral homes;
- (z) prescribing information that may be published by the Registrar for the purpose of subsection 35(1);
- (aa) respecting the requirements for the catalogue descriptions of caskets and urns for the purpose of Section 41;
- (ab) defining any word or expression used in this Act and not expressly defined in this Act;
- (ac) generally, for the better carrying out of the provisions of this Act.

(2) The exercise of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. R.S., c. 144, s. 33; 2014, c. 10, s. 26; 2014, c. 47, s. 8; 2018, c. 30, s. 14.

Offence and penalty

45 (1) Every person who

- (a) violates the provisions of Section 25, 26, 27, 29, 30, 40, 41, 41 or 43;
- (b) not being a holder of a licence as an embalmer, purports to be an embalmer or uses any sign, letters, words or abbreviation implying that that person is a licensed embalmer;
- (c) not being the holder of a licence as an apprentice embalmer, purports to be an apprentice embalmer or uses any sign, letters, words or abbreviation implying that that person is a licensed apprentice embalmer;
- (d) not being the holder of a funeral director's licence, purports to be a funeral director or uses any sign, letters, words or abbreviations implying that that person is a funeral director;
- (e) not being a holder of a licence as an apprentice funeral director, purports to be an apprentice funeral director or uses any sign, letters, words or abbreviation implying that that person is a licensed apprentice funeral director; or
- (f) violates any of the other provisions of this Act, the regulations or the bylaws,

is guilty of an offence.

(2) Subject to subsections (4) and (5), an individual who is guilty of an offence under subsection (1) is liable on summary conviction to a fine of not less than \$1,000 and not more than \$25,000 or to imprisonment for a period of up to two years, or to both a fine and imprisonment.

(3) Subject to subsections (4) and (5), a corporation that is guilty of an offence under subsection (1) is liable on summary conviction to a fine of not less than \$3,000 and not more than \$300,000.

(4) The minimum fine for a violation of Section 25 or 26 is \$5,000.

(5) The minimum fine for a violation of Section 30 is \$10,000 for an individual and \$25,000 for a corporation.

(6) Where a corporation commits an offence, every principal, director, manager, employee or agent of the corporation who authorized the contravention or assented to, acquiesced in or participated in it is guilty of the offence whether or not the corporation has been prosecuted for the offence.

(7) Where an offence described in subsection (1) continues beyond one day, each day during which the offence continues is a separate offence.

(8) In addition to any other penalty under this Act, the court may do one or both of the following:

(a) order the person to comply with the provision of this Act or the regulations respecting which the person was convicted;

(b) where the court is satisfied that monetary benefits have accrued to the convicted person, order the person to pay compensation or make restitution to any person. R.S., c. 144, s. 34; 2014, c. 47, s. 9; 2018, c. 30, s. 15.

Limitation period

46 A prosecution for an offence under this Act may not be commenced more than three years after the date on which the evidence of the offence first came to the attention of the Registrar. 2018, c. 30, s. 16.

Onus of proof

47 (1) In a prosecution pursuant to this Act for any of the offences set out in Section 45, the onus of proof that the person against whom the charge is laid is entitled to practise as an embalmer, apprentice embalmer, funeral director or apprentice funeral director and is licensed under this Act, is upon the person against whom the charge is made.

(2) The production of a licence for the then current year purporting to be signed by the Secretary-treasurer and under the seal of the Board is prima facie evidence that the person named therein is entitled to practise as an embalmer, apprentice embalmer, funeral director or apprentice funeral director. R.S., c. 144, s. 35; 2014, c. 47, s. 10.

CHAPTER E-12

An Act to Establish and Implement a Province-wide “911” Telephone Number for the Reporting of Emergencies

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Administration of Act.....	4
Responsibilities of Minister	5
Personnel.....	6
Restriction on information supplied.....	7
Application of certain provisions of Act.....	8
Exemption from liability.....	9
Prohibition respecting automatic alarm	10
Prohibition respecting automatic dialer	11
Prohibition respecting vexatious calls.....	12
Offences and penalties	13
Regulations.....	14

Short title

- 1** This Act may be cited as the *Emergency “911” Act*. 1992, c. 4, s. 1.

Purpose of Act

- 2** The purpose of this Act is to establish the number “911” as the primary emergency telephone number for use in the Province and to implement a Province-wide system for the coordination of emergency services and for the reporting of emergencies to emergency service agencies. 1992, c. 4, s. 2; 2019, c. 15, s. 1.

Interpretation

- 3** In this Act,
- “CLEC” means a competitive local exchange carrier or other company that provides local telecommunication services in competition with Maritime;
- “Department” means the Department of Justice;
- “emergency service agencies” means the public service and emergency service agencies operating within the Province, including all municipal police forces required to be maintained pursuant to the *Police Act*, including the Royal Canadian Mounted Police, all fire departments organized to serve any area of the Province, all ambulance services operating from time to time within the Province and such other emergency service agencies as may be approved by the Minister;

“emergency service zone” means a geographical area served by a common group of emergency service agencies;

“information” includes, but is not restricted to, information respecting subscribers to telephone service from Maritime;

“Maritime” means Maritime Telegraph and Telephone Company, Limited or Maritime Tel & Tel Limited or any other subsidiary of Maritime Telegraph and Telephone Company, Limited and its successors and assigns;

“master street address guide” means a database that correlates civic numbers and street, road or highway names or other identifiers with emergency service zones;

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

“NS 911 service” means a Province-wide system for the coordination of emergency services, including emergency preparedness activities and the reporting of emergencies to emergency service agencies through a public safety answering point;

“primary public safety answering point” means a communication centre that is normally the first point of reception of emergency calls;

“public safety answering point” means a communication centre that functions to receive emergency calls and to dispatch such calls to the appropriate emergency service agency;

“rural municipality” means a municipality of a county or district;

“secondary public safety answering point” means a communication centre to which emergency calls are transferred from a primary public safety answering point that is normally the agency responsible for dispatching emergency personnel;

“system” means a Province-wide system for the coordination of emergency services, including

(a) an emergency telephone system for the reporting of emergencies to emergency service agencies that automatically connects a person dialing the digits 911 to a public safety answering point through telephone network facilities; and

(b) other emergency preparedness activities. 1992, c. 4, s. 3; 1994, c. 38, s. 1; 1999 (2nd Sess.), c. 10, s. 1; 2011, c. 9, s. 2; 2019, c. 15, s. 2.

Administration of Act

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may delegate a power or duty conferred or imposed on the Minister by this Act or the regulations to persons designated by the Minister. 1992, c. 4, s. 4.

Responsibilities of Minister

5 The Minister is responsible for the development, establishment and implementation of an NS 911 service, including

- (a) providing, in co-operation with a regional municipality, town or municipality of a county or district, the overall management, direction, coordination and support for the development and implementation of the system;
- (b) taking all reasonable measures to ensure the participation of emergency service agencies in the system on terms required for the effective implementation and operation of the system;
- (c) entering into agreements with individuals, persons, organizations or governments to carry out the purpose of this Act;
- (d) developing standards for primary public safety answering points and secondary public safety answering points;
- (e) determining the location and coverage areas for primary public safety answering points and secondary public safety answering points after consultation with local regional municipality, town or municipal authorities and with affected parties;
- (f) preparing a manual that will provide for and ensure the maintenance, at all times, of a means of uniquely identifying every residence and business location within the Province;
- (g) providing to Maritime the civic address of every residence and business location within the Province;
- (h) preparing a master street address guide, covering the whole of the Province, composed of
 - (i) the boundaries of all regional municipalities, towns, rural municipalities and communities, whether incorporated or not, in the Province,
 - (ii) the names or other means of identifying all streets, roads and highways situate within the boundaries referred to in sub-clause (i), and
 - (iii) the boundaries of each emergency service zone in the Province;
- (i) the design and use of an emblem to be associated with the system;
- (j) preparing and administering policies, programs, standards, guidelines, objectives, codes of practice and directives for the purpose of the administration and enforcement of this Act or the regulations, including access to information pursuant to Section 7. 1992, c. 4, s. 5; 1999 (2nd Sess.), c. 10, s. 2; 2019, c. 15, s. 3.

Personnel

6 Such officers, clerks, assistants and other persons as are required for the purpose of this Act may be appointed in accordance with the *Civil Service Act*. 1992, c. 4, s. 6.

Restriction on information supplied

7 (1) All information supplied by Maritime or a CLEC to the Province or to its employees, agents or contractors or to which the Province or its employees, agents or contractors have access in connection with the design, devel-

opment, implementation, operation or maintenance of the system must be supplied or made accessible by Maritime or a CLEC only to the extent necessary to permit the design, development, implementation, operation or maintenance of the system.

(2) The Province shall take all steps reasonably necessary to maintain the information referred to in subsection (1) in confidence and to ensure that any

(a) employees, assigns, agents or contractors of the Province; and

(b) emergency service agencies,

who have access to the information, maintain the information in confidence.

(3) The Minister shall designate the persons who may have access to the information referred to in subsection (1) and no other persons are permitted to have such access.

(4) Emergency service agencies, the Province and its assigns, employees, agents and contractors shall not utilize the information for any purpose other than the purposes referred to in subsection (1).

(5) No person employed pursuant to subsection (1) for the purpose of this Act or the regulations shall use that person’s position to benefit a company, corporation or agency with which that person is associated in a financial capacity. 1992, c. 4, s. 7; 1999 (2nd Sess.), c. 10, s. 3.

Application of certain provisions of Act

8 The provisions of subsections 7(1), (2) and (4) apply, with necessary changes, to all information supplied by the Province to Maritime or a CLEC or its employees, agents or contractors or to which Maritime or a CLEC or its employees, agents or contractors have access in connection with the design, development, implementation, operation or maintenance of the system. 1992, c. 4, s. 8; 1999 (2nd Sess.), c. 10, s. 4.

Exemption from liability

9 The Province, the Minister, a regional municipality, a town, a municipality of a county or district, Maritime, a CLEC, the Department and emergency service agencies are not liable, directly or indirectly, for a claim arising out of, relating to or attributable to personal injury, property damage, death or economic loss or for any contribution, reimbursement or indemnification in respect thereof, or a suit, a fine, a demand, an action, a loss, costs or damage of any nature or kind arising out of the operation of, failure of or failure to operate the system or any part of it. 1999 (2nd Sess.), c. 10, s. 5; 2011, c. 9, s. 3.

Prohibition respecting automatic alarm

10 No person shall connect an automatic alarm of any kind to the system. 1992, c. 4, s. 10.

Prohibition respecting automatic dialer

11 Except with the written approval of the Minister or a person designated by the Minister, no person shall use an automatic dialer to dial the number “911”. 1992, c. 4, s. 11; 1999 (2nd Sess.), c. 10, s. 6.

Prohibition respecting vexatious calls

12 No person shall use or permit another person to use the telephone to place a false, frivolous or vexatious call to the number “911”. 1992, c. 4, s. 12.

Offences and penalties

13 A person who violates any of the provisions of this Act or the regulations is guilty of an offence and is liable on summary conviction to a penalty of not more than \$5,000 or in default to a term of imprisonment not exceeding six months, and for each subsequent offence is liable on summary conviction to a fine of not more than \$10,000 or, in default, to a term of imprisonment not exceeding one year. 1992, c. 4, s. 13.

Regulations

14 (1) The Governor in Council may make regulations

(a) respecting standards, locations and coverage areas for primary public safety answering points and secondary public safety answering points;

(b) respecting emergency service agencies to which this Act applies;

(c) requiring the owner or occupier of a residence or business location to post the applicable civic number on the building;

(d) respecting the size, location and design of civic numbers to be posted on residences and business locations;

(e) subject to Section 13, prescribing the minimum and maximum fines to be paid for a violation of the regulations;

(f) respecting any matter necessary or advisable for the establishment of fees to support the development, establishment, implementation and maintenance of an NS 911 service and to recover costs for any services or materials provided in relation to the administration of this Act or the regulations;

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

(h) for any purpose necessary or advisable to carry out the intent and purpose of this Act.

(2) A regulation made under clause (1)(f) may be made retroactive to February 2, 2001.

(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*. 1992, c. 4, s. 14; 2000, c. 4, s. 7; 2019, c. 15, s. 4.

CHAPTER E-13

An Act to Provide Accountability Respecting Hospital Emergency Departments

Table of Contents

(The Table of Contents is not part of the statute)

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Health authority to consult on ongoing pattern of closure.....	4
Health authority to report to Minister	5
Minister to report annually to House of Assembly	6

WHEREAS keeping hospital emergency departments open to provide safe, quality care and reducing wait times in health care is a Government of Nova Scotia responsibility;

AND WHEREAS health authorities are responsible for effective management strategies throughout the health and hospital system, which have an impact on emergency department overcrowding and wait times, including appropriate staffing, training, consistency of standards and planning to ensure patient access to safe and timely care across Nova Scotia:

Preamble amended 2014, c. 32, s. 110.

Short title

1 This Act may be cited as the *Emergency Department Accountability Act*. 2009, c. 4, s. 1.

Purpose of Act

2 The purpose of this Act is to provide public accountability to communities respecting emergency departments. 2009, c. 4, s. 2.

Interpretation

3 In this Act,

“closure” of a particular emergency department means a closure that results in there being no emergency department services available to the public from that emergency department;

“emergency department” means an emergency department operated by a health authority;

“health authority” has the same meaning as in the *Health Authorities Act*;

“Minister” means the Minister of Health and Wellness. 2009, c. 4, s. 3; 2014, c. 32, s. 111.

Health authority to consult on ongoing pattern of closure

4 (1) Where an emergency department of a health authority has experienced an ongoing pattern of closure of the emergency department in the last fiscal year, the health authority shall consult with the community served by the emergency department as part of the consultations conducted in accordance with its next public engagement plan as defined by the *Health Authorities Act*.

(2) The consultation must include consideration of proposed community solutions to keep open or reopen the emergency department or to provide alternative health services. 2009, c. 4, s. 4; 2014, c. 32, s. 112.

Health authority to report to Minister

5 (1) A health authority shall report, as soon as it is aware, of a potential closure and the reason for such closure to the Minister.

(2) A health authority shall report to the Minister within a reasonable period of time on all consultations pursuant to this Act and the actions taken or to be taken by the health authority as a result of the consultations. 2009, c. 4, s. 5; 2014, c. 32, s. 113.

Minister to report annually to House of Assembly

6 The Minister shall table annually a report in the House of Assembly that provides

(a) the dates that all emergency rooms in the Province were closed and the reason for the closures by individual hospitals within each health authority;

(b) the nature and outcome of all consultations reported pursuant to subsection 5(2); and

(c) the actions taken or to be taken by a health authority as a result of the consultations reported pursuant to subsection 5(2). 2009, c. 4, s. 6; 2014, c. 32, s. 114.

CHAPTER E-14

An Act Respecting the Provision of Ambulance Services and Emergency Health Services

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Supervision of Act.....	3
Authority of Minister	4
Standards for management, operation and use of ambulances	5
Agreements to provide services	6
Restriction on provision of ambulance services	7
Assistance with services and training	8
Communications centres.....	9
Medal for long service.....	10
Appointment of inspectors.....	11
Powers of inspectors	12
Detention of ambulance operated in violation of Act	13
Restriction on use of ambulances.....	14
Establishment of register.....	15
Offence and penalty	16
Regulations.....	17

Short title

1 This Act may be cited as the *Emergency Health Services Act*. 2005, c. 5, s. 1.

Interpretation

2 In this Act,

“ambulance services” means services providing for the transport and stabilization of patients and the dispatching of ambulances, and includes air and ground emergency and non-emergency ambulance services;

“communications centre” means a centre that provides communications services for ambulance services;

“emergency ambulance services” means ambulance services provided in situations that are determined by a communications-centre dispatcher to constitute an emergency requiring an immediate response;

“emergency health services” means the arrangement of personnel, facilities and equipment required for the effective, coordinated delivery of services provided by registered pre-hospital first responders and by paramedics and other health professionals pursuant to this Act and required in the prevention and management of medical, trauma and health conditions;

“hospital” means a hospital as defined in the *Hospitals Act*;

“inspector” means an inspector appointed for the purpose of this Act;

“Minister” means the Minister of Health and Wellness;

“paramedic” means a paramedic as defined in the *Paramedics Act*;

“Register” means the Register established or designated pursuant to this Act;

“registered pre-hospital first responder” means a pre-hospital first responder whose name is on the Register. 2005, c. 5, s. 2; 2015, c. 33, s. 109.

Supervision of Act

3 The Minister has the general supervision and management of this Act. 2005, c. 5, s. 3.

Authority of Minister

4 The Minister may undertake any function related to ambulance services, emergency health services and communications-centre services that the Minister considers necessary or advisable and, in particular, has the authority to

(a) ensure the existence throughout the Province of emergency health services, ambulance services and communications-centre services;

(b) make available the services of appropriately trained persons on a continuous, continual or temporary basis to enhance existing health services in any part of the Province;

(c) purchase, lease, sell, transfer or dispose of ambulances, equipment, facilities or other items as necessary for the administration of this Act; and

(d) monitor, inspect and evaluate ambulance services, emergency health services and communications-centre services, including facilities, equipment and supplies, and investigate complaints respecting them. 2005, c. 5, s. 4.

Standards for management, operation and use of ambulances

5 (1) Subject to the regulations, the Minister may establish standards for the management, operation and use of ground and air ambulances providing emergency or non-emergency services, for emergency health services and for communications-centre services and for any equipment, supplies and facilities required to provide the services and ensure compliance with those standards and, in particular, establish standards respecting

(a) clinical care and medical oversight in the provision of ambulance services, emergency health services and communications-centre services;

(b) trauma care;

(c) technical operations;

(d) emergency and non-emergency ambulance communications and dispatch;

(e) safe operation of air and ground ambulances;

(f) medical first response;

(g) facilities housing emergency health services operations.

(2) The exercise by the Minister of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2005, c. 5, s. 5.

Agreements to provide services

6 The Minister may enter into agreements for the purpose of this Act with any person to provide ambulance services, emergency health services or communications-centre services in all or part of the Province. 2005, c. 5, s. 6.

Restriction on provision of ambulance services

7 No person shall operate the business or undertaking of providing ambulance services except pursuant to an agreement with the Minister. 2005, c. 5, s. 7.

Assistance with services and training

8 The Minister may assist hospitals, other health institutions and agencies, municipalities and other organizations and persons to provide emergency health services and to train personnel to provide services, and to enter into agreements or arrangements for that purpose. 2005, c. 5, s. 8.

Communications centres

9 The Minister may establish one or more communications centres for the dispatch of ambulances throughout the Province. 2005, c. 5, s. 9.

Medal for long service

10 (1) In recognition of a significant contribution to the protection of persons and property by a paramedic or other person involved in the provision of emergency services, the Minister or a person designated by the Minister may issue a medal for long service.

(2) Where the Minister or the Minister's designate has issued a medal for long service, the Minister or the designate may issue a bar for further service to accompany the medal. 2008, c. 14, s. 1.

Appointment of inspectors

11 Inspectors required for the purpose of this Act are appointed by the Minister. 2005, c. 5, s. 10.

Powers of inspectors

12 (1) An inspector may, at any reasonable time, enter and inspect facilities used for the purpose of providing ambulance services, emergency health services, communications-centre services, the vehicles used for the provision of emergency and non-emergency ambulance services, and any other equipment and supplies used in the provision of ambulance services, emergency health services and communications-centre services.

(2) Any person who is operating an ambulance service, providing an emergency health service or operating a communications centre shall permit an

inspector, at any reasonable time, to enter and inspect the facility used for the provision of ambulance services, emergency health services, communications-centre services, the vehicles used in the provision of emergency and non-emergency ambulance services, and all equipment and supplies.

(3) Any person providing ambulance services, emergency health services or communications-centre services shall forward to an inspector such records, returns and reports as the inspector requests, in the form and manner and within the time the inspector requests. 2005, c. 5, s. 11.

Detention of ambulance operated in violation of Act

13 Where there are reasonable grounds to believe that an ambulance is being operated in violation of this Act or the regulations, an inspector may detain the ambulance in accordance with policies established by the Minister. 2005, c. 5, s. 12.

Restriction on use of ambulances

14 No ambulance may be used for a purpose other than ambulance transport, public education or other activities authorized by the Minister. 2005, c. 5, s. 13.

Establishment of register

15 The Minister shall establish a Register of pre-hospital first responders. 2015, c. 33, s. 110.

Offence and penalty

16 (1) Every person who contravenes or fails to comply with this Act or the regulations is liable on summary conviction to a penalty of not more than \$10,000.

(2) Every day on which an offence continues constitutes a separate offence. 2005, c. 5, s. 17.

Regulations

- 17 (1) The Governor in Council may make regulations
- (a) respecting clinical care and safety of pre-hospital patients receiving ambulance services and emergency health services;
 - (b) respecting the operation of ambulance services;
 - (c) respecting performance standards and monitoring and enforcement of those standards;
 - (d) respecting educational and other programs to provide up-to-date pre-hospital health services;
 - (e) prescribing data to be collected respecting ambulance services and emergency health services;
 - (f) prescribing standards for the design, structure and licensing of ambulances;
 - (g) respecting the equipment, medication and supplies that must be carried in an ambulance;

(h) respecting the maintenance, repair and inspection of ambulances and the equipment used in ambulances;

(i) respecting any matter necessary or advisable for the acceptance of bequests, grants and donations and for the undertaking of fundraising events to support the provision of ambulance services;

(j) respecting the development of programs using the communications centre;

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

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

(2) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 2005, c. 5, s. 18.

CHAPTER E-15

An Act to Provide for a Prompt and Coordinated Response to a State of Emergency

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Act prevails and Minister's authority.....	3
Powers and duties of Department.....	4
Advisory committee appointed by Governor in Council.....	5
Executive Emergency Management Committee.....	6
Advisory committees appointed by Department.....	7
Agreements and acquisition of property.....	8
Powers of Department.....	9
Powers of Minister.....	10
Medal for long service.....	11
Powers and duties of municipalities.....	12
Municipality to report emergency.....	13
Police.....	14
State of emergency or state of local emergency.....	15
Publication of declaration or termination.....	16
Protection of property and health or safety.....	17
Duty of mayor or warden and delegation of Section 17 powers.....	18
Prices.....	19
Fires and law enforcement.....	20
Termination of state of emergency or state of local emergency.....	21
Termination within fourteen days and renewal.....	22
Termination of state of local emergency and renewal.....	23
No liability.....	24
Entry upon property.....	25
Offence of obstruction.....	26
Additional penalty.....	27
Absence from employment.....	28
Regulations.....	29

Short title

1 This Act may be cited as the *Emergency Management Act*. 1990, c. 8, s. 1; 2005, c. 48, s. 1.

Interpretation

2 In this Act,

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

“emergency” means a present or imminent event in respect of which the Minister or a municipality, as the case may be, believes prompt coordination of action or regulation of persons or property must be undertaken to protect property or the health, safety or welfare of people in the Province;

“emergency management plan” means any plan, program or procedure prepared by the Province or a municipality, as the case may be, that is intended to mitigate the effects of an emergency or disaster and to provide for the safety, health or welfare of the civil population and the protection of property in the event of such an occurrence;

“Fire Marshal” means the Fire Marshal appointed pursuant to the *Fire Safety Act*;

“mayor or warden” includes a councillor acting in the stead of the mayor or warden, as the case may be;

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

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

“police officer” means a member of the Royal Canadian Mounted Police and a police officer of a municipality;

“state of emergency” means a state of emergency declared by the Minister or renewed by the Minister pursuant to this Act;

“state of local emergency” means a state of local emergency declared by a municipality or renewed by it pursuant to this Act. 1990, c. 8, s. 2; 2005, c. 48, ss. 2, 6; 2011, c. 9, s. 4; 2014, c. 34, s. 6.

Act prevails and Minister’s authority

3 (1) Where there is a conflict or inconsistency between this Act or the regulations and any other enactment respecting emergencies, this Act and the regulations prevail.

(2) The Minister has authority over all matters respecting emergency planning, preparedness, response, mitigation, recovery and emergencies in the Province.

(3) The Minister’s authority under subsection (2) includes

- (a) the general supervision and management of this Act;
- (b) the coordination of emergency management plans within the Province; and
- (c) the authority to delegate powers vested in the Minister by or pursuant to this Act. 2009, c. 12, s. 1.

Power and duties of Department

4 The Department has and shall exercise and perform such powers and duties as are vested in it by or under this Act and those assigned to it by the Minister. 2005, c. 48, s. 3; 2011, c. 9, s. 5.

Advisory committee appointed by Governor in Council

5 The Governor in Council may appoint, from among the members of the Executive Council, a committee to advise the Governor in Council on matters relating to emergencies. 1990, c. 8, s. 5.

Executive Emergency Management Committee

6 (1) There is an Executive Emergency Management Committee consisting of

- (a) the Minister, who is the Chair;
- (b) the Deputy Minister of Finance and Treasury Board;
- (c) the Deputy Minister of the Office of the Premier;
- (d) the Deputy Minister of Justice;
- (e) the Deputy Minister of Municipal Affairs and Housing;
- (f) such experts as appointed by the Minister.

(2) The Executive Emergency Management Committee shall provide oversight and direction to the Minister regarding emergency preparedness, response, mitigation and recovery. 2009, c. 12, s. 2; 2011, c. 9, s. 6; 2014, c. 34, s. 6.

Advisory committees appointed by Department

7 (1) The Department may appoint such committees as it considers necessary or desirable to advise or assist the Department, the Minister or the Governor in Council.

(2) A member of a committee appointed pursuant to subsection (1) may, if the member is not an employee of the Crown or an agency thereof, be paid such remuneration and expenses as the Governor in Council determines. 1990, c. 8, s. 6; 2005, c. 48, s. 6; 2011, c. 9, s. 7.

Agreements and acquisition of property

8 (1) Subject to the approval of the Governor in Council, the Minister may, on behalf of the Province,

- (a) enter into agreements with the Government of Canada, a province or a municipality, a state of the United States of America, or an agent of any of them, in respect of emergency management plans or provision of emergency services;
- (b) enter into agreements with a board, commission, agency or Crown corporation of the Government of Canada, of a province or of a municipality, or an agent of any of them, in respect of emergency management plans;
- (c) enter into agreements with the Government of Canada and the Workers' Compensation Board for the administration and payment of compensation benefits to persons engaged in training or carrying out duties related to a state of emergency or a state of local emergency;
- (d) acquire, by purchase or lease, real and personal property for the purpose of emergency management.

(2) Subject to the regulations, a person sent to the Province under an agreement entered into under clause (1)(a), who holds a licence, certificate or permit respecting the person's profession, trade or other qualifications from a jurisdiction that is a party to the agreement is deemed to be similarly qualified in the

Province when providing assistance during a state of emergency or a state of local emergency.

(3) The Workers' Compensation Board may execute and administer an agreement referred to in this Section. 1990, c. 8, s. 7; 2005, c. 48, ss. 4, 6; 2011, c. 9, s. 8.

Powers of Department

- 9 The Department may, subject to the approval of the Minister,
- (a) review and approve, or require modification to Provincial and municipal emergency management plans;
 - (b) make surveys and studies to identify and record actual and potential hazards that may cause an emergency;
 - (c) make surveys and studies of resources and facilities to provide information for the effective preparation of emergency management plans;
 - (d) conduct public information programs related to the prevention and mitigation of damage during an emergency;
 - (e) conduct training and training exercises for the effective implementation of emergency management plans;
 - (f) procure food, clothing, medicines, equipment and goods of any nature or kind for the purpose of emergencies;
 - (g) authorize or require the implementation of any emergency management plan;
 - (h) enter into agreements with any persons, organizations or associations in respect of emergency management plans. 1990, c. 8, s. 8; 2005, c. 48, s. 6; 2011, c. 9, s. 9.

Powers of Minister

- 10 The Minister may
- (a) divide the Province into districts and subdistricts for the purpose of this Act;
 - (b) after consultation with the municipalities concerned, designate a combination of municipalities or parts thereof as a municipality for the purpose of this Act and determine the respective responsibilities of municipalities in the designated area;
 - (c) require municipalities to prepare emergency management plans, including mutual aid programs, and to submit such plans to the Department for review for adequacy and integration with the Provincial emergency management plans;
 - (d) establish procedures for the prompt and efficient implementation of emergency management plans;
 - (e) require any person to develop emergency management plans in conjunction with the Department or the municipalities to remedy or alleviate any hazard to persons or property that is or may be created by
 - (i) a condition that exists or may exist on that person's property,

- (ii) that person's use of property,
- (iii) an operation in which that person is or may be engaged, or
- (iv) a process that that person is or may be utilizing,

except where an enactment of the Province or a municipal bylaw provides a procedure for dealing with the hazard. 1990, c. 8, s. 9; 2005, c. 48, s. 6; 2011, c. 9, s. 10.

Medal for long service

11 (1) In recognition of a significant contribution to the protection of persons and property by a member of a ground search and rescue crew or other person involved in the provision of emergency services, the Minister or a person designated by the Minister, on the recommendation of the Department, may issue a medal for long service.

(2) Where the Minister or the Minister's designate has issued a medal for long service, the Minister or the designate, on the recommendation of the Department, may issue a bar for further service to accompany the medal. 2007, c. 10, s. 2; 2011, c. 9, s. 11.

Powers and duties of municipalities

12 (1) Each municipality shall

- (a) subject to the approval of the Minister, establish and maintain a municipal emergency bylaw;
- (b) establish and maintain a municipal emergency management organization;
- (c) appoint a coordinator of the municipal emergency management organization and prescribe the duties of the coordinator, which must include the preparation and coordination of emergency management plans for the municipality;
- (d) appoint a committee consisting of members of the municipal council to advise it on the development of emergency management plans; and
- (e) prepare and approve emergency management plans.

(2) The municipality may

- (a) pay the reasonable expenses of members of the organization or members of the committee appointed pursuant to clause (1)(b) or (d);
- (b) enter into agreements with and make payments to persons and organizations for the provision of services in the development and implementation of emergency management plans;
- (c) enter into an arrangement or agreement with any other municipality respecting a common organization, plan or program;
- (d) appropriate and expend sums approved by it for the purpose of this Section. 1990, c. 8, s. 10; 2005, c. 48, s. 6.

Municipality to report emergency

13 Every municipality shall, immediately upon becoming aware of it, inform the Department of any real or anticipated event or emergency that could impact the health, safety or welfare of Nova Scotians, their property or the environment. 2009, c. 12, s. 3; 2011, c. 9, s. 12.

Police

14 (1) The Minister may appoint persons trained for police duties as auxiliary police officers for the purpose of this Act.

(2) Police officers and auxiliary police officers have such powers, duties and responsibilities as the regulations prescribe and must be organized and operate in accordance with the regulations.

(3) A police officer or auxiliary police officer, in carrying out duties pursuant to this Act and the regulations, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

(4) The protection afforded by this Act and any other enactment to a police officer or auxiliary police officer extends to any other person while and to the extent that that person is in the course of assisting a police officer or auxiliary police officer under the police officer's or auxiliary police officer's direction. 1990, c. 8, s. 11.

State of emergency or state of local emergency

15 (1) The Minister, after consulting, if it is practical to do so, with a majority of the members of a committee established pursuant to Section 5 or a quorum of the Executive Council and, where the Minister is satisfied that an emergency exists or may exist, may declare a state of emergency in respect of all or any district, subdistrict or area of the Province.

(2) A municipal council may, when satisfied that an emergency exists or may exist in all or any area of that municipality, declare a state of local emergency in respect of that municipality or area thereof.

(3) Where a municipal council is unable to act promptly, the mayor or warden may exercise the authority of the municipal council contained in subsection (2) after consulting, if it is practical to do so, with a majority of the members of the council's committee to advise on the development of emergency management plans.

(4) A declaration pursuant to this Section must identify the nature of the emergency and the area in which it exists.

(5) Nothing in this Section prevents the Minister from declaring a state of emergency, whether a state of local emergency has been declared or not. 1990, c. 8, s. 12; 2005, c. 48, s. 6.

Publication of declaration or termination

16 When a state of emergency or a state of local emergency has been declared or terminated pursuant to this Act, the Minister or the municipality, as the

case may be, shall immediately cause the details of the declaration or termination to be communicated or published by such means as the Minister or the municipality, respectively, considers the most likely to make the contents of the declaration or termination known to the people of the area affected. 1990, c. 8, s. 13.

Protection of property and health or safety

17 Upon a state of emergency being declared in respect to the Province or an area thereof, or upon a state of local emergency being declared in respect to a municipality or an area thereof, the Minister may, during the state of emergency, in respect of the Province or an area thereof, or the mayor or warden, as the case may be, may, during the state of local emergency, in respect of such municipality or an area thereof, as the case may be, do everything necessary for the protection of property and the health or safety of persons therein and, without restricting the generality of the foregoing, may

- (a) cause an emergency management plan or any part thereof to be implemented;
- (b) acquire or utilize or cause the acquisition or utilization of personal property by confiscation or any means considered necessary;
- (c) authorize or require a qualified person to render aid of such type as that person may be qualified to provide;
- (d) control or prohibit travel to or from an area or on a road, street or highway;
- (e) provide for the maintenance and restoration of essential facilities, the distribution of essential supplies and the maintenance and coordination of emergency medical, social and other essential services;
- (f) cause or order the evacuation of persons and the removal of livestock and personal property threatened by an emergency and make arrangements for the adequate care and protection thereof;
- (g) authorize the entry by a person into any building or upon land without warrant;
- (h) cause or order the demolition or removal of any thing if the demolition or removal is necessary or advisable for the purpose of reaching the scene of an emergency, of attempting to forestall its occurrence or of combating its progress;
- (i) order the assistance of persons needed to carry out the provisions mentioned in this Section;
- (j) regulate the distribution and availability of essential goods, services and resources;
- (k) authorize and make emergency payments;
- (l) assess damage to any works, property or undertaking and the costs to repair, replace or restore the same;
- (m) assess damage to the environment and the costs and methods to eliminate or alleviate the damage. 1990, c. 8, s. 14; 2005, c. 48, s. 6.

Duty of mayor or warden and delegation of Section 17 powers

18 (1) Upon declaring a state of local emergency, a mayor or warden, as the case may be,

(a) shall immediately forward a copy of the declaration to the Minister; and

(b) may authorize any person or committee to exercise any power vested in the mayor or warden, respectively, by Section 17.

(2) Upon declaring a state of emergency, the Minister may authorize any person or committee to exercise any power vested in the Minister by Section 17. 1990, c. 8, s. 15.

Prices

19 (1) During a state of emergency or a state of local emergency, no person in the Province may charge higher prices for food, clothing, fuel, equipment, medical or other essential supplies or for the use of property, services, resources or equipment than the fair market value of the same thing immediately before the emergency.

(2) A contract that is contrary to subsection (1) is voidable at the option of the purchaser if the purchaser repudiates the contract within one month after the termination of the state of emergency or state of local emergency. 1990, c. 8, s. 16.

Fires and law enforcement

20 During a state of emergency,

(a) the Fire Marshal is the coordinator of all efforts in relation to the suppression and prevention of fires, and every fire brigade, fire department and firefighter in the area in which the state of emergency exists is subject to the direction and control of the Fire Marshal; and

(b) a peace officer designated for this purpose by the Minister of Justice is the coordinator of all efforts in relation to law enforcement and every police officer and auxiliary police officer in the area in which the state of emergency exists is subject to the direction and control of that officer. 1990, c. 8, s. 17.

Termination of state of emergency or state of local emergency

21 (1) The Minister may

(a) terminate a state of emergency with respect to an area identified by the Minister in a declaration of a state of emergency when, in the Minister's opinion, an emergency no longer exists in such area; and

(b) terminate a state of local emergency with respect to an area identified by a municipality in its declaration of a state of local emergency when, in the Minister's opinion, an emergency no longer exists in such area.

(2) A municipality may terminate a state of local emergency with respect to an area identified by it in its declaration of a state of local emergency when, in its opinion, an emergency no longer exists in such area. 1990, c. 8, s. 18.

Termination within fourteen days and renewal

22 (1) A state of emergency terminates 14 days after the day on which it was declared unless it is renewed or terminated by the Minister.

(2) A state of emergency may be renewed by the Minister with the approval of the Governor in Council.

(3) The provisions of this Act respecting a state of emergency and the declaration thereof apply, with the necessary changes, to a renewal of a state of emergency. 1990, c. 8, s. 19.

Termination of state of local emergency and renewal

23 (1) A state of local emergency terminates

(a) when the area identified by the municipality in its declaration of a state of local emergency is included in an area identified by the Minister in a declaration of a state of emergency;

(b) when it is terminated by the Minister or by the municipality;

(c) seven days after the day on which it was declared unless it is renewed in accordance with this Act.

(2) A state of local emergency may be renewed by the municipality with the approval of the Minister.

(3) The provisions of this Act respecting a state of local emergency or the declaration thereof apply, with the necessary changes, to a renewal of a state of local emergency. 1990, c. 8, s. 20.

No liability

24 The Minister, a mayor or warden, a municipality, the Department, a committee established pursuant to this Act or a member thereof, or any other person

(a) is not liable for any damage arising out of any action taken pursuant to this Act or the regulations; and

(b) is not subject to any proceedings by prohibition, *certiorari*, *mandamus* or injunction with respect to any action taken pursuant to this Act or the regulations. 1990, c. 8, s. 21; 2005, c. 48, s. 6; 2011, c. 9, s. 13.

Entry upon property

25 Any person in the course of implementing an emergency management plan pursuant to this Act or the regulations may, at any time, enter upon any property. 1990, c. 8, s. 22; 2005, c. 48, s. 6.

Offence of obstruction

26 Any person who obstructs the Minister, a municipality, the Department, a committee established pursuant to this Act or any person in the performance of any action, matter or thing authorized by this Act or who contravenes or fails to comply

(a) with any provision of this Act or any regulation; or

(b) with any direction, order or requirement made pursuant to this Act or the regulations,

is guilty of an offence and liable on summary conviction

(c) in the case of an individual, to a fine not exceeding \$10,000, or to imprisonment of not more than six months or both; or

(d) in the case of a corporation, to a fine not exceeding \$100,000.
1990, c. 8, s. 23; 2005, c. 48, s. 6; 2009, c. 12, s. 4; 2011, c. 9, s. 14.

Additional penalty

27 In addition to any penalty imposed under Section 26, a court may increase the fine imposed on a person by an amount equal to the financial benefit that was acquired by or that accrued to the person as a result of the commission of the offence. 2009, c. 12, s. 5.

Absence from employment

28 Every person who with proper authority is absent from that person's accustomed employment and is on duty authorized by the Minister or by the council of a municipality for the purpose of this Act shall, while so absent, for all purposes relating to retention of employment, of seniority rights and of superannuation benefits, be deemed to have been in that person's accustomed employment during the period of absence. 1990, c. 8, s. 24.

Regulations

29 (1) The Governor in Council may make regulations

(a) respecting emergency planning for the continuity of functions of departments, boards, commissions, corporations and other agencies of the Province;

(b) respecting the vesting of special powers and duties in various departments and agencies of the Province for the purposes of emergency planning and the implementation of emergency management plans;

(c) respecting the recognition of the professional, trade or other qualifications of persons sent to the Province by another jurisdiction under an agreement entered into under clause 8(1)(a) during a state of emergency or state of local emergency;

(d) requiring municipalities to assess their level of preparedness and report their findings to the Department;

(e) respecting the emergency planning, evaluation and level of preparedness required of municipalities;

- (f) respecting emergency plans to be submitted by municipalities to the Emergency Management Office;
- (g) respecting the organization, responsibilities, powers, duties and operation of police officers and auxiliary police officers throughout the Province or any part thereof for the purpose of this Act;
- (h) respecting emergency planning, evaluation and reporting for non-governmental entities;
- (i) respecting authority to be delegated pursuant to this Act;
- (j) prescribing the forms to be used for a declaration of a state of emergency and renewals and termination of the same;
- (k) respecting the establishment, operation, liability and responsibilities of ground search and rescue organizations;
- (l) prescribing renewal periods for states of emergency;
- (m) defining any word or expression used in this Act but not defined in this Act;
- (n) respecting any matter or thing that the Governor in Council considers necessary for the administration 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) An order or regulation made under this Act may be made retroactive to the date in the order or regulation.

(4) Notwithstanding the *Regulations Act*, an order or regulation made under this Act during a state of emergency or a state of local emergency comes into force immediately on the signing by the Governor in Council or by the person who makes it, unless some other time is stated as being the time when it comes into force. 1990, c. 8, s. 25; 2005, c. 48, ss. 5, 6; 2009, c. 12, s. 6; 2011, c. 9, s. 15.

CHAPTER E-16

An Act to Encourage the Attainment of Independence and Self-sufficiency through Employment Support and Income Assistance

Table of Contents

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

	Section
Short title.....	1
Purpose of Act.....	2
Interpretation.....	3
Supervision and management	4
Agreements	5
Programs	6
Assistance to persons in need.....	7
Entitlement to information.....	8
Restriction on assignment and garnishment.....	9
Payment to trustee.....	10
Appeal boards	11
Appeals.....	12
Powers and duties of appeal board.....	13
Overpayments	14
Waiver of overpayment.....	15
Registration of certificate.....	16
Remedy of Minister	17
Subrogation.....	18
Offences	19
Forms	20
Regulations.....	21
Contributions by municipalities.....	22
Benefits under Social Assistance Act.....	23
Overpayments under former Acts	24

WHEREAS independence and self-sufficiency, including economic security through opportunities for employment, are fundamental to an acceptable quality of life in Nova Scotia;

AND WHEREAS individuals, government and the private sector share responsibility for economic security;

AND WHEREAS some Nova Scotians require help to develop skills and abilities that will enable them to participate as fully in the economy and in their communities so far as it is reasonable for them to do;

AND WHEREAS the Government of Nova Scotia recognizes that the provision of assistance to and in respect of persons in need and the prevention and removal of the causes of poverty and dependence on public assistance are the concern of all Nova Scotians;

AND WHEREAS it is necessary that income assistance be combined with other forms of assistance to provide effectively for Nova Scotians in need;

AND WHEREAS employment support and income assistance must be effective, efficient, integrated, coordinated and financially and administratively accountable:

Short title

1 This Act may be cited as the *Employment Support and Income Assistance Act*. 2000, c. 27, s. 1.

Purpose of Act

2 The purpose of this Act is to provide for the assistance of persons in need and, in particular, to facilitate their movement towards independence and self-sufficiency. 2000, c. 27, s. 2.

Interpretation

3 In this Act,

“assistance” means the provision of money, goods or services to a person in need for

- (a) basic needs, including food, clothing, shelter, fuel, utilities and personal requirements;
- (b) special needs;
- (c) employment services;

“deferred income” includes retroactive pay, retroactive pension or other benefits and any form of compensation for loss of income, including compensation paid for insufficient notice of termination of employment;

“employment services” means services and programs to assist recipients in enhancing their employability and quality of life, including programs provided by other departments, agencies or governments in partnership with the Minister;

“Minister” means the Minister of Community Services;

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

“overpayment” means any assistance paid pursuant to this Act that was paid in error, was overpaid or was paid based on false or misleading information supplied by an applicant or that otherwise ought not to have been paid according to this Act and the regulations, and includes sums paid to a person who receives deferred income with respect to any period for which assistance was provided and sums paid to a person that were agreed to be repayable, whether out of the proceeds of the deferred sale of an asset, from deferred income or otherwise;

“person in need” means a person whose requirements for basic needs, special needs and employment services as prescribed in the regulations

exceed the income, assets and other resources available to that person as determined pursuant to the regulations. 2000, c. 27, s. 3.

Supervision and management

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may delegate in writing to any person or class of persons in the public service any of the duties, powers or functions of the Minister pursuant to this Act, except the powers and duties set out in Sections 5 and 11, and shall, when so delegating, specify the powers, duties or functions to be exercised by the person or class of persons and any conditions imposed on the exercise of the powers or the performance of the duties or functions. 2000, c. 27, s. 4.

Agreements

5 The Minister may make and enter into agreements on behalf of the Province with the Government of Canada or the government of another province of Canada or any minister or agency of them with respect to any matter pursuant to this Act. 2000, c. 27, s. 5.

Programs

6 (1) The Minister may, from the funds appropriated by the Legislature, provide programs that are intended to

- (a) assist in the development of individual, family and community capacity to become self-sufficient;
- (b) increase the ability of persons to assume greater responsibility for themselves;
- (c) lessen dependence on public financial assistance;
- (d) provide support services to allow persons who may otherwise be in need to avoid dependence on public financial assistance; and
- (e) lessen, remove or prevent the causes and effects of poverty.

(2) In providing programs pursuant to subsection (1), the Minister may provide for pilot projects, demonstration projects and innovations in assistance, programs and services in all or part of the Province. 2000, c. 27, s. 6.

Assistance to persons in need

7 (1) Subject to this Act and the regulations, the Minister shall furnish assistance to all persons in need.

(2) Persons assisting the Minister in the administration of this Act shall

- (a) receive applications for assistance; and
- (b) in accordance with this Act and the regulations,

- (i) determine whether the applicant is eligible to receive assistance,
- (ii) determine the amount of financial assistance the applicant is eligible to receive,
- (iii) determine the other forms of assistance available that would benefit the applicant,
- (iv) advise the applicant of the amount of financial assistance that will be provided, the other forms of assistance that will be available for the applicant and the conditions to be met to ensure the continuation of the assistance provided,
- (v) advise the applicant that the applicant has the right to appeal determinations made pursuant to this Act, and
- (vi) from time to time review the assistance provided to a recipient, and in particular whether any conditions imposed have been met, and promptly advise the recipient of any changes in eligibility and of the right to appeal the change. 2000, c. 27, s. 7.

Entitlement to information

8 Any information acquired pursuant to this Act with respect to any person who has applied for or received any assistance pursuant to this Act may be provided to

- (a) a person who requires the information to perform a duty pursuant to this Act, similar legislation in this or other provinces of Canada or a statute of the Parliament of Canada;
- (b) a person performing similar duties pursuant to similar legislation in other jurisdictions that have entered into reciprocal arrangements with the Government of the Province with respect to information exchange and the protection from disclosure of any information so provided. 2000, c. 27, s. 8.

Restriction on assignment and garnishment

9 Assistance provided pursuant to this Act is not assignable and is not subject to seizure or garnishment except as may be required in order to recover an overpayment. 2000, c. 27, s. 9.

Payment to trustee

10 Where the Minister determines that a person in need

- (a) is incapacitated or otherwise incapable of managing financial affairs; or
- (b) is or is likely to use any assistance otherwise than for the purpose for which the assistance was granted,

the Minister may direct that any assistance paid pursuant to this Act be paid to a trustee, other than the person's landlord within the meaning of the *Residential Tenancies Act* or a member of the landlord's family, agreeable to the Minister for the

benefit of the person in need or be applied by the Minister, in whole or in part, to such purposes as the Minister may direct. 2000, c. 27, s. 10.

Appeal boards

11 The Minister shall establish such appeal boards for the Province as the Minister considers necessary. 2000, c. 27, s. 11.

Appeals

12 (1) Any person who has applied for or who has received assistance pursuant to this Act may appeal any decision related to the person's application or assistance received.

(2) An appeal board may hear appeals pursuant to the *Social Assistance Act*.

(3) An appeal may be filed with the Minister at any time within 30 days after the decision complained of is communicated to the applicant or person who received assistance.

(4) The Minister shall review the appeal and, within 10 days after the receipt of an appeal, advise the person appealing whether the decision complained of is upheld, varied or reversed, and the reasons for upholding or changing the decision.

(5) Within 10 days after receipt of the notice pursuant to subsection (4), the person appealing shall advise the Minister whether the person will continue the appeal and where the appeal is not continued the decision set out in the notice is deemed to be satisfactory.

(6) Where the appeal is continued, the appeal must be set down for hearing before an appeal board. 2000, c. 27, s. 12.

Powers and duties of appeal board

13 (1) An appeal board shall hear an appeal in camera, permitting access only to a representative of the Minister, the appellant, the appellant's counsel or agent and such other persons as the board may determine.

(2) The appeal board shall determine the facts and whether, on the basis of the facts found by the board, the decision made is in compliance with this Act and the regulations.

(3) Where the appeal board determines that the decision is contrary to this Act and the regulations, the board shall vary or reverse the decision in accordance with this Act and the regulations.

(4) A decision of the appeal board must contain the facts found by the board, a statement of the issue in the appeal, the applicable provisions of this Act and the regulations, and a statement of the reasons for the board's decision. 2000, c. 27, s. 13.

Overpayments

14 (1) An overpayment may be recovered from the person to whom it was paid or from that person's estate.

(2) An overpayment is a debt due by the recipient, or the estate of a recipient, to the Crown in right of the Province.

(3) Where the overpayments were paid notwithstanding full disclosure by the person in receipt of them of all relevant information required by the regulations, the recovery of them is limited to the overpayments for the six months immediately before the making of a demand for the recovery of the overpayment.

(4) Subsection (3) does not apply to assistance paid on condition that it would be repaid from the deferred sale of an asset or otherwise, to sums paid to a person who receives deferred income with respect to any period for which assistance was provided or to assistance that was agreed in writing to be repayable.

(5) Where funds are to be recovered from a person in receipt of assistance pursuant to this Act, the amount may be recovered from the assistance otherwise payable to that person. 2000, c. 27, s. 14.

Waiver of overpayment

15 Where the Minister determines that the recovery from a person of overpayments

- (a)** is not possible because of the death, bankruptcy, permanent absence from the Province of the person or other cause;
- (b)** will cause undue hardship to the person; or
- (c)** is contrary to the purpose of this Act,

the Minister may direct that the overpayments, or part of them, were properly paid and shall not be recovered from the person. 2000, c. 27, s. 15.

Registration of certificate

16 (1) Where the Minister determines that a person has received an overpayment and has failed to comply with a demand to repay the overpayment, the Minister may register in any registry of deeds a certificate setting out the amount of the overpayment or other payment that may be recovered pursuant to this Act and the name of the person liable to repay or pay it and, upon registration, the Minister's certificate has the same effect as a judgment registered pursuant to the *Registry of Deeds Act*.

(2) A registrar of deeds shall register any certificate purporting to be signed by the Minister or a person acting for the Minister without further proof. 2000, c. 27, s. 16.

Remedy of Minister

17 (1) Where the Minister determines that a person has received an overpayment, has failed to comply with a demand to repay the overpayment and that the person or the person's estate is about to become entitled to any property, the Minister may demand in writing that the person liable to make the payment or trans-

fer the property pay or transfer it, or so much of it as is necessary to recover the anticipated overpayment, to the Minister.

(2) The Minister's receipt is a good and sufficient discharge of the liability of the person liable to make the payment or transfer the property to the extent of the amount stated in the receipt.

(3) A person who fails to make the payment to the Minister required by subsection (1) is personally liable to the Minister for the amount of the payment required by the Minister, as a debt due to the Crown in right of the Province, to the extent of the payment due or the value of the property to be transferred. 2000, c. 27, s. 17.

Subrogation

18 Where any child under 19 years of age seeks assistance or is given assistance pursuant to this Act, the Minister is subrogated to that child's right to support from the child's parents. 2000, c. 27, s. 18.

Offences

19 (1) No person shall knowingly obtain, receive or retain any assistance pursuant to this Act for which that person is not eligible pursuant to this Act.

(2) No person shall make any false or misleading statement in any application made pursuant to this Act.

(3) No person shall provide any false or misleading information to the Minister or to a person assisting the Minister in the administration of this Act.

(4) No person shall knowingly aid or abet another person to apply for, obtain, receive or retain any assistance pursuant to this Act for which that person is not eligible pursuant to this Act.

(5) Any person who violates this Section is guilty of an offence and liable, on summary conviction, to the penalty provided in the *Summary Proceedings Act*. 2000, c. 27, s. 19.

Forms

20 The Minister may prescribe any forms required for the effective administration of this Act. 2000, c. 27, s. 20.

Regulations

21 (1) The Governor in Council may make regulations

(a) respecting the manner in which an application for assistance is to be made;

(b) providing for the time and manner of providing assistance;

(c) prescribing standards for assistance to be granted to persons in need;

- (d) prescribing the maximum rates of assistance that may be granted;
- (e) providing for the modification, suspension and cancellation of assistance;
- (f) prescribing the manner in which money paid in trust must be dealt with and accounted for by the trustee;
- (g) prescribing the procedure on appeals;
- (h) providing for the remuneration of appeal boards;
- (i) respecting the powers, duties, composition and quorum of appeal boards and the qualifications of board members;
- (j) prescribing the material to be provided by an applicant or recipient for the purpose of confirming eligibility and means to verify the information so provided;
- (k) respecting the form in which assistance may be granted including money, goods, shelter, health care services, social services, training or other form, or any combination of them;
- (l) respecting eligibility for assistance or for any program or service provided pursuant to this Act;
- (m) respecting the determination of the income, assets and other resources that are available to a person in need and respecting the exclusion of a principal residence from such assets;
- (n) respecting the amount of income or assets that may be retained by an applicant for or recipient of assistance;
- (o) respecting the recovery of overpayments;
- (p) respecting rates of forgiveness for overpayments if the person liable for repayment of the overpayment has become employed and has ceased to be in receipt of assistance, in whole or in part;
- (q) prescribing methods by which the amount and forms of assistance to be provided pursuant to this Act are to be calculated or determined;
- (r) providing for supplementary assistance in addition to any maximum amount of assistance that may be provided in the regulations and prescribing maximum amounts for supplementary assistance;
- (s) defining any word or expression used in this Act and not defined in this Act;
- (t) providing for any matters necessary or desirable in respect of the transition from assistance pursuant to enactments in force before August 1, 2001, and the provision of assistance pursuant to this Act;
- (u) respecting any other 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*. 2000, c. 27, s. 21.

Contributions by municipalities

22 Municipalities are not required to contribute to the cost of providing assistance pursuant to this Act. 2000, c. 27, s. 25.

Benefits under Social Assistance Act

23 On and after August 1, 2001, no assistance is payable pursuant to the *Social Assistance Act*, except such assistance as is payable pursuant to Chapter 27 of the Acts of 2000 and all persons in receipt of assistance that is no longer paid pursuant to that Act and all persons whose eligibility for assistance that is no longer paid pursuant to that Act is under consideration, review or assessment, must have their eligibility for assistance determined, reviewed and assessed and have assistance provided pursuant to this Act and the regulations made pursuant to this Act. 2000, c. 27, s. 26.

Overpayments under former Acts

24 (1) Overpayments of benefits under the *Family Benefits Act* and overpayments of assistance under the *Social Assistance Act* made before August 1, 2001, may be recovered on the same basis and in the same manner as provided in this Act for the recovery of an overpayment.

(2) An overpayment of benefits under the *Family Benefits Act* or an overpayment of assistance under the *Social Assistance Act*, made before August 1, 2001, whether discovered before or after August 1, 2001, must be calculated according to the enactments in force when the overpayment was made. 2000, c. 27, s. 27.

CHAPTER E-17

An Act Respecting Endangered Species

Table of Contents

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

	Section
Short title.....	1
Purpose.....	2
Interpretation.....	3
Application of Act to Crown.....	4
Conflict with other enactments	5
Minister	6
Conservation officers	7
Species-at-risk Conservation Fund	8
Species-at-risk Working Group.....	9
Functions of Group	10
Listings by Minister	11
Deemed listed species at risk	12
Prohibition.....	13
Permits	14
Recovery team and plans	15
Management team and plan	16
Review and implementation of plans.....	17
Powers of Minister.....	18
Compensation for loss of use of private lands.....	19
Designation of core habitat	20
Ministerial orders	21
Registration and service	22
No change in use.....	23
Information.....	24
Offence.....	25
Prosecutions	26
Forfeiture or return of thing seized	27
Security for payment of fine	28
Powers of court	29
Limitation period.....	30
Regulations.....	31

Short title

1 This Act may be cited as the *Endangered Species Act*. 1998, c. 11, s. 1.

Purpose

2 (1) The purpose of this Act is to provide for the protection, designation, recovery and other relevant aspects of conservation of species at risk in the Province, including habitat protection, while recognizing the following:

- (a) the goal of preventing any species in the Province from becoming extirpated or extinct as a consequence of human activities;
- (b) the conservation of species at risk is a key component of a broader strategy to maintain biodiversity and to use biological resources in a sustainable manner;

(c) the commitment of Government to a national co-operative approach for the conservation of species at risk, as agreed to in the National Accord for the Protection of Species at Risk;

(d) all Nova Scotians share responsibility for the conservation of species at risk and governments have a leadership role to play in this regard;

(e) Nova Scotians must be provided with the opportunity for meaningful participation in relation to conservation of species at risk;

(f) the aboriginal people of the Province have an important role in conserving species at risk;

(g) the importance of promoting the purpose of this Act primarily through non-regulatory means such as co-operation, stewardship, education and partnerships instead of punitive measures, including such preventative actions as education, incentives, sustainable management practices and integrated resource management; and

(h) the precautionary principle that a lack of full scientific certainty must not be used as a reason for postponing measures to avoid or minimize the threat of a species at risk in the Province.

(2) For greater certainty, nothing in this Act is to be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*. 1998, c. 11, s. 2.

Interpretation

3 In this Act,

“conservation officer” means a conservation officer within the meaning of the *Wildlife Act* and a person designated or appointed as a conservation officer pursuant to this Act;

“core habitat” means specific areas of habitat essential for the long-term survival and recovery of endangered or threatened species and that are designated as core habitat pursuant to Section 18 or identified in an order made pursuant to Section 21;

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

“endangered species” means a species that faces imminent extinction or extirpation and is listed as an endangered species pursuant to Section 12;

“extinct species” means a species that no longer exists and is listed as an extinct species pursuant to Section 12;

“extirpated species” means a species that no longer exists in the wild in the Province but exists in the wild outside the Province and is listed as an extirpated species pursuant to Section 12;

“Fund” means the Species-at-risk Conservation Fund established pursuant to this Act;

“Group” means the Species-at-risk Working Group established pursuant to this Act;

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

“management plan” means a statement of needs and actions to be undertaken to keep a vulnerable species from becoming at increased risk;

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

“private lands” means lands situate in the Province that are not public lands;

“public lands” means lands situate in the Province that are owned or held by or on behalf of the Crown in right of the Province or Canada;

“recovery plan” means a statement of needs and actions to be undertaken for the recovery of an endangered or threatened species;

“registered owner” means a person, department or agency that owns land or owns an interest in lands pursuant to a document recorded at the registry of deeds for the registration district in which the land is situate;

“species” means a plant, animal or other organism, and includes one or more populations of a species, and 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;

“species at risk” means a species that is determined to be extinct, extirpated, vulnerable, threatened or endangered and is listed pursuant to Section 12;

“threatened species” means a species that is likely to become endangered if the factors affecting its vulnerability are not reversed and is listed as a threatened species pursuant to Section 12;

“vulnerable species” means a species of special concern due to characteristics that make it particularly sensitive to human activities or natural events and that is listed as a vulnerable species pursuant to Section 12. 1998, c. 11, s. 3.

Application of Act to Crown

4 (1) This Act binds the Crown in right of the Province, the Crown’s corporations, agents, administrators, servants and employees and Government agencies.

(2) This Act binds the Crown in right of Canada and the Crown’s corporations, agents, administrators, servants and employees and Government agencies. 1998, c. 11, s. 4.

Conflict with other enactments

5 Where there is a conflict or inconsistency between this Act and the regulations made pursuant to this Act, and any other enactment or a municipal bylaw, regulation or authorization, this Act and the regulations prevail. 1998, c. 11, s. 5.

Minister

6 (1) The Minister is responsible for the general supervision and management of this Act.

(2) The Minister may, in writing, delegate to any person any power or duty conferred or imposed on the Minister pursuant to this Act.

(3) The Minister may enter into agreements relating to any matter coming within this Act. 1998, c. 11, s. 6.

Conservation officers

7 (1) Conservation officers are responsible for the enforcement of this Act and the regulations.

(2) A conservation officer, in carrying out duties pursuant to this Act and the regulations, has the powers, authorities and protections of a conservation officer under the *Wildlife Act* and, for greater certainty, Sections 115 to 127 of that Act apply with necessary changes.

(3) The Minister may designate any person or class of persons with suitable qualifications and experience to act as conservation officers for the purpose of this Act and the regulations.

(4) The Minister may not designate a person or class of persons employed by the Government of Canada unless the Government of Canada agrees.

(5) The protection afforded to a conservation officer by the *Wildlife Act* or any other enactment extends to any other person while and to the extent that that person is in the course of assisting a conservation officer under the conservation officer's direction.

(6) A conservation officer or employee of the Department, acting in the discharge of the person's duties pursuant to this Act or the regulations, and any person assisting the conservation officer or employee, may enter upon any lands without being liable for trespass, but the person is not exempted from liability for actual damage caused by such entry. 1998, c. 11, s. 7.

Species-at-risk Conservation Fund

8 (1) A fund to be known as the Species-at-risk Conservation Fund is established.

(2) The Fund consists of

(a) real or personal property acquired by the Minister, on behalf of the Fund, by agreement, gift, donation, bequest or devise;

(b) income accruing to the Fund;

(c) where the Minister disposes of real or personal property of the Fund, the proceeds from the disposition; and

(d) penalties received by the Crown in right of the Province with respect to any matter under the administration of the Minister pursuant to this Act.

(3) The Minister may expend, in accordance with the *Finance Act*, money from the Fund for

- (a) the preparation of scientific status reports on species at risk;
- (b) activities for the recovery of species at risk in the Province;
- (c) activities including education and research, to prevent species from becoming at risk in the Province;
- (d) the acquisition of land for the maintenance and restoration of species at risk and species-at-risk habitats and ecosystems;
- (e) any other purpose related to species at risk. 1998, c. 11, s. 8; 2010, c. 2, s. 99.

Species-at-risk Working Group

9 (1) A committee to be known as the Species-at-risk Working Group is established, consisting of six members appointed by the Minister.

(2) The membership of the Group must include

- (a) one person employed by the Department, who shall be a non-voting member and who shall be the chair of the Group; and
- (b) five additional members.

(3) The Department shall appoint an employee of the Department to act as secretary to the Group.

(4) The members appointed to the Group must be persons who are recognized scientific experts in the status and population biology of plants, animals, other organisms and their habitats or in the conservation biology, ecology and geography of plants, animals and other organisms.

(5) A member of the Group may be paid such remuneration as the Minister determines and may be reimbursed, as the Minister determines, for reasonable travel and other expenses necessarily incurred in carrying out that member's duties.

(6) A member of the Group holds office for such term as the Minister determines and may be reappointed.

(7) A decision of the Group respecting the listing of species at risk must be made on the basis of a four-fifths majority. 1998, c. 11, s. 9.

Functions of Group

10 (1) The Group shall

- (a) provide the Minister with a categorized list of the species at risk in the Province, which list shall include those species native to the Province that are listed nationally as species at risk;

(b) advise the Minister annually of any addition or deletion of a species to or from the list referred to in clause (a) or of any changes in the status of a listed species;

(c) provide the Minister with a written summary of the rationale for listing, adding, deleting or changing the status of a species;

(d) make recommendations to the Minister regarding the content and implementation of recovery plans; and

(e) provide advice respecting the conservation and management of species at risk, and their habitats, in the Province.

(2) The Group shall base its decisions to list species pursuant to clause (1)(a) and to add or delete species or to change the status of a listed species pursuant to clause (1)(b) upon scientific information and traditional knowledge as documented in peer-reviewed status reports. 1998, c. 11, s. 10.

Listings by Minister

11 (1) Notwithstanding Section 10, the Minister may on a precautionary basis, regardless of whether the scientific information is available, list endangered or threatened species where, in the opinion of the Minister, there is threat to the survival of the species.

(2) A listing made by the Minister expires and is ineffective one year from the date of such listing.

(3) The Group shall, during the time a listing made by the Minister is in effect, make a determination as to whether the species listed by the Minister should be added to the list of endangered or threatened species pursuant to Section 10. 1998, c. 11, s. 11.

Deemed listed species at risk

12 (1) Where the Group provides the Minister with a categorized list of species at risk in the Province, with any additions to or deletions from the list or with any changes in the status of a listed species or where the Minister lists endangered or threatened species pursuant to Section 11, the species listed from time to time are deemed to be the listed species at risk for the purpose of this Act.

(2) The exercise of authority by the Group or the Minister in listing the species at risk in the Province is a regulation within the meaning of the *Regulations Act*. 1998, c. 11, s. 12.

Prohibition

13 (1) No person shall

(a) kill, injure, possess, disturb, take or interfere with or attempt to kill, injure, possess, disturb, take or interfere with an endangered or threatened species or any part or product thereof;

(b) possess for sale, offer for sale, sell, buy, trade or barter an endangered or threatened species or any part or product thereof;

- (c) destroy, disturb or interfere with or attempt to destroy, disturb or interfere with the specific dwelling place or area occupied or habitually occupied by one or more individuals or populations of an endangered or threatened species, including the nest, nest shelter, hibernaculum or den of an endangered or threatened species;
- (d) contravene any regulation made with respect to a core habitat; or
- (e) contravene an order made pursuant to Section 21.

(2) Subsection (1) does not apply to a person who is the holder of a permit issued pursuant to Section 14 to the extent that the permit authorizes activities that would otherwise be prohibited by subsection (1).

(3) A person in possession of an endangered or threatened species does not violate clause (1)(a) if the person was in lawful possession of the species at the time the species was listed or if the person subsequently lawfully acquired the species. 1998, c. 11, s. 13.

Permits

14 (1) The Minister may, upon application, issue a permit to a person authorizing the person to possess, disturb, take or interfere with an endangered or threatened species for

- (a) scientific purposes related to the conservation of the endangered or threatened species; or
- (b) the protection of human health or safety.

(2) Where the Minister is in possession of a dead specimen of an endangered or threatened species, or any part thereof, as a result of the issuance of a permit or a seizure for enforcement purposes or any other reason, the Minister may, upon application, issue a permit to a person authorizing the person to possess such species or part for

- (a) aboriginal social or ceremonial purposes;
- (b) scientific or educational purposes.

(3) A person who makes an application for a permit pursuant to subsection (1) or (2) shall supply the Minister with any information the Minister may require for the purpose of determining whether a permit may be issued.

(4) A permit issued pursuant to subsection (1) or (2) may be issued subject to such terms and conditions as the Minister considers appropriate.

(5) The holder of a permit shall comply with the terms and conditions of the permit. 1998, c. 11, s. 14.

Recovery team and plans

15 (1) The Minister shall

- (a) within one year of the listing of an endangered species;
- and

(b) within two years of the listing of a threatened species, appoint a recovery team and prepare a recovery plan for the species.

(2) The Minister may appoint to a recovery team any person whom the Minister considers to be interested in the recovery of the particular species for which the recovery team is appointed and the team shall include an appropriate diversity of expertise.

(3) The recovery team shall assist the Minister in developing and implementing the recovery plan.

(4) A recovery plan prepared pursuant to subsection (1) must

(a) identify the needs of and threats to an endangered or threatened species;

(b) identify the viable status needed for recovery;

(c) identify options for the recovery of the endangered or threatened species;

(d) identify the costs and benefits of the options referred to in clause (c);

(e) recommend a course of action or a combination of actions for the recovery of an endangered or threatened species;

(f) recommend a schedule for implementation of the recovery plan including a prioritized listing of recommended actions;

(g) identify habitat of the endangered or threatened species; and

(h) identify areas to be considered for designation as core habitat.

(5) A recovery plan may include provisions respecting one or more endangered or threatened species and may, where the Minister considers it appropriate, include ecosystem management in the recovery plan.

(6) The Minister may determine the feasibility of implementing any recovery plan or any portion of a recovery plan.

(7) With the advice of the Group, the Minister may, in determining the feasibility of implementing a recovery plan or any portion of a recovery plan, take the following factors into consideration:

(a) whether scientific evidence indicates that the species referred to in the recovery plan is naturally becoming extinct;

(b) biological, technical and economic factors affecting the recovery of the species; and

(c) the status of the species elsewhere.

(8) The Minister may, to the extent possible, prepare a recovery plan in co-operation with other jurisdictions where the endangered or threatened species is also found.

(9) Where a recovery plan was in existence immediately prior to May 1, 1999, or where a recovery plan has been prepared in another jurisdiction for the endangered or threatened species, the Minister may adopt that recovery plan in lieu of the requirements of subsection (1). 1998, c. 11, s. 15.

Management team and plan

16 The Minister may appoint a management team and shall, within three years of the listing of a vulnerable species, prepare a management plan for the species. 1998, c. 11, s. 15.

Review and implementation of plans

17 (1) Recovery plans and management plans must be reviewed every five years to determine the progress of the recovery of the species and whether any changes or modifications are required.

(2) The Minister shall ensure the implementation of the portions of the recovery or management plan that are provincial responsibilities and that, in the Minister's discretion, are considered feasible. 1998, c. 11, s. 15.

Powers of Minister

18 (1) The Minister may enter into agreements, co-operative arrangements or working relationships with any person who owns, or has an interest in, lands that have been identified in a recovery or management plan as habitat or core habitat of an endangered, threatened or vulnerable species for the purpose of encouraging and assisting in the stewardship and management of the habitat or the core habitat for the recovery or maintenance of the species.

(2) In addition to subsection (1), where the Minister considers it necessary for the purpose of implementing a recovery plan, the Minister may designate specific physical areas or landforms of the Province as core habitat.

(3) Core habitat must not include the entire geographical range that can be occupied by the threatened or endangered species unless inclusion is considered essential for the survival of the species.

(4) The Minister may designate core habitat on private lands only if the Minister is satisfied that the core habitat of the endangered or threatened species on public lands is not sufficient to meet the recovery needs of the species.

(5) The Minister may make regulations respecting all or any specific core habitat for the purpose of controlling, restricting or prohibiting any use of, access to, activity on or the release of any substances on or in the core habitat for such period as considered necessary.

(6) The exercise by the Minister of the authority contained in subsection (2) or (5) is a regulation within the meaning of the *Regulations Act*. 1998, c. 11, s. 16.

Compensation for loss of use of private lands

19 (1) Where

(a) private lands are designated as core habitat pursuant to Section 18 or private lands are subject to an order of the Minister made pursuant to Section 21;

(b) a particular use of the private lands is prohibited by regulations made pursuant to Section 18 or by the provisions of the order of the Minister made pursuant to Section 21; and

(c) the owner of the private lands is actually making that particular use of the lands when the use is prohibited,

the Minister shall compensate the owner of the private lands for the loss imposed upon that use.

(2) Compensation under subsection (1) may be in any form agreed to by the Minister and the owner.

(3) Where the Minister and the owner cannot agree on the value of compensation, the question of value may, at the option of the owner, be referred to the Utility and Review Board and the provisions of the *Expropriation Act* apply with necessary changes to the question of value.

(4) A decision of the Utility and Review Board made in accordance with subsection (3) is binding on the parties.

(5) Except as provided in this Section, no compensation is payable to any person for any listing, designation, order, prohibition or other action provided by or taken pursuant to this Act or the regulations and it is conclusively deemed for all purposes, including for the purpose of the *Expropriation Act*, that land is not taken or injuriously affected by reason of any listing, designation, order, prohibition or other action provided by or taken pursuant to this Act or regulations. 1998, c. 11, s. 16.

Designation of core habitat

20 (1) Where the Minister proposes to designate core habitat, the Minister shall publish a notice in the Royal Gazette and provide a notice to each registered owner of the lands.

(2) The notice referred to in subsection (1) must

(a) contain a description of the lands sufficient to identify the proposed core habitat;

(b) contain a copy of the regulations proposed to be applicable to the lands; and

(c) provide an opportunity for registered owners of land to comment on the proposed designation within 60 days of the date set out in the notice.

(3) The Minister shall not designate core habitat until after the expiry of the time referred to in clause (2)(c).

(4) No person shall destroy, disturb or interfere with or attempt to destroy, disturb or interfere with lands proposed to be designated as core habitat

during the time referred to in clause (2)(c) and for a period of 30 days thereafter.
1998, c. 11, s. 17.

Ministerial orders

21 (1) Where an endangered or threatened species is listed on a precautionary basis pursuant to Section 11, the Minister may make such order as, in the opinion of the Minister, with the advice of the Group, is necessary to control, restrict or prohibit activities that may adversely affect the endangered or threatened species, including activities that may adversely affect the core habitat of the endangered or threatened species.

(2) Where the Minister makes an order pursuant to subsection (1) relating to core habitat,

(a) subsections 18(3) and (4) apply with necessary changes;
and

(b) Section 19 does not apply but the Minister shall give the registered owner a copy of the order made pursuant to subsection (1) within 15 days of the making of the order.

(3) The Minister shall revoke an order made pursuant to subsection (1) where the Minister is satisfied that adequate measures have been implemented in response to the listing.

(4) Notwithstanding subsection (3), where the listing of an endangered or threatened species by the Minister expires pursuant to Section 11, any order made pursuant to subsection (1) respecting that endangered or threatened species has no force or effect on and after the date of such expiry.

(5) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1998, c. 11, s. 18.

Registration and service

22 (1) Where core habitat has been designated pursuant to Section 18 or the Minister makes an order pursuant to Section 21, the Minister shall record a copy of the designation or order in the registry of deeds for the registration district where the land is situate and shall provide a copy of the designation and accompanying regulations or order to

(a) each registered owner of the lands; and
(b) the clerk of the municipality in which the core habitat is situated.

(2) Where any notice, order or other document is required to be given or provided pursuant to this Act, it is or is deemed to be sufficiently given or provided

(a) upon a copy being personally given or provided to the person to whom it is directed;
(b) upon a copy being given or provided by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt being received; or

(c) 10 days after a copy is sent by mail to the address for the registered owner shown on the last revised assessment roll. 1998, c. 11, s. 19.

No change in use

23 Where a regulation made pursuant to Section 18 or an order of the Minister made pursuant to Section 21 controls, restricts or prohibits a use or activity on private lands, the regulation or order that provides for the control, restriction or prohibition shall not in itself

(a) be considered a change in the use of the lands for the purpose of the *Assessment Act*; or

(b) affect any exemption provided by the *Assessment Act* to which the lands are subject at the time of the making of the regulation or order. 1998, c. 11, s. 20.

Information

24 (1) Subject to subsection (2), the following information is available to a person upon request:

(a) a copy of a status report, recovery plan or management plan;

(b) a copy of the written summary provided to the Minister pursuant to clause 10(1)(c);

(c) the basis upon which the Minister has made a listing or order pursuant to Section 11 or 21;

(d) the basis upon which the Minister has determined the feasibility of implementing a recovery plan or any portion of a recovery plan.

(2) The Minister may refuse to disclose information if the disclosure could reasonably be expected to result in damage to, or interfere with the conservation of, an endangered, threatened or vulnerable species. 1998, c. 11, s. 21.

Offence

25 (1) Every person who contravenes this Act or the regulations is guilty of an offence and is liable on summary conviction

(a) in the case of a corporation, to a fine not exceeding \$1,000,000; or

(b) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term of not more than six months, or to both.

(2) Notwithstanding subsection (1), where a person is convicted of an offence under this Act or the regulations a second or subsequent time, the person is liable to a fine not exceeding double the amount set out in that subsection.

(3) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is lia-

ble to be convicted for a separate offence for each day on which the offence is committed or continued.

(4) A fine imposed for an offence involving more than one species or specimen may be calculated in respect of each one as though it had been the subject of a separate information.

(5) Where a person has been convicted of an offence under this Act or the regulations and the court is satisfied that monetary benefits accrued to the person as a result of the commission of the offence,

(a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits; and

(b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed pursuant to this Act. 1998, c. 11, s. 22.

Prosecutions

26 (1) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

(3) Unless otherwise provided in this Act, no person shall be convicted of an offence under this Act or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence. 1998, c. 11, s. 23.

Forfeiture or return of thing seized

27 (1) Where a person is convicted of an offence, the court may, in addition to any punishment imposed, order that any seized thing by means of or in relation to which the offence was committed, or any proceeds of its disposition, be forfeited to the Crown in right of the Province.

(2) Where the court does not order a forfeiture pursuant to subsection (1), the seized thing, or the proceeds of its disposition, must be returned to its lawful owner or the person lawfully entitled to it if the possession of the thing would be lawful. 1998, c. 11, s. 24.

Security for payment of fine

28 Where a fine is imposed on a person convicted of an offence, any seized thing, or any proceeds of its disposition, may be retained until the fine is paid or the thing may be sold in satisfaction of the fine and the proceeds applied, in whole or in part, in payment of the fine. 1998, c. 11, s. 25.

Powers of court

29 Where a person is convicted of an offence, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the court considers appropriate to remedy or to prevent any adverse effects to any endangered or threatened species, habitat or core habitat that results or may result from the commission of the offence;
- (c) directing the person to pay to the Minister compensation in whole or in part, for the cost of any remedial or preventive action taken by or on behalf of the Minister as a result of the commission of the offence;
- (d) directing the person to post a bond or pay into court an amount of money that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement pursuant to this Section. 1998, c. 11, s. 26.

Limitation period

30 Proceedings by way of summary conviction in respect of an offence may be commenced at any time within, but not later than, two years after the day on which evidence of the offence first came to the attention of a conservation officer or the Minister, whichever occurs first. 1998, c. 11, s. 27.

Regulations

- 31** (1) The Governor in Council may make regulations
- (a) defining any word or expression used but not defined in this Act;
 - (b) respecting any other matter considered necessary or advisable to carry out effectively 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*. 1998, c. 11, s. 28.
-

CHAPTER E-18

An Act to Provide for the Designation of Endometriosis Awareness Month

Table of Contents

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

	Section
Short title.....	1
Endometriosis Awareness Month.....	2

WHEREAS endometriosis is a common condition experienced by one in 10 women, trans and non-binary people of reproductive age and can cause debilitating conditions, including chronic pelvic pain, and is sometimes associated with infertility;

AND WHEREAS there is no cause yet known for the disease, and diagnostics and treatment can often be severely delayed from the onset of symptoms;

AND WHEREAS in many cases, people can go up to eight years or longer without a diagnosis;

AND WHEREAS research shows that youth with endometriosis symptoms are more likely to miss one or more days of school per month, causing them to fall behind in their studies and leading to adverse effects on their grades and self-confidence, and adults with endometriosis can lose 10 hours of productivity per week, costing the Canadian economy an estimated \$1.8 billion per year;

AND WHEREAS increasing public awareness of endometriosis is imperative as many people spend years unaware their symptoms are abnormal;

AND WHEREAS delays in diagnosis and treatment can negatively impact education, work and quality of life for those with endometriosis;

AND WHEREAS this is an opportunity to educate the public about this common yet misunderstood disease and to encourage conversations and education around what is a “normal” period:

Short title

1 This Act may be cited as the *Endometriosis Awareness Month Act*. 2023, c. 11, s. 1.

Endometriosis Awareness Month

2 Throughout the Province, in each and every year, March shall be kept and observed under the name Endometriosis Awareness Month. 2023, c. 11, s. 2.

CHAPTER E-19

An Act Respecting the Conservation of Energy Resources

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Purpose.....	3
Application of Act.....	4
Withdrawal of lands.....	5
Utility and Review Board	6
Powers of Minister.....	7
Function of Minister.....	8
No action for damages	9
Regulations.....	10
Interference with authorized person.....	11
False statement.....	12
Offence and penalty	13
Liability for offence by employee or agent.....	14
Offence by officer or agent of corporation	15

Short title

1 This Act may be cited as the *Energy Resources Conservation Act*.
R.S., c. 147, s. 1; 2000, c. 12, s. 2.

Interpretation

2 In this Act, “Minister” means the member of the Executive Council designated as the Minister for the purpose of this Act. R.S., c. 147, s. 2; 2000, c. 12, ss. 3, 9; 2001, c. 15, s. 1.

Purpose

- 3** The purpose of this Act is to
- (a) regulate the conservation of and prevent the waste of energy resources;
 - (b) regulate and ensure efficient practices in the exploration for and development, production, transmission and transportation of energy resources;
 - (c) provide for the economic, orderly and efficient development in the public interest of energy resources;
 - (d) appraise the reserves and production capacities of energy resources;
 - (e) appraise the need for energy resources and appraise markets outside the Province for the Province’s energy resources;

- (f) receive and disseminate information regarding energy resources. R.S., c. 147, s. 3; 2000, c. 12, ss. 4, 9.

Application of Act

4 This Act applies to all Nova Scotia lands, which means the land mass of Nova Scotia including Sable Island, and includes the seabed and subsoil off the shore of the land mass of Nova Scotia, the seabed and subsoil of the continental shelf and slope and the seabed and subsoil seaward from the continental shelf and slope to the limit of exploitability. R.S., c. 147, s. 4.

Withdrawal of lands

5 The Governor in Council may, by order, for any purpose and under any conditions set out in the order, withdraw from the application of this Act or the regulations, or any part thereof,

- (a) such area of Nova Scotia lands;
- (b) any energy resources in specified Nova Scotia lands,

as specified in the order. R.S., c. 147, s. 5; 2000, c. 12, s. 9.

Utility and Review Board

6 (1) Notwithstanding anything contained in this Act, the Governor in Council may designate the Nova Scotia Utility and Review Board, as constituted under the *Utility and Review Board Act*, to be the Energy Resources Conservation Board.

(2) Except where inconsistent with this Act, the *Gas Distribution Act*, the *Petroleum Resources Act* or the *Pipeline Act* or any regulations made pursuant to those Acts, the provisions of the *Public Utilities Act* relating to the powers, procedures and practices of the Nova Scotia Utility and Review Board apply to and with respect to that Board when acting as the Energy Resources Conservation Board. R.S., c. 147, s. 11; 2000, c. 12, ss. 6, 9.

Powers of Minister

7 (1) Subject to the approval of the Governor in Council the Minister may delegate any of the powers, duties or authorities conferred or imposed on the Minister by this or any enactment to persons designated by the Minister.

- (2)** The Minister may
- (a) establish advisory and ad hoc committees and retain experts to report to the Minister with respect to
 - (i) the content and administration of this Act,
 - (ii) any policies, programs, standards, guidelines, objectives, codes of practice, directives, approval processes or other matters under the administration of the Minister;
 - (b) specify the function that the committees and experts are to perform, including the seeking of input from the public and the manner and time period in which those functions are to be performed;

(c) provide for the remuneration of and payment of expenses to experts, witnesses and members of committees;

(d) provide for the issue of summonses requiring the attendance of witnesses, the production of documents and things and the payment of fees to witnesses. R.S., c. 147, s. 12; 2001, c. 15, s. 3.

Function of Minister

8 The Minister shall regulate the conservation of energy resources by carrying out the purpose of this Act. R.S., c. 147, s. 14; 2000, c. 12, ss. 7, 9; 2001, c. 15, s. 5.

No action for damages

9 No action for damages lies against the Minister, a person directed by the Minister or a person appointed by the Minister pursuant to subsection 7(2) for an act or thing done or omitted to be done in good faith pursuant to this Act or any enactment. 2001, c. 15, s. 6.

Regulations

10 (1) The Governor in Council may make regulations

(a) respecting entry onto private lands by the Minister, officers, technical or professional persons, employees, agents, investigators or examiners of the Minister;

(b) respecting the economic, orderly and efficient development of energy resources, including the construction, location and establishment of equipment, buildings, structures, wharves, docks and support facilities related to energy resources;

(c) respecting assessment of energy resources and the levying and collecting of a tax on the resources to help defray the expenses of the Minister;

(d) respecting the prohibition against drilling wells to explore for, develop or produce petroleum without a licence granted by the Minister;

(e) respecting licences to drill wells;

(f) respecting the terms and conditions of licences to drill wells;

(g) respecting minimum and maximum efficient rates of petroleum production from any well or group of wells;

(h) respecting the most efficient methods for the production of energy resources;

(i) respecting conservation standards in the exploration for and development, production, transmission and transportation of energy resources;

(j) respecting the procedure for applications for transfers, assignments or other dispositions of licences to drill wells and the terms and conditions upon which the Minister may allow transfers, assignments or other dispositions;

(k) respecting required forms;

(l) respecting the recording of documents and the terms and conditions under which documents may be inspected by any interested person;

(m) respecting the delivery to the Minister of information and samples with respect to energy resource conservation and providing for the confidentiality of such information and samples;

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

(o) generally for carrying into effect the purpose and provisions of this Act.

(2) The exercise by the Governor in Council of the authority contained in this Section and Section 5 is a regulation within the meaning of the *Regulations Act*. R.S., c. 147, s. 29; 2000, c. 12, ss. 8, 9; 2001, c. 15, s. 7.

Interference with authorized person

11 Every person who prevents, obstructs or otherwise interferes with the Minister, or a person authorized by the Minister, in the exercise of the powers or duties pursuant to this or any enactment is guilty of an offence. R.S., c. 147, s. 30; 2001, c. 15, s. 8.

False statement

12 Every person who knowingly makes a false statement in any record required to be kept or any report required to be made by this or any enactment is guilty of an offence. R.S., c. 147, s. 31.

Offence and penalty

- 13 (1) Every person who contravenes or fails to comply with
- (a) any provision of this Act or the regulations;
 - (b) any term or condition of a licence to drill a well issued pursuant to this Act and the regulations; or
 - (c) any order or direction made by the Minister,

is guilty of an offence and liable on summary conviction to a penalty not exceeding \$100,000 or imprisonment for a term not exceeding two years.

(2) Where an offence described in subsection (1) is committed by a person on more than one day or is continued for more than one day, it is a separate offence for each day on which the offence is committed or continued. R.S., c. 147, s. 32; 2001, c. 15, s. 9.

Liability for offence by employee or agent

14 In any prosecution for an offence under this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the accused's knowledge or consent and that the accused exercised all due diligence to prevent its commission. R.S., c. 147, s. 33.

Offence by officer or agent of corporation

15 Where a corporation has committed an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on summary conviction to the punishment provided for the offence whether or not the corporation has been prosecuted. R.S., c. 147, s. 34.

CHAPTER E-20

An Act Respecting the Sale and Leasing of Energy-efficient Appliances

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Restriction on sale, lease and labelling of appliances.....	3
Restriction on roadway lighting.....	4
Offence and penalty	5
Regulations.....	6

Short title

1 This Act may be cited as the *Energy-efficient Appliances Act*. 1991, c. 2, s. 1.

Interpretation

2 In this Act,
“designated appliance” means an appliance, a machine or equipment designated pursuant to the regulations;
“Minister” means the Minister of Natural Resources and Renewables;
“prescribed” means prescribed by the regulations. 1991, c. 2, s. 2.

Restriction on sale, lease and labelling of appliances

3 (1) No person shall offer for sale, sell or lease a designated appliance unless the designated appliance

(a) meets the prescribed efficiency standard with respect to that appliance; and

(b) has affixed to it a label, in the prescribed form, that sets out the efficiency standard of that appliance.

(2) Subsection (1) does not apply to

(a) a used designated appliance;

(b) a person who is not in the business of offering for sale, selling or leasing designated appliances; or

(c) a designated appliance that is exempt pursuant to the regulations.

(3) No person shall affix a label to a designated appliance that

- (a) indicates the designated appliance meets the prescribed standard if the designated appliance does not meet that standard; or
- (b) is not a prescribed label but is similar to a prescribed label.

(4) No sale or lease is invalid by reason only of the failure to comply with this Section. 1991, c. 2, s. 3.

Restriction on roadway lighting

4 Where the use of roadway lighting is restricted or prohibited by the regulations, no person shall use the lighting contrary to the restriction or prohibition, as the case may be, unless that lighting meets the prescribed efficiency standards with respect to that lighting. 2011, c. 6, s. 2.

Offence and penalty

5 (1) Every person who contravenes a provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

(2) Where a body corporate contravenes a provision of this Act or the regulations, every director or officer of the body corporate who authorizes, permits or acquiesces in the contravention is a party to and guilty of an offence and on conviction, is liable to the penalty provided for the offence whether or not the body corporate has been prosecuted or convicted.

(3) The selling, offering for sale or leasing of each designated appliance in contravention of this Act is a separate offence. 1991, c. 2, s. 4.

Regulations

- 6 (1) The Governor in Council may make regulations
- (a) designating appliances, machines and equipment for the purpose of this Act;
 - (b) prescribing efficiency standards for designated appliances;
 - (c) prescribing the form and content of labels for the purpose of this Act;
 - (d) designating persons or organizations to test designated appliances;
 - (e) providing for the placing of a prescribed label on designated appliances that conform to the prescribed standards;
 - (f) prescribing forms and providing for their use;
 - (g) providing for information to be reported by persons who manufacture, offer for sale, sell or lease designated appliances that apply to this Act, including the frequency, time and manner for reporting;

(h) governing the keeping of information, records and documents by persons who manufacture, offer for sale, sell or lease designated appliances;

(i) restricting or prohibiting the use of roadway lighting that is a designated appliance and that does not meet the prescribed efficiency standard for that appliance;

(j) exempting any person or designated appliance from a provision of this Act or the regulations;

(k) defining any word or expression used in this Act and not defined in this Act;

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

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Governor in Council considers necessary any code or standard and may require compliance with any code or standard adopted.

(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*. 1991, c. 2, s. 5; 2011, c. 6, s. 3.

CHAPTER E-21

An Act Respecting the Enforcement of Canadian Judgments and Decrees

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Application of Act.....	3
Right to register judgment.....	4
Procedure for registering judgment.....	5
Effect of registration	6
Time limit for registration and enforcement.....	7
Power to stay or limit enforcement of judgment.....	8
Interest on registered judgment.....	9
Recovery of registration costs.....	10
No effect on judgment creditor's other rights	11
Enforcement of Canadian civil protection order as order of Supreme Court	12
Enforcement of Canadian civil protection order by law enforcement agency.....	13
Enforcement of Canadian civil protection order as Canadian judgment	14
No action lies	15
Application of Sections 12 to 15.....	16
Regulations.....	17

Short title

1 This Act may be cited as the *Enforcement of Canadian Judgments and Decrees Act*. 2001, c. 30, s. 1.

Interpretation

2 In this Act,

“Canadian civil protection order” means a Canadian judgment or a portion of a Canadian judgment that prohibits a person from

- (a) being in physical proximity to a specified person or following from place to place a specified person;
- (b) contacting or communicating with, either directly or indirectly, a specified person;
- (c) attending at or within a certain distance of a specified place or location; or
- (d) engaging in molesting, annoying, harassing or threatening conduct directed at a specified person;

“Canadian judgment” means a judgment, decree or order made in a civil proceeding by a court of a province of Canada other than the Province

- (a) that requires a person to pay money, including an order for the payment of money that is made in the exercise of a judicial

function by a tribunal of a province of Canada other than the Province and that is enforceable as a judgment of the superior court of unlimited trial jurisdiction in that province;

(b) under which a person is required to do or not do an act or thing; or

(c) that declares rights, obligations or status in relation to a person or thing,

but does not include a judgment, decree or order that

(d) is for maintenance or support, including an order enforceable under the *Maintenance Enforcement Act*;

(e) is for the payment of money as a penalty or fine for committing an offence;

(f) relates to the care, control or welfare of a minor, other than a Canadian civil protection order;

(g) is made by a tribunal of a province of Canada other than the Province whether or not it is enforceable as an order of the superior court of unlimited trial jurisdiction of the province where the order was made, to the extent that it provides for relief other than the payment of money; or

(h) relates to the granting of probate or letters of administration or the administration of the estate of a deceased person;

“enforcement” includes requiring that a Canadian judgment be recognized by any person or authority whether or not further relief is sought;

“enforcing party” means a person entitled to enforce a Canadian judgment in the province where the judgment was made;

“registered Canadian judgment” means a Canadian judgment that is registered under this Act. 2001, c. 30, s. 2; 2005, c. 49, s. 1.

Application of Act

3 This Act applies to

(a) a Canadian judgment made in a proceeding commenced on or after July 1, 2006; and

(b) a Canadian judgment made in a proceeding commenced before July 1, 2006, and in which the party against whom enforcement is sought took part. 2001, c. 30, s. 3.

Right to register judgment

4 (1) Subject to subsection (2), a Canadian judgment, whether or not the judgment is final, may be registered under this Act for the purpose of enforcement.

(2) A Canadian judgment that requires a person to pay money may not be registered under this Act for the purpose of enforcement unless it is a final judgment.

(3) A Canadian judgment that also contains provisions for relief that may not be enforced under this Act may be registered under this Act except in respect of those provisions. 2001, c. 30, s. 4.

Procedure for registering judgment

5 A Canadian judgment is registered under this Act by paying the fee prescribed by the regulations and by filing in the registry of the Supreme Court of Nova Scotia

- (a) a copy of the judgment, certified as true by a judge, registrar, clerk or other proper officer of the court that made the judgment; and
- (b) the additional information or material required by the regulations. 2001, c. 30, s. 5; 2005, c. 49, s. 2.

Effect of registration

6 Subject to Sections 7 and 8, a registered Canadian judgment may be enforced in the Province as if it were an order or judgment of, and entered in, the Supreme Court of Nova Scotia. 2001, c. 30, s. 6.

Time limit for registration and enforcement

7 (1) A Canadian judgment that requires a person to pay money must not be registered or enforced under this Act

- (a) after the time for enforcement has expired in the province where the judgment was made; or
- (b) later than 20 years after the day on which the judgment became enforceable in the province where it was made.

(2) Equitable doctrines and rules of law in relation to delay apply to the enforcement of a Canadian judgment, to the extent that they provide for relief other than the payment of money.

(3) A Canadian judgment against an individual who is resident in the Province made in a proceeding to enforce a contract for the supply of consumer goods or services in the Province must not be registered or enforced under this Act if the judgment debtor did not take part in the proceeding. 2001, c. 30, s. 7; 2005, c. 49, s. 3.

Power to stay or limit enforcement of judgment

8 (1) A party to the proceeding in which a registered Canadian judgment was made may apply to the Supreme Court of Nova Scotia for directions respecting its enforcement.

- (2) On an application under subsection (1), the court may
 - (a) make an order that the judgment be modified as may be required to make it enforceable in the conformity with local practice;
 - (b) make an order stipulating the procedure to be used in enforcing the judgment;

(c) make an order staying or limiting the enforcement of the judgment, subject to any terms and for any period the court considers appropriate in the circumstances, if

(i) such an order could be made in respect of an order or judgment of the Supreme Court of Nova Scotia under the *Judicature Act* and the *Civil Procedure Rules*,

(ii) the party against whom enforcement is sought has brought, or intends to bring, in the province where the Canadian judgment was made, a proceeding to set aside, vary or obtain other relief in respect of the judgment,

(iii) an order staying or limiting enforcement is in effect in the province where the Canadian judgment was made, or

(iv) it is contrary to public policy in the Province.

(3) Notwithstanding subsection (2), the Supreme Court of Nova Scotia may not make an order staying or limiting the enforcement of a registered Canadian judgment solely on the grounds that

(a) the judge, court or tribunal that made the judgment lacked jurisdiction over the subject-matter of the proceeding that led to the judgment, or over the party against whom enforcement is sought, under

(i) principles of private international law, or

(ii) the domestic law of the province where the judgment was made;

(b) the Supreme Court of Nova Scotia would have come to a different decision on a finding of fact or law or on an exercise of discretion from the decision of the judge or court that made the judgment; or

(c) a defect existed in the process or proceeding leading to the judgment.

(4) An application for directions must be made under subsection (1) before any measures are taken to enforce a registered Canadian judgment where

(a) the enforceability of the judgment is, by its terms, subject to the satisfaction of a condition; or

(b) the judgment was obtained *ex parte* without notice to the persons bound by it. 2001, c. 30, s. 8.

Interest on registered judgment

9 (1) To the extent that a registered Canadian judgment requires a person to pay money, interest is payable as if it were an order or judgment of the Supreme Court of Nova Scotia.

(2) For the purpose of calculating interest payable under subsection (1), the amount owing on the registered Canadian judgment is the total of

(a) the amount owing on that judgment on the date it is registered under this Act; and

(b) interest that has accrued to that date under the laws applicable to the calculation of interest on that judgment in the province of Canada where it was made. 2001, c. 30, s. 9.

Recovery of registration costs

10 An enforcing party is entitled to recover all costs, charges and disbursements

(a) reasonably incurred in the registration of a Canadian judgment under this Act; and

(b) taxed, assessed or allowed by a judge of the Supreme Court of Nova Scotia. 2001, c. 30, s. 10.

No effect on judgment creditor's other rights

11 Neither registering a Canadian judgment nor taking other proceedings under this Act affects an enforcing party's right to bring an action on the original cause of action or to register and enforce the Canadian judgment pursuant to the *Reciprocal Enforcement of Judgments Act*. 2001, c. 30, s. 11.

Enforcement of Canadian civil protection order as order of Supreme Court

12 A Canadian civil protection order may be enforced in the same manner as an order of the Supreme Court of Nova Scotia for all purposes. 2005, c. 49, s. 4.

Enforcement of Canadian civil protection order by law enforcement agency

13 A Canadian civil protection order is enforceable by a law enforcement agency in the same manner as an order of the Supreme Court of Nova Scotia whether or not the order is a registered Canadian judgment. 2005, c. 49, s. 4.

Enforcement of Canadian civil protection order as Canadian judgment

14 A Canadian civil protection order may be registered and enforced as a Canadian judgment for the purpose of this Act. 2005, c. 49, s. 4.

No action lies

15 No action or proceeding lies or may be commenced against a law enforcement agency, including any employee or agent of a law enforcement agency, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the enforcement or supposed enforcement of a Canadian civil protection order or purported Canadian civil protection order pursuant to Sections 12 to 16 or the regulations made pursuant to this Act. 2005, c. 49, s. 4.

Application of Sections 12 to 15

16 Sections 12 to 15 apply to a Canadian civil protection order that was in force on July 1, 2006, or issued on or after that date. 2005, c. 49, s. 4.

Regulations

- 17 (1) The Governor in Council may make regulations
- (a) prescribing the fee payable for the registration of a Canadian judgment under this Act;
 - (b) respecting additional information or material that is to be filed in relation to the registration of a Canadian judgment under this Act;
 - (c) defining any word or expression used but not defined in this Act;
 - (d) respecting forms and their use under this Act; and
 - (e) to do any matter or thing required to effect or assist the operation 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*. 2001, c. 30, s. 12; 2005, c. 49, s. 5.

CHAPTER E-22

An Act to Assist in the Recovery of Fines Payable to the Crown

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Certificate of default and suspension	3
Reinstatement.....	4
Regulations.....	5

Short title

1 This Act may be cited as the *Enforcement of Payment of Fines Act*. 2005, c. 40, s. 1.

Interpretation

2 In this Act,

“administrator” means the administrator of the Provincial Court of Nova Scotia appointed pursuant to the *Provincial Court Act*;

“driver’s licence” means a driver’s licence as defined in the *Motor Vehicle Act*;

“owner’s permit” means an owner’s permit as defined in the *Motor Vehicle Act*;

“Registrar” means the Registrar of Motor Vehicles appointed under the *Motor Vehicle Act* and includes the Deputy Registrar of Motor Vehicles appointed under that Act;

“vehicle” means a vehicle as defined in the *Motor Vehicle Act*. 2005, c. 40, s. 2.

Certificate of default and suspension

3 (1) Where a person is in default of payment of all or part of a fine or costs imposed upon conviction for an offence under any enactment of the Parliament of Canada and payable to the Crown in right of the Province, the justice, judge or clerk of the court in which the fine or costs were imposed or the administrator may

(a) prepare and forward to the Registrar a certificate of default in the form and within the time prescribed by the Attorney General; and

(b) provide to the Minister of Service Nova Scotia the information required to facilitate recovery of the fine, surcharge or costs.

(2) Upon receipt of a certificate of default pursuant to subsection (1), the Registrar shall, pursuant to the *Motor Vehicle Act* and subject to the regulations, refuse to renew a driver's licence or owner's permit or transfer or register a vehicle of that person and refuse to issue a document to that person or provide any other service.

(3) Notwithstanding subsection (2), the Registrar may transfer a vehicle to a bona fide purchaser of the vehicle for value without notice of the default.

(4) Where the default continues for at least 30 days, the justice, judge or clerk of the court in which the fine or costs were imposed, the administrator or the Minister of Service Nova Scotia may, subject to the regulations, issue to the Registrar a certificate of continuing default in the form and within the time prescribed by the Attorney General.

(5) Upon receipt of a certificate of continuing default pursuant to subsection (4), the Registrar shall, pursuant to the *Motor Vehicle Act* and subject to the regulations, suspend the person's driver's licence or privilege of obtaining a driver's licence.

(6) Upon payment of the outstanding fine or costs, or in the circumstances prescribed in the regulations, the Minister of Service Nova Scotia or the justice, judge or clerk of the court or the administrator shall provide the Registrar with a confirmation of payment in the form and within the time prescribed by the Attorney General.

Reinstatement

4 (1) Upon receipt of a confirmation of payment, and payment by the person of any reinstatement and other applicable fees imposed by the Registrar, the Registrar shall, pursuant to the *Motor Vehicle Act*, lift the suspension and reinstate the person's driver's licence or privilege of obtaining a driver's licence and provide any other service to the person that was affected by actions taken by the Registrar pursuant to this Act.

(2) Notwithstanding subsection (1), the Registrar may reinstate the person's driver's licence or privilege of obtaining a driver's licence only if there are no other suspensions or revocations of the person's driver's licence or privilege of obtaining a driver's licence outstanding against the person. 2005, c. 40, s. 3; 2006, c. 15, s. 7; 2008, c. 55, s. 1.

Regulations

- 5 (1) The Governor in Council may make regulations
- (a) for the purpose of subsections 3(2), (4), (5) and (6);
 - (b) providing for the filing and enforcement of orders to pay restitution and the application of this Act to assist in the recovery of amounts owing under such orders;
 - (c) defining any word or expression used but not defined in this Act;
 - (d) considered necessary or advisable by the Governor in Council to carry out effectively 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*. 2005, c. 40, s. 4; 2006, c. 15, s. 8.

CHAPTER E-23

An Act Respecting the Engineering Profession

Table of Contents

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

	Section
Short title.....	1
Interpretation	
Interpretation.....	2
Association	
Association continued.....	3
Head office.....	4
Objects	
Objects	5
Powers	
Powers	6
Membership	
Qualifications of member.....	7
Resignation.....	8
Licence to Practise	
Qualifications of non-resident.....	9
Engineers-in-Training	
Enrolment of engineers-in-training.....	10
Persons Exempted	
Act does not apply.....	11
Partnership and Companies	
Non-individual	12
Meetings	
Meetings.....	13
Administration	
Council.....	14
Examinations	
Board of Examiners	15
Duties	16
Central Examining Board.....	17

Discipline of Members

Complaints process	18
Report of secretary	19
Improper use of complaint process	20
Complaints Committee	21
Investigation	22
Decision of Complaints Committee	23
Appeal of Complaints Committee decision	24
Discipline Committee	25
Disciplinary panel	26
Joint recommendation	27
Order incorporating joint recommendation	28
Rejection of joint recommendation	29
No loss of jurisdiction	30
Disciplinary hearing	31
Parties	32
Disciplinary panel procedure and powers	33
Conduct of hearing	34
Registrant rights	35
Immediate suspension or restriction of registrant registration	36
Referral to Chair of Discipline Committee	37
Disciplinary panel order	38
Payment of costs	39
Publication of disciplinary panel decision	40
Appeal to Supreme Court	41
No action lies	42

Registration

Register, certificates and licences	43

Annual Dues

Annual dues	44

Continuing Professional Development

Compliance certificate	45

Penalties

Illegal practice by non-member	46
Illegal practice by non-individual	47
Penalty for permitting illegal practice	48
Falsifying register	49
False representation	50
Laying of information	51
Certificate as prima facie evidence	52
Prosecution	53
Payment of fine	54
Limitation period	55

Actions against Members

Action against member or Council	56

Seals

Seals of Association and members	57

Bylaws

Procedure to pass, amend or repeal bylaw	58

Short title

1 This Act may be cited as the *Engineering Profession Act*. R.S., c. 148, s. 1.

INTERPRETATION**Interpretation**

2 In this Act,

“Association” means the Association of Professional Engineers of the Province of Nova Scotia;

“Board” means the Board of Examiners of the Association or such members of the Board as may be deputed by the Council to examine credentials or conduct examinations;

“bylaws” means bylaws of the Association;

“certificate of registration” means a certificate in force under this Act that is issued to a member;

“Council” means the Council of the Association;

“engineer” means a person who through specialized education, training and experience is skilled in the principles and practice of engineering;

“engineering” means the science and art of designing, investigating, supervising the construction, maintenance or operation of, making specifications, inventories or appraisals of, and consultations or reports on machinery, structures, works, plants, mines, mineral deposits, processes, transportation systems, transmission systems and communication systems or any other part thereof;

“engineer-in-training” means a person enrolled as an engineer-in-training in good standing;

“licence to practise” means a licence to practise professional engineering issued and in force under this Act;

“licensed to practise” means holding a licence to practise;

“member” means a registered member of the Association in good standing;

“President” means the President of the Association;

“professional engineer” means a person who practises professional engineering;

“professional engineering” means application of engineering for gain, hire or hope of reward, either directly or indirectly;

“registrant” means either a member, a person licensed to practise or an engineer-in-training;

“Registrar” means the Registrar of the Association;

“registration” means either a certificate of registration, a licence to practise or enrolment as an engineer-in-training;

“Secretary” means the Secretary of the Association;

“Treasurer” means the Treasurer of the Association;

“Vice-president” means the Vice-president of the Association. R.S., c. 148, s. 2; 2009, c. 13, s. 1.

ASSOCIATION

Association continued

3 (1) The Association of Professional Engineers of the Province of Nova Scotia, incorporated by Chapter 186 of the Acts of 1920, is continued as a body corporate and politic under the same name and shall have perpetual succession and a common seal.

(2) All persons who were members of the Association on March 29, 1945, are declared to be members of the Association as that body is continued under this Section. R.S., c. 148, s. 3.

Head office

4 The head office of the Association must be at Halifax. R.S., c. 148, s. 4.

OBJECTS

Objects

5 The objects of the Association are to

- (a) promote and improve the proficiency of professional engineers in all matters relating to the profession of engineering;
- (b) do all such matters and things as will advance and protect the interests of professional engineers in the profession of engineering;
- (c) assure the general public of the proficiency and competency of professional engineers in the practice of engineering;
- (d) do all such other matters and things as may be necessary for or incidental or conducive to the welfare of professional engineers and their usefulness to the public. R.S., c. 148, s. 5.

POWERS

Powers

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

- (a) provide for the government, discipline and honour of persons practising professional engineering and those enrolled as engineers-in-training within the Province;
- (b) acquire, hold and dispose of real and personal property or any part thereof;
- (c) borrow money for the purpose of carrying out any of the objects of the Association and give security for any money so borrowed on any of the real, personal or mixed property of the Association by way of mortgage, pledge, charge or otherwise;

(d) establish and maintain a register of professional engineers, which register must be the official register of persons entitled to practise professional engineering within the Province;

(e) fix and collect

(i) the fees payable by any person, upon being admitted as a member, licensed to practise or enrolled as an engineer-in-training,

(ii) the fees payable by any person desiring to write any examination prescribed by the Association with a view to becoming a member, or being enrolled as an engineer-in-training, and

(iii) the annual dues payable by members, persons licensed to practise and engineers-in-training;

(f) exempt any person from the payment of fees or dues for membership, being licensed to practise or enrolled as an engineer-in-training and to write an examination prescribed by the Association upon such terms and conditions as the Council may determine;

(g) by bylaw, authorize the Council to fix by resolution the fees and annual dues of the Association in such manner and subject to such limits as are prescribed by bylaw;

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

(i) prescribe the nature and extent of the education and practical experience in engineering that any person must possess before being permitted to practise professional engineering within the Province or before being enrolled as an engineer-in-training;

(j) by resolution establish compulsory requirements for the continuing professional development of members with the power to exempt any member or class of members from such requirements for reasons and upon such terms and conditions as the Council may determine;

(k) provide facilities for determining by examination or other means, the competency of persons seeking to practise professional engineering or to be enrolled as engineers-in-training within the Province, and grant certificates of registration and licences to practise to persons so qualified to practise;

(l) arrange and establish ways and means by which persons may be trained in the profession of engineering;

(m) negotiate for and on behalf of any member or engineer-in-training in any matter pertaining to member's or engineer-in-training's welfare as a professional engineer or engineer-in-training;

(n) enter into agreements on behalf of the Association or members or engineers-in-training, with any person or association of persons, as may be necessary for or incidental or conducive to the carrying out of the objects of the Association;

(o) establish with any other professional association a joint practice board with the power to review and make recommendations to the Council on professional practice issues of mutual concern;

(p) make, amend and repeal bylaws relating to the objects and powers of the Association, provided that such bylaws, amendments and repeals thereof have no force or effect unless and until approved by the Governor in Council;

(q) by bylaw empower the Council to, by resolution, adopt, amend or rescind, in whole or in part, a Code of Ethics;

(r) do all such other matters and things as may be necessary for or incidental or conducive to the welfare of professional engineers and their usefulness to the public.

(2) A Code of Ethics adopted or an amendment to a Code of Ethics pursuant to clause (1)(q) must be appended to the bylaw and is a part of the bylaws. R.S., c. 148, s. 6; 2006, c. 29, s. 1; 2009, c. 13, s. 2; 2010, c. 15, s. 1.

MEMBERSHIP

Qualifications of member

7 (1) Any person is entitled to be registered as a member of the Association upon filing with the Registrar satisfactory proof that such person is a citizen of Canada or is lawfully admitted to Canada for permanent residence, has tendered the fees and dues prescribed by or under the bylaws, has completed the minimum number of professional development hours prescribed by or under the bylaws in the 12-month period before application for registration as a member, and

(a) has obtained a degree in engineering from a school, college or university, which degree is approved by the Council, and has had four years experience in engineering;

(b) has obtained a degree in science, other than engineering, from a school, college or university, which degree is approved by the Council, and has had four years experience in engineering;

(c) is a registered member of an association of engineers, which association, in the opinion of the Council, is similarly constituted and has similar membership requirements to this Association, and furnishes the Registrar with a certificate of membership in good standing in such other association;

(d) has passed the examinations prescribed by the Council and has had sufficient number of years of experience in engineering to qualify such person, in the opinion of the Council, to practise professional engineering; or

(e) has had, in the opinion of the Council, outstanding experience in engineering.

(2) Subject to subsection (3), every person who, in the opinion of the Council expressed by a resolution thereof, has complied with subsection (1), must be registered as a member.

(3) The Association may by bylaw authorize the Council to make resolutions respecting

- (a) the establishment of different classes of applicants for registration;
- (b) the conditions for the entry into membership of persons in those classes;
- (c) the right of persons in those classes to be exempted from the requirement that the application for membership of persons in those classes come before either the Board or the Council, or both, for consideration and resolution before being granted membership. R.S., c. 148, s. 7; 2006, c. 29, s. 2; 2008, c. 15, s. 1; 2009, c. 13, s. 3.

Resignation

8 A registrant may resign the registrant's registration by filing with the Registrar a resignation in writing and the registration is thereupon cancelled, subject to the continuing jurisdiction of the Council in respect of any disciplinary action arising out of the person's professional conduct while a registrant. 2009, c. 13, s. 4.

LICENCE TO PRACTISE

Qualifications of non-resident

9 (1) Any person not resident of the Province is entitled to a licence to practise upon tendering the fees and dues prescribed by or under the bylaws and filing with the Registrar satisfactory proof that such person is

- (a) a registered member in good standing of an association of engineers, which association, in the opinion of the Council, is similarly constituted and has similar membership requirements to the Association; or
- (b) qualified to practise professional engineering, but is a resident of a province, state or country in which there is no association similarly constituted.

(2) Every person who, in the opinion of the Council expressed by a resolution thereof, has complied with subsection (1) must be granted a licence to practise. R.S., c. 148, s. 8; 2006, c. 29, s. 3.

ENGINEERS-IN-TRAINING

Enrolment of engineers-in-training

10 (1) Any person who is a graduate or undergraduate in engineering or science of a school, college or university approved by the Council, or has passed examinations prescribed by the Council, may with the approval of the Council be enrolled with the Association as an engineer-in-training.

(2) An engineer-in-training is subject to the control of the Council in the manner provided by this Act and the bylaws. R.S., c. 148, s. 9.

PERSONS EXEMPTED

Act does not apply

11 This Act does not apply to any person

(a) while a member of and on duty with any branch of the Canadian Armed Forces;

(b) while awaiting decision of the Council on the person's application for membership or for a licence to practise after having filed the credentials provided for by Section 7 or 9;

(c) while applying engineering to a project on the person's own property for the sole use of the person's domestic establishment, or elsewhere to a project of a value not exceeding \$5,000, where in either case that engineering in the opinion of the Council does not involve safety of other persons;

(d) who is an operator of a mine pursuant to the *Mineral Resources Act* and is engaged in coal mining operations. R.S., c. 148, s. 10.

PARTNERSHIP AND COMPANIES

Non-individual

12 (1) A partnership, association of persons or body corporate shall not as such be registered as a member of the Association or licensed to practise.

(2) A partnership, association of persons or body corporate may undertake and carry out the application of engineering in its own name provided that one of its principal and customary functions is the application of engineering and such application of engineering is done under the supervision of a member or a full-time permanent employee thereof, who in either case is a member of the Association or is licensed to practise. R.S., c. 148, s. 11.

MEETINGS

Meetings

13 (1) The Association shall, in the manner provided by the bylaws, hold an annual meeting in each calendar year and such other meetings as are required.

(2) Members and engineers-in-training are entitled to vote at a meeting of the Association. R.S., c. 148, s. 12; 2006, c. 29, s. 4.

ADMINISTRATION

Council

14 (1) There is a Council of the Association consisting of the President, immediate Past-president, Vice-president and eight other members, who must be residents of the Province and who must be elected in the manner provided by the bylaws.

(2) The President holds office until a successor is elected and acts as presiding officer at the meetings of the Council and of the Association, voting only if the votes are evenly divided.

(3) The Vice-president has all the powers of the President in the absence of the latter.

(4) The Council shall appoint annually a Registrar, a Secretary and a Treasurer, who shall perform the duties assigned to them by this Act and by the bylaws and the Council may appoint one person to any one or more of the offices of Registrar, Secretary and Treasurer.

(5) The Council shall appoint annually such other officers as may be necessary for carrying out the provisions of this Act and the bylaws.

(6) The members of the Council, officers and examiners appointed under this Act and the bylaws shall be paid such fees and expenses as are prescribed by the bylaws.

(7) The Council shall provide for the general management of the affairs and business of the Association and shall carry on and transact the same in accordance with this Act and the bylaws. R.S., c. 148, s. 13; 2006, c. 29, s. 5.

EXAMINATIONS

Board of Examiners

15 The Council shall, in the manner provided by the bylaws, appoint annually a Board of Examiners consisting of members who are residing within the Province and may at any time fill any vacancies on the Board, replace any member thereof and add to its number. R.S., c. 148, s. 14.

Duties

16 The Board of Examiners shall, in the manner provided by the bylaws,

(a) examine and report on all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration as a member, a licence to practise or enrolment as an engineer-in-training;

(b) set and conduct the examinations of candidates for membership and enrolment as engineers-in-training and file the results thereof. R.S., c. 148, s. 15.

Central Examining Board

17 The Council may establish jointly with any council of any association similarly constituted in one or more of the provinces of Canada, a Central Examining Board, and may delegate to such Central Examining Board all or any of the powers possessed by the Association in respect of the examination of candidates for membership or enrolment as an engineer-in-training, provided that the examination is held within the Province. R.S., c. 148, s. 16.

DISCIPLINE OF MEMBERS

Complaints process

- 18** (1) A complaint against a registrant may be initiated by any person.
- (2) A complaint must be in writing and filed with the Secretary.
- (3) Upon the filing of the complaint, the Secretary or the Secretary's designate shall forthwith by written notice
- (a) advise the registrant complained against that the complaint has been made;
 - (b) enclose a copy of the complaint; and
 - (c) advise the registrant complained against that the registrant has the opportunity to provide the Secretary with a written response to the complaint within 14 days of the date that a copy of the complaint was sent to the registrant.
- (4) The Secretary or the Secretary's designate shall forward the response of the registrant complained against, if any, to the complainant.
- (5) The complainant may submit a written response to the response of the registrant complained against within 10 days of the response of the registrant being forwarded to the complainant by the Secretary.
- (6) The Secretary or the Secretary's designate shall forward the complainant's response, if any, to the registrant complained against.
- (7) The registrant complained against may respond in writing to the complainant's further response within 10 days of the complainant's further response being forwarded to the registrant by the Secretary.
- (8) The Secretary or the Secretary's designate shall forward to the complainant any further response received from the registrant complained against.
- (9) The Secretary or the Secretary's designate shall refer the complaint to the Complaints Committee, together with any written responses from the registrant complained against and the complainant upon the earliest of the following events occurring:
- (a) upon the registrant failing to respond to the written notice issued pursuant to clause (3)(c) within 14 days following the issuance of the notice;
 - (b) upon either the registrant or the complainant failing to respond to the response forwarded to either person within the response times set out in subsection (5) or (7); or
 - (c) upon receipt of the further response of the registrant pursuant to subsection (7). 2009, c. 13, s. 5; 2010, c. 15, s. 2.

Report of secretary

- 19** (1) Where, in the absence of a complaint, circumstances come to the notice of the Secretary that, in the Secretary's opinion, may constitute grounds

for discipline pursuant to this Act, the Secretary may prepare a report thereon in writing for submission to the Complaints Committee.

- (2) The Secretary shall
 - (a) forward a copy of the report forthwith after its preparation to the registrant who is the subject of the report; and
 - (b) advise the registrant who is the subject of the report that the registrant has the opportunity to provide the Secretary with a written response concerning the report within 14 days of its being forwarded by the Secretary.

- (3) After the expiration of 14 days, the Secretary or the Secretary's designate shall refer the report to the Complaints Committee together with any written response from the registrant who is the subject of the report.

- (4) The Complaints Committee shall deal with such a report as if it were a complaint, and the report must be treated for the purpose of this Act and the bylaws in the same manner as a complaint. 2009, c. 13, s. 5.

Improper use of complaint process

20 The complaint process must not be used for any extraneous or improper purpose, including use

- (a) for the purpose of harassing a registrant of the Association into providing relief that is beyond that which the member was retained to furnish or that may be more appropriately available through civil litigation or other processes;
- (b) by a party adverse in interest to a client or a registrant complained against, for the purpose of harassing such client or registrant;
- (c) as a form of discovery or for the gathering of information in another proceeding; or
- (d) for commercial gain. 2009, c. 13, s. 5.

Complaints Committee

21 (1) The Council shall appoint, from among the members of the Association, a Complaints Committee composed of not fewer than five members.

(2) Members of the Complaints Committee are appointed for terms up to and including three years, as the Council determines.

(3) In the case of a vacancy in the Complaints Committee, the Council may appoint another member of the Association to fill the vacancy for such term as the Council determines.

(4) A quorum of the Complaints Committee consists of three members.

(5) The Council shall appoint the Chair and Vice-chair of the Complaints Committee. 2009, c. 13, s. 5.

Investigation

22 (1) The Complaints Committee shall investigate complaints regarding disciplinary matters concerning a registrant and upon doing so may

- (a) obtain additional information, orally or in writing from the member, the complainant or any other person;
- (b) interview the registrant, the complainant or any other person;
- (c) obtain outside assistance to further the investigation;
- (d) employ such experts as the Committee considers necessary;
- (e) undertake such other steps as the Committee determines are required for a thorough investigation.

(2) The Complaints Committee is not required to hold a hearing or to afford any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this Section or Section 23.

(3) The Complaints Committee may require a registrant to

- (a) submit to physical or mental examinations by such qualified persons as the Committee designates;
- (b) submit to an inspection or audit of the registrant's work, products of service and practice by such qualified persons as the Committee designates;
- (c) undergo such examinations of engineering and allied skills, knowledge and professional practice as the Committee directs to assess the registrant's competency to practise engineering;
- (d) produce records and accounts kept with respect to the registrant's practice.

(4) Where a registrant fails to comply with subsection (3), the Complaints Committee may suspend or restrict the registration or licence to practise until the member, person licensed to practise or engineer-in-training complies.

(5) Where the Complaints Committee has required a registrant to submit to examinations or submit to inspection or audit of the registrant's practice by a qualified person designated by the Committee, the Committee shall provide the member with a copy of any report it receives from the designated qualified person.
2009, c. 13, s. 5.

Decision of Complaints Committee

23 (1) The Complaints Committee may

- (a) dismiss a complaint if it determines that the complaint is frivolous or vexatious or not advanced in good faith or advanced for an extraneous or improper purpose as identified in Section 20;
- (b) dismiss a complaint if it finds that there are not reasonable or probable grounds to believe that the registrant complained against has breached the Act or bylaws or is guilty of unprofessional

conduct, negligence or misconduct in the execution of the duties of the registrant's office;

(c) attempt to resolve the complaint if, in the opinion of the Committee, the complaint may be satisfactorily resolved and the resolution of the complaint would properly balance the protection of the public and the rights of the registrant complained against;

(d) refer a complaint to the Discipline Committee if it finds that there are reasonable and probable grounds to believe that the registrant complained against has breached the Act or bylaws or is guilty of unprofessional conduct, negligence or misconduct in execution of the duties of the registrant's office;

(e) refer a complaint to the Discipline Committee if it finds that a registrant has been convicted of a criminal offence by any court of competent jurisdiction.

(2) A referral pursuant to clause (1)(d) or (e) must include a written report containing a summary of the investigation and identification of the issues that the Discipline Committee may wish to determine.

(3) The Complaints Committee shall provide a copy of its report to the Discipline Committee to the registrant complained against.

(4) The Secretary shall advise, in writing, the registrant and the complainant of the disposition of a complaint by the Complaints Committee. 2009, c. 13, s. 5.

Appeal of Complaints Committee decision

24 (1) A complainant who is not satisfied with the disposition of the complaint by the Complaints Committee may apply to the Chair of the Discipline Committee for a review of the treatment of the complaint by the Complaints Committee by submitting a written appeal to the Secretary within 30 days of the decision to the Complaints Committee.

(2) An appeal must set out the reasons why the complainant considers the complaint to have received improper treatment.

(3) Upon receipt of a written appeal of the disposition of a complaint by the Complaints Committee, the Chair of the Discipline Committee shall appoint a member of the Discipline Committee to act as review officer for the purpose of considering the appeal.

(4) The member appointed as review officer must have had no prior knowledge of the complaint and cannot participate in the disciplinary hearing if the subject-matter of the complaint comes before the Discipline Committee.

(5) The review officer may request the disclosure of such information regarding the treatment of the complaint as the review officer considers necessary.

(6) Within 30 days of receiving a written application for review from a complainant, the review officer shall inquire into the treatment of the complaint and

- (a) dismiss the appeal if the review officer considers it to be frivolous or vexatious or not advanced in good faith;
- (b) dismiss the appeal if the review officer considers the complaint to have been properly treated by the Complaints Committee;
- (c) remit the complaint back to the Complaints Committee for further consideration if the review officer determines that the complaint was not fairly treated by the Committee; or
- (d) refer the matter to the Discipline Committee for hearing together with a statement of the issues identified by the review officer if the officer is satisfied that the complaint was not fairly treated by the Complaints Committee and should not be remitted to the Complaints Committee for further consideration. 2009, c. 13, s. 5.

Discipline Committee

25 (1) The Council shall appoint not fewer than 10 members of the Association to serve on the Discipline Committee.

(2) The Council may appoint not more than two persons who are not registrants to serve on the Discipline Committee.

(3) The Council shall appoint the Chair and Vice-chair of the Discipline Committee.

(4) Members of the Discipline Committee are appointed for terms of up to three years, as the Council determines.

(5) In the case of a vacancy on the Discipline Committee, the Council may appoint another member of the Association or a person who is not a registrant, as the case may be, to fill the vacancy for such term as the Council determines.

(6) The Vice-chair of the Discipline Committee may do any act assigned herein for the Chair of the Committee if the Chair is unable or unwilling to act.

(7) The Discipline Committee shall receive and process all complaints referred by the Complaints Committee and all appeals from decisions of the Complaints Committee and such other or additional duties as may be assigned it by the Council. 2009, c. 13, s. 5.

Disciplinary panel

26 (1) Upon referral of a complaint to the Discipline Committee, the Chair of the Committee shall appoint not more than five members of the Committee to serve as a disciplinary panel for the complaint and shall set a time and place for the holding of a hearing to deal with the complaint.

(2) The Secretary shall send notice of the time and place of the disciplinary hearing to the registrant complained against at least 30 days before the hearing, and the notice must advise the registrant that the registrant may appear in person or by or with counsel at the hearing.

(3) The notice must also set forth the nature of the allegations that must be considered by the disciplinary panel at the disciplinary hearing.

(4) The disciplinary panel shall appoint one of its members to serve as chair of the disciplinary panel.

(5) A majority of members of the disciplinary panel is a quorum. 2009, c. 13, s. 5.

Joint recommendation

27 (1) At any time prior to the commencement of the disciplinary hearing, the Secretary may, together with the registrant complained against, tender a written joint recommendation for the disposition of the complaint.

(2) The joint recommendation must be conditional upon its acceptance by the disciplinary panel. 2009, c. 13, s. 5.

Order incorporating joint recommendation

28 (1) Where a disciplinary panel accepts a joint recommendation for the disposition of a complaint, the panel shall confirm such acceptance by issuing an order that incorporates a joint statement of facts and the joint recommendation for the disposition of the complaint.

(2) The disciplinary panel's acceptance of a joint statement of facts and a joint recommendation for the disposition of the complaint is final and binding on the registrant complained against.

(3) A disciplinary hearing is not required if a disciplinary panel accepts a joint recommendation. 2009, c. 13, s. 5.

Rejection of joint recommendation

29 (1) Where a disciplinary panel rejects a joint recommendation for the disposition of a complaint, the chair of the disciplinary panel shall refer the complaint back to the Chair of the Discipline Committee, who shall appoint not more than five members of the Discipline Committee to serve as a disciplinary panel for the complaint and shall set a date and time for the commencement of a disciplinary hearing.

(2) The disciplinary hearing of a complaint must proceed without reference to the proposed joint statement of facts and joint recommendation for the disposition of the complaint.

(3) No member of the disciplinary panel that considered the joint statement of facts and joint recommendation for the disposition of the complaint may be a member of the new disciplinary panel. 2009, c. 13, s. 5.

No loss of jurisdiction

30 Notwithstanding that a member of the Complaints Committee or a disciplinary panel has ceased to hold office by reason of lapse of appointment, the member remains seized with the jurisdiction to complete any matter the Committee or panel has commenced and, for this purpose, the member continues to have the

same powers, privileges and duties as are provided by this Act or the bylaws. 2009, c. 13, s. 5.

Disciplinary hearing

31 (1) A disciplinary panel shall hold a disciplinary hearing at the time and date specified or at any adjournment or continuation thereof.

(2) A disciplinary hearing must be held in camera unless the registrant complained against requests a public hearing, and the disciplinary panel, in its discretion, is satisfied that a public hearing is in the interest of the public. 2009, c. 13, s. 5.

Parties

32 The parties to the disciplinary hearing are the Association and the registrant complained against. 2009, c. 13, s. 5.

Disciplinary panel procedure and powers

33 (1) A disciplinary panel shall hear each case in the manner it considers fit.

(2) Where the registrant complained against fails to appear at a disciplinary hearing, the disciplinary panel may proceed with the hearing in the absence of such person upon receiving proof in the form of a statutory declaration from the Secretary that due notice of the disciplinary hearing was given or mailed to the registrant complained against.

(3) The chair of the disciplinary panel has the right to administer oaths.

(4) The disciplinary panel may require a registrant to

(a) submit to physical or mental examinations by such qualified persons as the Disciplinary Committee designates;

(b) submit to an inspection or audit of the registrant's work, products of service and practice by such qualified persons as the Disciplinary Committee designates;

(c) undergo such examinations of engineering and allied skills, knowledge and professional practice as the disciplinary panel directs to assess the registrant's competency to practise engineering;

(d) produce records and accounts kept with respect to the registrant's practice.

(5) Where a registrant fails to comply with subsection (4), the disciplinary panel may suspend or restrict the registrant's registration or licence to practise until the registrant complies.

(6) Where a disciplinary panel has required a registrant to submit to examinations or submit to inspection or audit of the registrant's practice by a qualified person designated by the disciplinary panel, the disciplinary panel shall provide the registrant with a copy of any report it receives from the designated qualified person. 2009, c. 13, s. 5.

Conduct of hearing

34 (1) A disciplinary panel has the same powers of taking evidence, compelling the attendance of witnesses, compelling the production of books, paper and documents, and of punishing for contempt or the failure to comply with the orders of the disciplinary panel, as a commissioner appointed under the *Public Inquiries Act*.

(2) All oral evidence adduced at a disciplinary hearing must be given under oath and recorded.

(3) A certified copy of the transcript of a disciplinary hearing must be made available to the registrant complained against at the registrant's request and expense. 2009, c. 13, s. 5.

Registrant rights

35 Throughout a disciplinary hearing, the registrant complained against is entitled to all the rights of natural justice, including the right to be represented by legal counsel, to know all the evidence considered by the disciplinary panel, to present evidence and to cross-examine witnesses. 2009, c. 13, s. 5.

Immediate suspension or restriction of registrant registration

36 (1) Notwithstanding any other provision of this Act, in urgent and compelling circumstances the Chair of the Discipline Committee, upon the advice of the Complaints Committee, may, without a hearing, in the interest of the public, immediately suspend the licence of a registrant or immediately impose restrictions on a temporary basis on the registration of a registrant.

(2) Where the registration of a registrant has been suspended or subjected to restrictions pursuant to subsection (1), the Secretary or the Secretary's designate shall, forthwith, cause written notice of the suspension or restriction to be transmitted to the registrant.

(3) The registrant whose registration has been suspended or subjected to restrictions pursuant to subsection (1) may request a meeting with the Complaints Committee within 10 days of the notice issued by the Secretary pursuant to subsection (2) by submitting a request in writing to the Secretary.

(4) The Secretary or the Secretary's designate shall cause the request to be transmitted to the Complaints Committee as soon as practical.

(5) The Complaints Committee shall, upon receipt of the request from the registrant, provide an opportunity for a meeting within 10 days of the receipt of the written request and the Committee shall, within seven days after the meeting, confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1) in writing and transmit its decision as quickly as practicable to the Secretary.

(6) The Secretary or the Secretary's designate shall cause the registrant to be advised of the Complaint Committee's decision. 2009, c. 13, s. 5.

Referral to Chair of Discipline Committee

37 (1) Where the Complaints Committee confirms or varies the suspension or restriction under subsection 36(1), the matter must be referred to the Chair of the Discipline Committee who shall appoint a disciplinary panel.

(2) The discipline panel appointed under subsection (1) shall commence a hearing to inquire into the suspension or restriction and the conduct of the registrant giving rise to the suspension or restriction within 30 days, unless the registrant requests a hearing date that is more than 30 days after the referral of the matter to the Chair of the Discipline Committee.

(3) Where a decision is made pursuant to subsection 36(1) and the registrant does not request a meeting with the Complaints Committee within 10 days of receiving notice of the decision made pursuant to subsection 36(1), the matter must be referred to the Chair of the Discipline Committee who shall appoint a disciplinary panel.

(4) The discipline panel appointed under subsection (3) shall hold a hearing within 40 days of the date of the decision made pursuant to subsection 36(1) unless the registrant requests a hearing date that is more than 40 days after the decision made pursuant to subsection 36(1).

(5) For the purpose of calculating time in subsection 36(3), a registrant is presumed to have received notice of the decision made pursuant to subsection 36(1) two business days after the date the notice of the decision is sent to the registrant by the Secretary or the Secretary's designate by registered mail.

(6) A disciplinary panel may, upon the commencement of a hearing, vary or terminate a suspension or restrictions imposed by the Complaints Committee. 2009, c. 13, s. 5.

Disciplinary panel order

38 (1) Upon completion of a disciplinary hearing, the disciplinary panel may, where it finds that the registrant is not guilty, dismiss the complaint.

(2) Where a disciplinary panel finds any registrant guilty of

(a) unprofessional conduct, negligence or misconduct in the execution of the duties of registrant's office; or

(b) any breach of this Act or of the bylaws,

or finds that a registrant has been convicted of a criminal offence by any court of competent jurisdiction, the disciplinary panel may, by order

(c) cancel or suspend the certificate of registration, licence to practise or enrolment of any engineer-in-training;

(d) impose terms, restrictions, conditions or limitations on the certificate of registration;

(e) reprimand and censure the registrant and, where warranted, direct that the fact of the reprimand or censure be recorded in the register for a prescribed or indefinite period of time;

(f) in respect of orders of revocation or suspension, direct that the finding and the order of the disciplinary panel be published in detail or in summary and either with or without including the name of the registrant in the official publication of the Association and in such other manner or medium as the disciplinary panel considers appropriate in the particular case;

(g) impose such fine as the disciplinary panel considers appropriate to a maximum of \$5,000 to be paid by the registrant to the Minister of Finance and Treasury Board for payment into the General Revenue Fund;

(h) require that a registrant undergo such treatment, testing or assessment as is considered appropriate;

(i) impose such other disposition as it considers appropriate.

(3) A decision of a disciplinary panel has effect immediately upon service on the registrant or from such time as the panel may direct.

(4) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Discipline Committee or a disciplinary panel, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the complaint process, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Discipline Committee or a disciplinary panel.

(5) Subsection (4) does not apply to documents or records that have been made available to the public by the Association.

(6) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or a disciplinary panel is not admissible in a civil proceeding other than an appeal or a review pursuant to this Act. 2009, c. 13, s. 5.

Payment of costs

39 (1) In this Section, “costs of the Association” include

(a) expenses incurred during the investigation into a complaint and in preparing for and conducting a hearing; and

(b) solicitor and client costs and disbursements incurred during a Complaints Committee investigation, in preparation for and during a disciplinary hearing by the disciplinary panel.

(2) Where a disciplinary panel has made a finding of guilt or finds that a conviction of a criminal offence has occurred, the disciplinary panel, in addition to those remedies identified in subsection 38(2), may

(a) require that a registrant pay to the Association all or a portion of the costs of the Association; and

(b) make it a condition of the registration of a registrant that such costs be paid forthwith, or at such time and on such terms as the disciplinary panel may fix.

(3) The Secretary shall provide the registrant and the complainant and such other persons as the disciplinary panel considers appropriate with a copy of the decision of the disciplinary panel. 2009, c. 13, s. 5.

Publication of disciplinary panel decision

40 Where no appeal has been taken pursuant to subsection 41(1) within the time prescribed for the filing of notices of appeal,

(a) the disciplinary panel's decision must be reported either on a named or unnamed basis, to members of the Association by publication in such form and in such manner as the Council considers appropriate;

(b) the disciplinary panel may, in its discretion, order that a notice of suspension or revocation of licence be printed in whatever newspaper and on as many occasions as the disciplinary panel directs;

(c) in the event that an appeal from an order of the disciplinary panel is taken pursuant to subsection 41(1), no such notice may be given unless and until the order of the disciplinary panel is upheld on appeal and the periods for the taking of any further appeals have expired. 2009, c. 13, s. 5.

Appeal to Supreme Court

41 (1) A registrant subject to an order issued by the disciplinary panel under subsection 38(2) may, within 30 days of the issuance of the order, appeal from such order to the Supreme Court of Nova Scotia on any point of law.

(2) A registrant who intends to commence an appeal pursuant to subsection (1) shall give 10 days prior notice of the registrant's intention to appeal to the Secretary.

(3) A registrant who commences an appeal pursuant to subsection (1) shall forthwith serve the notice of appeal on the Secretary or the Secretary's designate.

(4) Upon receipt of a notice of appeal filed pursuant to subsection (1), the Secretary or the Secretary's designate shall prepare and file with the Supreme Court of Nova Scotia a record of the disciplinary hearing, which must include a copy of the transcript of the hearing, the decision of the disciplinary panel and the evidence before the disciplinary panel certified by the chair of the disciplinary panel.

(5) Where a matter is appealed to the Supreme Court of Nova Scotia pursuant to subsection (1), the Court may, pending its determination of the appeal, grant a stay of any order or any part of an order made by the disciplinary panel pursuant to subsection 38(2), where, in its discretion, it considers fit. 2009, c. 13, s. 5.

No action lies

42 No action for damages lies against the Council, the Secretary, any committee member, officer or employee of the Council

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obliga-

tion as an officer, employee or committee member under this Act and the regulations; or

(b) for any decision, order or resolution made or enforced in good faith under this Act and the regulations. 2009, c. 13, s. 5.

REGISTRATION

Register, certificates and licences

43 (1) The Registrar shall keep a register provided by the Council and enroll therein in the manner provided by the bylaws the names of all persons who are members, licensed to practise or engineers-in-training and the register must be open for public inspection at all times without charge.

(2) The Registrar upon resolution of the Council and receipt of the fee prescribed by or under the bylaws shall issue a certificate of registration or licence to practise to a person accepted for membership or licensed to practise and the form of the certificate or licence must be prescribed in the bylaws.

(3) All certificates of registration and licences to practise expire on December 31st in the year in which they are issued, but are renewable for one year upon the payment of the dues prescribed by or under the bylaws.

(4) Where the Council refuses to pass a resolution authorizing any person to be registered as a member or licensed to practise, or where the Registrar refuses to register or issue a certificate of registration or licence to practise to such a person, the person aggrieved, upon serving 10 days notice on the Secretary, has the right to apply to a judge of the Supreme Court of Nova Scotia, who, upon due cause shown, may grant an order directing the Council and the Registrar to register the name of the person as a member of the Association or to issue to the person a licence to practise, or make such other order as may be warranted by the facts, and the Council shall forthwith comply with the order. R.S., c. 148, s. 18; 2006, c. 29, s. 6.

ANNUAL DUES

Annual dues

44 (1) Every person who is a member, licensed to practise or an engineer-in-training shall pay on January 1st in each year to the Treasurer or any person deputed by the Council to receive it, the annual dues prescribed by or under the bylaws, which dues are deemed to be a debt due by such person and recoverable with costs in the name of the Association in any court of competent jurisdiction.

(2) Where any member, person licensed to practise or engineer-in-training omits to pay the annual dues prescribed by or under the bylaws before March 31st of the year for which they are due, the Registrar, after issuing 10 days notice by registered letter addressed to the last known address of such person on the register, shall cause the name of such person to be erased from the register and the person shall thereupon cease to be a member, licensed to practise or an engineer-in-training, but such person is at any time thereafter, upon paying such dues and any arrears thereof, entitled to have a certificate of registration or licence to practise reissued to the person or to be re-enrolled as an engineer-in-training. R.S., c. 148, s. 19; 2006, c. 29, s. 7.

CONTINUING PROFESSIONAL DEVELOPMENT

Compliance certificate

45 (1) Every member shall, unless exempted by a resolution of the Council, provide to the Registrar by January 1st in each year, certification in a form prescribed by the Council, that the member is in compliance with the Association's Continuing Professional Development Guidelines as prescribed or under the bylaws.

(2) Where any member fails to provide certification of compliance as required by subsection (1) by March 31st in any year, the Registrar shall, after issuing 10 days notice by registered letter addressed to the last known address of the member on the register, cause the name of the member to be erased from the register and the member thereupon ceases to be a member but such person is, at any time thereafter upon providing confirmation of compliance with the continuing professional development requirements in the bylaws, entitled to be reinstated on the register. 2009, c. 13, s. 6.

PENALTIES

Illegal practice by non-member

46 Any person not a member or licensed to practise, or whose certificate of registration or licence to practise has been suspended or cancelled under this Act, who

- (a) practises professional engineering;
- (b) uses verbally or otherwise the title of professional engineer or any abbreviation of such title, or any name, title, description or designation that may lead any person to believe that such person is a professional engineer, a member of the Association, licensed to practise, or entitled to practise professional engineering; or
- (c) advertises, holds out or acts in any way implying or leading any person to believe that such person is a professional engineer, a member of the Association, licensed to practise, or entitled to practise professional engineering,

is liable upon summary conviction to a fine of not less than \$100 nor more than \$200 and costs, and on failure to pay the same, to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than \$200 nor more than \$500 and costs, and on failure to pay the same, to imprisonment for not more than six months. R.S., c. 148, s. 20.

Illegal practice by non-individual

47 Any partnership, association of persons or body corporate, not having as a partner or full-time permanent employee a person who is a member or licensed to practise, that

- (a) undertakes or carries out the application of engineering;
- (b) uses verbally or otherwise any name, title, description or designation that may lead any person to believe that the partnership, association of persons or body corporate is qualified or entitled to undertake or carry out the application of engineering; or

- (c) advertises, holds out or acts in any way implying or intending to lead any person to believe that the partnership, association of persons or body corporate is qualified or entitled to undertake or carry out the application of engineering,

is guilty of an offence and the partnership or any partner thereof, the association of persons or any member thereof, or the body corporate or any director thereof, is liable upon summary conviction to a fine of not less than \$100 nor more than \$500 and costs and on failure to pay the same to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than \$200 and not more than \$1,000 and on failure to pay the same, to imprisonment for not more than six months. R.S., c. 148, s. 21.

Penalty for permitting illegal practice

48 Any person who, or any partnership, association of persons or body corporate that, directs or permits any member or employee who is not a member or licensed to practise to apply engineering is guilty of an offence and such person, partnership or any partner thereof, association of persons or any member thereof, or body corporate or any director thereof, is liable upon summary conviction to a fine of not less than \$100 and not more than \$500 and costs and on failing to pay the same to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than \$200 and not more than \$1,000 and costs and on failure to pay the same, to imprisonment for not more than six months. R.S., c. 148, s. 22.

Falsifying register

49 A Registrar who makes or causes to be made any wilful falsification in any way relating to the register, is liable upon summary conviction to a fine of not less than \$100 nor more than \$200 and costs and on failure to pay the same to imprisonment for not more than three months. R.S., c. 148, s. 23.

False representation

50 Any person who wilfully

- (a) registers or attempts to register as a member;
- (b) obtains a licence to practise or attempts to obtain a licence to practise;
- (c) enrolls or attempts to enroll as an engineer-in-training; or
- (d) has or attempts to have another person registered as a member, licensed to practise or enrolled as an engineer-in-training,

by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, or any person knowingly aiding or assisting the person therein, is liable upon summary conviction to a fine of not less than \$100 nor more than \$200 and costs and on failure to pay the same to imprisonment for not more than three months. R.S., c. 148, s. 24.

Laying of information

51 Any information for the prosecution of any person under this Act may be laid by any member or any person appointed by the Council. R.S., c. 148, s. 25.

Certificate as prima facie evidence

52 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 a licence to practise, or of the non-issuance thereof. R.S., c. 148, s. 26.

Prosecution

53 (1) In any prosecution under this Act, it is sufficient proof of the offence alleged if it is proved that the person accused has done or committed a single act of the kind complained of.

(2) Any information or complaint for contravening this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding for prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S., c. 148, s. 27.

Payment of fine

54 All fines imposed under this Act and recovered on summary conviction must be paid over by the convicting judge to the Association. R.S., c. 148, s. 28.

Limitation period

55 No proceeding may be commenced for any violation of this Act after one year from the date of the committing of the violation. R.S., c. 148, s. 29.

ACTIONS AGAINST MEMBERS**Action against member or Council**

56 No action may be brought against the Council or any committee, officer, member or complainant for anything bona fide done under this Act and the bylaws. R.S., c. 148, s. 30.

SEALS**Seals of Association and members**

57 (1) The Association shall have a corporate seal.

(2) Every person registered as a member under this Act shall have a seal, the impression of which must bear the name of the member and the words "Professional Engineer, Province of Nova Scotia", with which the person shall stamp all official documents and plans prepared by the person. R.S., c. 148, s. 31.

BYLAWS**Procedure to pass, amend or repeal bylaw**

58 (1) A proposed new bylaw or the amendment or repeal of an existing bylaw must be presented in writing to the Council signed by at least 10 members or approved by resolution of the Association or Council.

(2) The proposed bylaw, amendment or repeal must then be sent by the Secretary without delay in the form of a letter ballot to every member of the Association, and the ballot is returnable at a date to be fixed by the Council.

(3) Immediately after such date, scrutineers appointed by the Council shall count the ballots and report the result to the Council.

(4) Notwithstanding subsections (2) and (3), voting under this Section may be conducted by electronic or other alternative means or combination of means as may be authorized by resolution of the Council, in which case all other requirements of this Section apply with necessary adaptations.

(5) Where at least two thirds of the valid ballots affirmatively approve of the proposed bylaw, amendment or repeal, the Secretary shall submit the proposed bylaw, amendment or repeal to the Governor in Council for approval. R.S., c. 148, s. 32; 2006, c. 29, s. 8.

CHAPTER E-24

An Act Respecting the Environmental Laws of Nova Scotia and to Encourage and Promote the Protection, Enhancement and Prudent Use of the Environment

Table of Contents

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

	Section
Short title.....	1
PART I	
Introduction	
Purpose of Act.....	2
Interpretation.....	3
Incorporation by reference in regulation.....	4
Act binds Provincial and federal Crown.....	5
Approvals authorized under other Acts.....	6
Conflict.....	7
PART II	
Administration	
Appointment of personnel.....	8
Minister responsible for Act.....	9
Regulations.....	10
Advisory persons and committees, experts and Round Table.....	11
Environmental registry and access to information.....	12
Alternative dispute resolution	13
Economic instruments.....	14
Reporting on state of the environment.....	15
Delegation and consultation.....	16
Transfer of administration and control.....	17
Agreements	18
Purchase and disposition of real property	19
Appointment of administrator and inspectors	20
Identification card	21
Certification of laboratory and sampling	22
Service of documents	23
Regulations.....	24
Public review of regulations	25
PART III	
Environmental Education and Research	
Education and research	26
Nova Scotia Environmental Trust.....	27
Nova Scotia Youth Conservation Corps.....	28
Regulations.....	29

PART IV

Environmental-assessment Process

Application of Part.....	30
No work without approval	31
Registration of undertaking	32
Examination of information.....	33
Focus report	34
Terms of reference	35
Examination of report.....	36
Duties and powers of Minister.....	37
Hearing and recommendation by review panel	38
Powers of Minister.....	39
Requirements after approval.....	40
Amendment of approval	41
Transfer of approval.....	42
Review panels.....	43
Duties of review panel	44
Public consultation.....	45
Municipal approvals	46
Other enactments	47
Joint assessments	48
Single hearing process	49
Regulations	50

PART V

Approvals, Notifications, Standards and Certificates

Approvals

Prohibitions.....	51
Exception	52
Decision not to approve proposed activity	53
Application for approval.....	54
Decision re application	55
Change of activity.....	56
Approval	57
Temporary approval	58
Amendment of approval	59
Cancellation or suspension of approval	60
Transfer or amendment of approval.....	61
New information	62
Application for certificate of variance	63

Notifications

Provision of notification	64
Notifications	65

Standards

Standards.....	66

Certificate of Qualification

Certificate of qualification.....	67
Application for certificate.....	68
Issuance of certificate	69
Amendment and cancellation of certificate	70
Security	71
Regulations	72

PART VI

Release of Substances

Prohibitions	73
Prohibitions	74
Duty to report release	75
Voluntary submission of information	76
Duty to take remedial measures	77
Emergency measures	78
Powers of Minister	79
Regulations	80

PART VII

Dangerous Goods and Pesticides

Storing and handling	81
Prohibition	82
Research	83

Dangerous Goods and Waste Dangerous Goods

Powers of Minister	84

Pesticides

Prohibitions	85
Pesticide research	86
Powers and duties of Minister	87

Petroleum Products

"motive fuel" defined	88
Prohibitions	89
Regulations	90

PART VIII

Contaminated Sites

Application of Part	91
Orphan contaminated sites	92
Designation of contaminated site	93
Notice of designation	94
Remedial action plans and agreements	95
Powers of Minister	96
Regulations	97

PART IX

Waste-resource Management

Solid-waste-resource strategy	98
Waste-diversion goals	99
Waste-resource management studies	100
Agreements	101
Recyclable materials	102
Composting	103
Resource Recovery Fund	104
Litter prevention	105
Designated materials	106
Packaging and labelling	107
Regulations	108

PART X

Water-resource Management

Vesting of watercourses	109
Lead agency	110
Minister has supervision of water resources	111
Designation of protected water area	112
No grant of fishing rights	113
No rights by prescription	114
Regulations	115

PART XI

Air-quality Management

Duties and powers of Minister	116
Regulations	117

PART XII

Greenhouse Gas Mitigation and Cap-and-trade Program

Interpretation of Part	118
Cap-and-trade program	119
Submission by emitter	120
Emission allowances and credits	121
Limits on emission allowances	122
Money from sale remitted to Green Fund	123
Disposal and acquisition of allowance or credit	124
Suspension or cancellation of allowance or credit	125
Where person ceases to be emitter	126
Agreements	127
Registry	128
Report by participant	129
Report by emitter	130
Green Fund	131
Report by Minister	132
Regulations	133

PART XIII

Output-based Pricing System

Interpretation	134
Greenhouse gas emissions output-based pricing system	135
Minister's powers	136
Opted-in facilities	137
Regulated facilities	138
Compliance obligations on regulated facilities	139
Greenhouse gas emissions report	140
Further prescribed information	141
Prescribed method for calculating greenhouse gas emissions	142
Registry for compliance options	143
Minister may enter into agreements	144
Nova Scotia Climate Change Fund	145
Provincial greenhouse gas emission reduction targets	146
Minister to table report	147
Annual progress report	148
Minister may require other information from regulated facility owners	149
Regulations establishing standards	150
Standard to be published and copies made available	151
Regulations	152

PART XIV

Inspections and Investigations

Inspector deemed peace officer	153
Programs to promote reporting.....	154
Application for investigation.....	155
Investigation	156
Inspections must be permitted	157
Assistance to inspectors.....	158
Right of entry and inspection	159
Private dwelling place	160
Order to enter and inspect	161
Seizure	162
Directives.....	163
Use of assistants	164
Employee protection.....	165

PART XV

Orders

Ministerial control order.....	166
Ministerial stop order	167
Litter-control order	168
Emergency order	169
Factors to be considered before making order	170
Order pursuant to this Part.....	171
Amendment or revocation of order	172
Compliance with order	173
Joint and several liability.....	174
Payment by insurer.....	175
Orders not regulations under Regulations Act	176
Regulations.....	177

PART XVI

Appeals

Appeal to Minister.....	178
Appeal to Supreme Court	179
Technical irregularity	180
Regulations.....	181

PART XVII

Civil Remedies

Other civil remedies unaffected.....	182
Civil cause of action	183
Protection from liability	184
Recovery of costs by Government	185
Recovery of administrative penalty.....	186

PART XVIII

Transboundary Pollution

Interpretation of Part	187
Access to Nova Scotia courts	188
Pollution originating in Nova Scotia.....	189
Applicable law.....	190
Rights not superior	191
Preservation of existing rights	192
Act binds Crown.....	193
Reciprocating jurisdiction	194
Uniformity of law	195

Agreements	196
Regulations	197

PART XIX

Environmental Industries, Innovations and Technologies

Lead agency	198

PART XX

Penalties and Prosecutions

Limitation period	199
Offences	200
Penalty	201
Section 105 offence	202
Due diligence defence	203
Additional fine	204
Continuing offence	205
Offences by employees	206
Liability of officers, directors and agents	207
Responsibility of lenders, trustees and secured creditors	208
Court orders relating to penalty	209
Variation of court order	210
Compensation for loss or damage to property	211
Recovery of costs for emergency measures	212
Court order regarding hindrance or obstruction	213
Administrative penalty for contravention of Part XII	214
Administrative penalty for contravention of Part XIII	215
Regulations	216

PART XXI

Documentary Evidence

Documentary evidence	217
Appointment and certificate of analyst	218

PART XXII

Miscellaneous

Review of Act	219
Permits, approvals, orders etc. issued under former Act	220

Short title

- 1** This Act may be cited as the *Environment Act*. 1994-95, c. 1, s. 1.

PART I

INTRODUCTION

Purpose of Act

- 2** The purpose of this Act is to support and promote the protection, enhancement and prudent use of the environment while recognizing the following goals:

- (a) maintaining environmental protection as essential to the integrity of ecosystems, human health and the socio-economic well-being of society;
- (b) maintaining the principles of sustainable development, including
 - (i) the principle of ecological value, ensuring the maintenance and restoration of essential ecological processes and the preservation and prevention of loss of biological diversity,
 - (ii) the precautionary principle, which will be used in decision-making so that where there are threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation,
 - (iii) the principle of pollution prevention and waste reduction as the foundation for long-term environmental protection, including
 - (A) the conservation and efficient use of resources,
 - (B) the promotion of the development and use of sustainable, scientific and technological innovations and management systems, and
 - (C) the importance of reducing, reusing, recycling and recovering the products of our society,
 - (iv) the principle of shared responsibility of all Nova Scotians to sustain the environment and the economy, both locally and globally, through individual and government actions,
 - (v) the stewardship principle, which recognizes the responsibility of a producer for a product from the point of manufacturing to the point of final disposal,
 - (vi) the linkage between economic and environmental issues, recognizing that long-term economic prosperity depends upon sound environmental management and that effective environmental protection depends on a strong economy, and
 - (vii) the comprehensive integration of sustainable development principles in public policy making in the Province;
- (c) the polluter-pay principle confirming the responsibility of anyone who creates an adverse effect on the environment that is not *de minimis* to take remedial action and pay for the costs of that action;
- (d) taking remedial action and providing for rehabilitation to restore an adversely affected area to a beneficial use;
- (e) Government having a catalyst role in the areas of environmental education, environmental management, environmental emergencies, environmental research and the development of policies, standards, objectives and guidelines and other measures to protect the environment;
- (f) encouraging the development and use of environmental technologies, innovations and industries;

(g) the Province being responsible for working co-operatively and building partnerships with other provinces, the Government of Canada, other governments and other persons respecting transboundary matters and the coordination of legislative and regulatory initiatives;

(h) providing access to information and facilitating effective public participation in the formulation of decisions affecting the environment, including opportunities to participate in the review of legislation, regulations and policies and the provision of access to information affecting the environment;

(i) providing an effective, efficient, fair, responsive and timely and administrative and regulatory system;

(j) promoting this Act primarily through non-regulatory means, such as co-operation, communication, education, incentives and partnerships. 1994-95, c. 1, s. 2; 2006, c. 30, s. 1; 2011, c. 61, s. 1.

Interpretation

3 In this Act,

“Act” includes, unless the context otherwise requires, the regulations made pursuant to this Act;

“activity” means an activity or part of an activity prescribed by the regulations;

“administrator” means a person appointed as an administrator by the Minister for the purpose of this Act, and includes an acting administrator;

“adverse effect” means an effect that impairs or damages the environment or changes the environment in a manner that negatively affects aspects of human health;

“air” means open air not enclosed in a building, structure, machine, chimney, stack, flue, tank or pipe;

“analyst” means a person appointed as an analyst by the Minister pursuant to this Act;

“approval” means an approval issued pursuant to this Act with respect to an activity;

“certificate of qualification” means

(a) a certificate of qualification issued pursuant to this Act; or

(b) a certificate or other proof of qualification that is prescribed by the regulations as a certificate of qualification for the purpose of this Act;

“certificate of variance” means a certificate of variance issued pursuant to this Act;

“class environmental assessment” means a planning process used for types of undertakings that occur frequently and have a generally predictable range of environmental effects;

“contaminant” means, unless otherwise defined in the regulations, a substance that causes or may cause an adverse effect;

“contaminated site” means

(a) unless otherwise defined in the regulations, a site with concentrations of a contaminant or contaminants that exceed standards prescribed or adopted by the Minister that has caused, is causing or may cause an adverse effect; or

(b) a site designated as a contaminated site by the Minister pursuant to Section 93;

“Corps” means the Nova Scotia Youth Conservation Corps;

“dangerous goods” means a substance designated as such in the regulations or conforming with criteria set out in the regulations;

“Department” means the Department of Environment and Climate Change;

“designated material” includes a material prescribed as such by the regulations or conforming with criteria set out in the regulations;

“designated organization” means an organization designated by the regulations for the purpose of issuing certificates of qualification;

“directive” means a directive or instruction issued by an inspector pursuant to this Act or the regulations;

“document” includes a book, sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account, electronic device or any other device that stores or contains information;

“environment” means the components of the earth and includes

(a) air, land and water;

(b) the layers of the atmosphere;

(c) organic and inorganic matter and living organisms;

(d) the interacting natural systems that include components referred to in clauses (a) to (c); and

(e) for the purpose of Part IV, the socio-economic, environmental health, cultural and other items referred to in the definition of environmental effect;

“environmental assessment” means a process by which the environmental effects of an undertaking are predicted and evaluated and a subsequent decision is made on the acceptability of the undertaking;

“environmental-assessment report” means a report that presents the results of an environmental assessment;

“environmental audit” means a process of independently obtaining and evaluating evidence about an environmental matter to determine the relationship between the environmental matter and the established standards and criteria;

“environmental effect” means, in respect of an undertaking,

(a) any change, whether negative or positive, that the undertaking may cause in the environment, including any effect on socio-economic conditions, on environmental health, physical and cultural heritage or on any structure, site or thing, including those of

historical, archaeological, paleontological or architectural significance; and

(b) any change to the undertaking that may be caused by the environment,

whether the change occurs inside or outside the Province;

“environmental-site assessment” means the process by which an assessor seeks to determine whether a particular property is or may be subject to contamination;

“focus report” means a report that presents the results of an environmental assessment of a limited range of adverse effects that may be caused by the undertaking;

“Fund” means the Resource Recovery Fund;

“Government” means the Crown in right of the Province;

“Government agency” means

(a) a person who is an agent of the Government; or

(b) an agency, commission, board or other body, some or all of whose members are appointed by an Act of the Legislature, the Governor in Council or a member of the Executive Council, or any combination thereof;

“groundwater” means all water naturally occurring under the surface of the Province;

“handle” includes use, store, distribute, treat, manufacture, transport, generate, process, package, reprocess, recycle, sell, offer for sale, dispose of and import into the Province;

“inspector” means any person who is appointed as an inspector by the Minister, and includes any municipal or town police officer and any member of the Royal Canadian Mounted Police;

“land” means surface land, land covered by water, subsoil, matter beneath the subsoil or any combination or part thereof;

“litter” means any material left or abandoned in a place other than a receptacle or place intended or approved for receiving such material;

“loss or damage” includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income;

“Minister” means the Minister of Environment and Climate Change;

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

“notification” means a notice to the Minister that an activity designated by the regulations as requiring a notification is about to be commenced or is to continue beyond the period of time prescribed by the regulations;

“peace officer” means a peace officer within the meaning of the *Criminal Code* (Canada);

“person” includes an individual and a partnership and, for greater certainty, a corporation, municipality and any other entity, and, without restricting the generality of the foregoing, the Government, a Government agency,

and the Crown in right of Canada and a person acting on behalf of the Crown;

“person responsible” means

- (a) the owner of the substance or thing;
- (b) the owner or occupier of land on which an adverse effect has occurred or may occur;
- (c) a previous owner of the substance or thing;
- (d) a person who has or has had care, management or control of the substance or thing, including care, management and control during the generation, manufacture, treatment, sale, handling, distribution, use, storage, disposal, transportation, display or method of application;
- (e) a successor, assignee, executor, administrator, receiver, receiver manager or trustee of a person referred to in clauses (a) to (d); or
- (f) a person who acts as the principal or agent of a person referred to in clauses (a) to (e);

“person responsible for the contaminated site” means

- (a) a person responsible for a substance that is over, in, on or under the contaminated site;
- (b) any other person whom the Minister considers to be responsible for causing or contributing to the release of a substance into the environment;
- (c) the owner or occupier of, or an operator on, the contaminated site;
- (d) any previous owner, occupier or operator of the contaminated site who was the owner, occupier or operator at any time when the substance was released over, in, on or under the contaminated site;
- (e) a successor, assignee, executor, administrator, receiver, receiver manager or trustee of a person referred to in clauses (a) to (d); or
- (f) a person who acts as the principal or agent of a person referred to in clauses (a) to (e);

“pesticide” or “pest control product” means

- (a) any substance that is intended, sold or represented for use in preventing, destroying, repelling or mitigating, directly or indirectly, any pest;
- (b) any substance that is a pest control product within the meaning of the *Pest Control Products Act* (Canada) or is intended for use as a pest control product;
- (c) any substance that is a plant growth regulator, a defoliant or a plant desiccant;

(d) a fertilizer within the meaning of the *Fertilizers Act* (Canada) that contains a substance referred to in clause (a), (b) or (c); or

(e) any other substance designated as a pesticide by the regulations,

but does not include a substance that is intended, sold or represented for use in potable water to prevent or destroy bacteria, parasites or viruses if the substance is not a pest control product within the meaning of the *Pest Control Products Act* (Canada);

“place” includes any land, building, structure, machine, aircraft, vehicle or vessel;

“proponent” means a person who

(a) carries out or proposes to carry out an undertaking or activity; or

(b) is the owner or person having care, management or control of an undertaking or activity;

“registered owner” with respect to real property, means an owner of real property whose interest is defined and whose name is specified in an instrument recorded in a registry of deeds or land registration office, and includes a person shown as tenant of real property on the last revised assessment roll;

“rehabilitation” includes

(a) the removal of equipment or a building or other structure or appurtenance;

(b) the conducting of an investigation to determine the presence of a substance;

(c) the removal of a contaminant from land or water;

(d) the stabilization, contouring, maintenance, conditioning or reconstruction of the surface of land;

(e) any other procedure, operation or requirement in accordance with this Act;

“release” means to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place, drain, pump or exhaust;

“review panel” means a panel established by the Minister pursuant to subsection 43(1);

“Round Table” means an advisory committee established to advise the Department on issues referred to it by the Minister related to environmental sustainability;

“standard” means a standard, policy, code, guideline, protocol or other rule in relation to a designated activity that, by reason of its establishment or adoption by regulation or as a condition of an approval or certificate of qualification, becomes a mandatory requirement for participation in that designated activity;

“storage” means the holding of a substance for a temporary period, at the end of which it is intended to be processed, used, transported, treated or disposed of;

“substance” means

- (a) any solid, liquid or gas;
- (b) any sound, vibration, heat, radiation or another form of energy; or
- (c) any combination of any of the things referred to in clauses (a) and (b);

“Supreme Court” means the Supreme Court of Nova Scotia;

“sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs;

“treat” means to apply any method, technique or process that is designed to change the physical, chemical or biological concentration, character or composition of a substance, including neutralization and stabilization;

“Trust” means the Nova Scotia Environmental Trust;

“undertaking” means an enterprise, activity, project, structure, work or proposal that, in the opinion of the Minister, causes or may cause an adverse effect or an environmental effect, and may include, in the opinion of the Minister, a policy, plan or program or a modification, extension, abandonment, demolition or rehabilitation of an undertaking;

“waste” means a substance that would cause or tend to cause an adverse effect if added to the environment, and includes rubbish, slimes, tailings, fumes, smoke from mines or factories, other air emissions, or other industrial wastes, effluent, sludge, sewage, garbage, refuse, scrap, litter or other waste products of any kind;

“waste dangerous goods” means a substance designated as such by the regulations or conforming with criteria set out in the regulations;

“water resource” means all fresh and marine waters comprising all surface water, groundwater and coastal water;

“waterworks” means any public, commercial or industrial works for the collection, production, treatment, storage, supply or distribution of water;

“watercourse” means

- (a) the bed and shore of every river, stream, lake, creek, pond, spring, lagoon or other natural body of water, and the water therein, within the jurisdiction of the Province, whether it contains water or not; and
- (b) all groundwater;

“watershed” means the area drained by, or contributing to a stream, lake or other body of water;

“wetland” means land, commonly referred to as a marsh, swamp, fen or bog, that

- (a) either periodically or permanently, has a water table at, near or above the land's surface or that is saturated with water; and
- (b) sustains aquatic processes as indicated by the presence of poorly drained soils, hydrophytic vegetation and biological activities adapted to wet conditions. 1994-95, c. 1, s. 3; 2001, c. 6, s. 103; 2006, c. 30, s. 2; 2011, c. 61, s. 2.

Incorporation by reference in regulation

4 (1) A regulation under this Act may adopt or incorporate, in whole or in part or with modifications, documents that set out standards relating to any matter in respect of which a regulation may be made under this Act.

(2) Where a standard is adopted or incorporated by regulation under this Act, the Minister shall make it publicly available. 2006, c. 30, s. 3; 2011, c. 61, s. 3.

Act binds Provincial and federal Crown

5 (1) This Act binds the Crown in right of the Province, the Crown's corporations, agents, administrators, servants and employees and Government agencies.

(2) This Act binds the Crown in right of Canada and the Crown's corporations, boards, commissions, agents, administrators, servants and employees.

(3) For greater certainty, the persons referred to in subsections (1) and (2) are subject to prosecution, a ministerial order and other remedies under this Act. 1994-95, c. 1, s. 4.

Approvals authorized under other Acts

6 A licence, permit, approval or other authorization issued pursuant to any other enactment does not constitute an approval under this Act, unless otherwise stated in the regulations. 1994-95, c. 1, s. 5.

Conflict

7 (1) Where there is a conflict between this Act and any other enactment, this Act prevails.

(2) A provision of any other enactment is not in conflict with this Act by reason only that it imposes a restriction or requires a condition for the protection of the environment in excess of those required by this Act.

(3) Subject to subsections (4) and (5), nothing in this Act affects or impairs the validity of a bylaw of a municipality relating to matters dealt with in this Act, except to the extent that the bylaw is in conflict or inconsistent with this Act.

(4) A bylaw or regulation of a municipality or an authorization issued by a municipality is, to the extent that it is in conflict or inconsistent with this Act, suspended and of no effect.

(5) A bylaw or regulation of a municipality or an authorization issued by a municipality is not in conflict or inconsistent with this Act by reason only that it imposes a restriction or requires a condition for the protection of the environment in excess of those required by this Act. 1994-95, c. 1, s. 6.

PART II

ADMINISTRATION

Appointment of personnel

8 The administrators and employees necessary for the administration of this Act must be appointed in accordance with the *Civil Service Act*. 1994-95, c. 1, s. 7.

Minister responsible for Act

9 (1) The Minister is responsible for the general supervision and management of this Act.

(2) The Minister, for the purpose of the administration and enforcement of this Act, and after engaging in such public review as the Minister considers appropriate, shall

(a) promote sustainable development, including pollution prevention;

(b) establish and administer policies, programs, guidelines, objectives and approval processes pertaining to the protection and stewardship of the environment;

(c) consult with and coordinate activities with other departments, Government agencies, municipalities, governments and other persons;

(d) develop policies and plans for the management of wastes;

(e) control the handling of substances that may have an adverse effect;

(f) promote the rehabilitation and restoration of degraded areas of the environment;

(g) establish and assist demonstration programs that are consistent with the intent of this Act;

(h) conduct economic analyses to determine the costs and benefits of proposed alterations of the environment and assess methods of offsetting the environmental costs associated with those alterations;

(i) establish criteria to be applied by an administrator or a person to whom responsibility is delegated pursuant to this Act in making any decision under this Act;

(j) implement policies and programs respecting environmental technologies, innovations and industries. 1994-95, c. 1, s. 8; 2004, c. 3, s. 20; 2011, c. 61, s. 4.

Regulations

- 10** (1) The Minister may make regulations
- (a) respecting fees, including the manner of payment of fees and the penalties and interest payable in respect of unpaid fees, in relation to anything done or required to be done pursuant to this Act or the regulations, including fees in relation to
 - (i) emission and effluent discharge levels,
 - (ii) the provision or filing of any information, documents, notifications, returns or reports,
 - (iii) the registration of any person,
 - (iv) the administration of the cap-and-trade program as defined in subsection 118(1),
 - (v) the application for, or processing, issuance or renewal of, an approval or certificate,
 - (vi) any inspection or investigation,
 - (vii) any services or material provided, and
 - (viii) any other matter respecting the administration of this Act;
 - (b) prescribing forms for the purpose of this Act;
 - (c) establishing standards and designating the activities to which standards apply.

(2) A regulation establishing a standard may adopt or incorporate, in whole or in part or with modifications, a standard, policy, code, guideline, protocol or other rule of any government, organization or person as it reads at a particular time or as amended or replaced from time to time.

(3) Where a standard, policy, code, guideline, protocol or other rule is adopted as a standard or incorporated as part of a standard by a regulation made pursuant this Section, the Minister shall ensure that a copy of the standard, practice, code, guideline, objective, method or other rule is made publicly available.

(4) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2011, c. 61, s. 5; 2017, c. 10, s. 1.

Advisory persons and committees, experts and Round Table

- 11** (1) The Minister may appoint any person, establish advisory committees and retain experts to advise the Minister with respect to
- (a) the content and administration of this Act, including a review of the Act pursuant to Section 219;
 - (b) any policy, program, standard or other matter under the administration of the Minister pursuant to this Act;
 - (c) the review of any refusal to issue approvals or certificates of qualification under Part V or the review of any suspension or cancellation of an approval under Part V; or

(d) any other matter referred by the Minister to the person, advisory committee or expert, as the case may be.

(2) The Minister may establish an advisory committee composed of representatives of the Department and the Mi'kmaq people to discuss environmental matters associated with the rights and interests of the Mi'kmaq people.

(3) The Round Table is deemed to be an advisory committee established pursuant to subsection (1), and the Minister may

(a) appoint members to the Round Table; and

(b) seek advice from the Round Table with respect to matters concerning issues of environmental sustainability and its linkage with economic and social prosperity.

(4) The Minister may

(a) specify the functions that a person appointed pursuant to subsection (1), an advisory committee established pursuant to subsection (1) or an expert retained pursuant to subsection (1), is to perform, which may include the seeking of input from the public, and the manner and time period in which those functions are to be performed;

(b) provide for the remuneration of and payment of expenses to

(i) witnesses,

(ii) the members of an advisory committee established pursuant to subsection (1), and

(iii) any person appointed or expert retained pursuant to subsection (1);

(c) provide for the issue of summonses requiring the attendance of witnesses, the production of documents and things and the payment of fees to witnesses.

(5) When reviewing candidates for appointment to an advisory committee or the Round Table, the Minister shall have regard to the candidate's particular knowledge, experience and interest in issues relevant to the tasks that the advisory committee or Round Table is being asked to perform. 2011, c. 61, s. 6.

Environmental registry and access to information

12 (1) The Minister shall establish an environmental registry containing

(a) approvals;

(b) certificates of qualification;

(c) certificates of variance;

(d) orders, directives, appeals, decisions and hearings made under this Act;

(e) notices of designation given pursuant to this Act;

- (f) notices of a charge or lien given pursuant to Section 173;
- (g) policies, programs, standards, guidelines, objectives and approval processes established under this Act;
- (h) convictions, penalties and other enforcement actions brought under this Act;
- (i) information or documents required by the regulations to be included in the registry;
- (j) annual reports; and
- (k) any other information or document considered appropriate by the Minister.

(2) All information under the control of the Department is accessible to the public, subject only to the *Freedom of Information and Protection of Privacy Act*.

(3) The Minister shall ensure public access to the information and documents contained in the environmental registry during business hours of the Department.

(4) Where the Minister, administrator or delegated agent makes a decision under Section 33, 34, 39, 53, 55 or 57, any person who asks for a reason for the decision shall, within 30 days, and subject to the *Freedom of Information and Protection of Privacy Act*, be furnished with a written statement of the decision, setting out the findings of fact upon which it is based and the reasons for the decision. 1994-95, c. 1, s. 10; 2006, c. 30, s. 6; 2011, c. 61, s. 7.

Alternative dispute resolution

13 (1) For the purpose of resolving a dispute, the Minister may refer a matter to a form of alternative dispute resolution, including conciliation, negotiation, mediation or arbitration.

(2) Where the Minister decides to use a form of alternative dispute resolution to resolve a dispute, the Minister, in consultation with the affected parties and using criteria prescribed or adopted by the Department, shall determine which form of dispute resolution is most appropriate to use to resolve the dispute.

(3) Any form of alternative dispute resolution used shall strive to achieve consensus to resolve procedural and substantive issues throughout the process.

(4) Where a form of alternative dispute resolution is used to resolve a dispute and an independent party or neutral third party is chosen to facilitate, mediate or arbitrate, that person shall file a report with the Minister and with the parties at the conclusion of the process, whether or not the dispute was resolved.

(5) Without limiting the generality of subsections (1) to (4), a form of alternative dispute resolution may be used

- (a) in case of a dispute over a certificate of qualification or a certificate of variance;

- (b) in case of a dispute over an approval;
- (c) in case of a dispute under Part VIII respecting responsibility for rehabilitation of a contaminated site; or
- (d) generally, for conflict resolution. 1994-95, c. 1, s. 14.

Economic instruments

14 The Minister may, in accordance with the regulations, establish programs for the research, development and use of economic instruments and market-based approaches for the management of the environment and for the purpose of achieving environmental quality objectives in a cost-effective manner, including, without limiting the generality of the foregoing,

- (a) tradable emission and effluent permits;
- (b) offsetting environmental costs and benefits;
- (c) user charges;
- (d) resource pricing and physical resource accounts;
- (e) deposit refund systems;
- (f) emission, effluent and waste-disposal fees;
- (g) product charges;
- (h) charges on inputs or materials;
- (i) tax incentives and tax differentiation;
- (j) subsidies, loans and grants. 1994-95, c. 1, s. 15.

Reporting on state of the environment

15 The Minister shall report periodically to the people of the Province on the state of the environment in the Province. 1994-95, c. 1, s. 16.

Delegation and consultation

16 (1) The Minister may, in writing, delegate any power or duty conferred or imposed on the Minister pursuant to this Act to

- (a) any employee of the Government or a Government agency;
- (b) any employee of the Government of Canada or an agency of that government;
- (c) any employee of a municipality; or
- (d) any person,

who has the qualifications and experience.

(2) Before making a delegation to a person pursuant to subsection (1), the Minister shall consult with and obtain the consent of the person or, where applicable, the employer of the person.

(3) Subsection (1) does not apply to the power or duty of the Minister under clause 9(2)(i) or Section 39.

(4) The Minister may revoke a delegation made pursuant to this Section. 1994-95, c. 1, s. 17; 2006, c. 30, s. 8.

Transfer of administration and control

17 (1) The Minister may, with the approval of the Governor in Council, transfer the administration and control of a provision of this Act, after appropriate consultation, to

- (a) another minister of the Government or a Government agency;
- (b) a municipality; or
- (c) any other person,

and may specify the terms and conditions under which and subject to which the transfer is made.

(2) The Minister may, with the approval of the Governor in Council, revoke a transfer of administration and control made pursuant to this Section. 1994-95, c. 1, s. 18.

Agreements

18 (1) Subject to subsection (2), the Minister may enter into agreements with any person relating to any matter pertaining to the environment.

(2) The Minister, with the approval of the Governor in Council, may enter into agreements with the Government of Canada with respect to the administration of this Act, the *Impact Assessment Act* (Canada), the *Canadian Environmental Protection Act, 1999*, the *Fisheries Act* (Canada) or any other federal enactment for the purpose of protection of the environment. 1994-95, c. 1, s. 19.

Purchase and disposition of real property

19 The Minister may, with the approval of the Governor in Council, purchase and dispose of any estate or interest in real property for the purpose of this Act. 1994-95, c. 1, s. 20.

Appointment of administrator and inspectors

20 (1) The Minister may appoint a person who has the qualifications and experience to be an administrator as an administrator for the purpose of all or part of this Act.

(2) The Minister may appoint as an inspector a person who has the qualifications and experience to be so appointed.

(3) Where a person appointed pursuant to subsection (2) is not an employee of the Department, the Minister, before making the appointment, shall consult with and obtain the consent of the person or, where applicable, the employer of the person.

(4) An appointment under subsection (2) may direct that the authority of the inspector be exercised subject to any terms and conditions that the Minister prescribes in the appointment, including limitations on the scope of the appointment. 1994-95, c. 1, s. 21.

Identification card

21 On entering any place, an inspector shall, on request, produce an identification card provided by the Department and provide reasons for the entry. 1994-95, c. 1, s. 22.

Certification of laboratory and sampling

22 (1) Before accepting results from any laboratory, the Minister may require proof of acceptable certification of the laboratory.

(2) The Minister may prescribe methods and procedures for sampling and analysis of the environment and any substance, discharge or emission into the environment. 1994-95, c. 1, s. 23.

Service of documents

23 (1) Where any notice, request, order, directive, direction or other document is required to be given in writing or served pursuant to this Act, it is deemed to be sufficiently given or served

(a) upon a copy being personally given to or served on the person to whom it is directed;

(b) upon a copy being sent by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt being received;

(c) five days after a copy is sent by mail addressed to the person to whom it is directed at the last known address for that person; or

(d) in the case of a registered owner of real property, five days after a copy is sent by mail to the address for the registered owner shown on the last revised assessment roll.

(2) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (1), or service in accordance with the *Corporations Registration Act*, is deemed to be service on the corporation for the purpose of this Act.

(3) Where it is impractical for any reason to serve a document in the manner prescribed in subsection (1), an *ex parte* application may be made to a judge of the Supreme Court, who may make an order for substituted service providing for such steps to be taken to bring the matter to the attention of the person to be served. 1994-95, c. 1, s. 24; 2011, c. 61, s. 8.

Regulations

24 (1) The Governor in Council may make regulations

(a) respecting information or documentation to be filed in the environmental registry established pursuant to this Part;

(b) respecting the manner in which reports of persons, advisory committees and experts appointed or retained pursuant to subsection 11(1) are made public;

- (c) regarding research, development and use of economic instruments and market-based approaches;
- (d) respecting alternative dispute-resolution mechanisms;
- (e) respecting the management, administration and membership of advisory committees and the Round Table, and any other matter related to their functioning;
- (f) respecting state of environment reporting;
- (g) defining terms not otherwise defined in this Act, or further clarifying defined terms;
- (h) for the effective administration and enforcement of this Act, and, without restricting the generality of the foregoing, exempting a person or a class of persons, activities, matters or things from this Act;
- (i) respecting any matter 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*. 1994-95, c. 1, s. 25; 2004, c. 3, s. 21; 2006, c. 30, s. 9; 2011, c. 61, s. 9.

Public review of regulations

25 Any new regulations or any substantive amendment to the regulations becomes law only after the regulations or amendments, as the case may be, have been subjected to such public review as the Minister considers appropriate. 1994-95, c. 1, s. 26.

PART III

ENVIRONMENTAL EDUCATION AND RESEARCH

Education and research

26 (1) For the purpose of fostering an understanding of, and responsibility for, the environment, the Minister may

- (a) compile information and undertake research related to the environment, environmental education and sustainable development;
- (b) subject to the *Freedom of Information and Protection of Privacy Act*, provide any person with access to environmental information in the control of the Department;
- (c) convene conferences and conduct seminars and educational and training programs relating to the environment and sustainable development;
- (d) maintain a library consisting of publications and other information relating to environmental matters;
- (e) develop, publish and distribute educational material with respect to the environment and sustainable development;

(f) assist and support other ministers of the Government or other persons in designing, producing and delivering throughout the Province educational programs pertaining to sustainable development and other information.

(2) The Minister may contribute to, sponsor or undertake research that the Minister considers necessary to achieve the purpose of this Act. 1994-95, c. 1, s. 27.

Nova Scotia Environmental Trust

27 (1) The Nova Scotia Environmental Trust is established for the purpose of funding programs for, or otherwise promoting, environmental research and management and conservation of the environment.

(2) The Minister may acquire, on behalf of the Trust, by agreement, gift, donation, bequest or devise or through any Governmental or private program, any real or personal property for the purpose of the Trust.

(3) With the approval of the Governor in Council, the Minister may dispose of real property acquired by the Trust.

(4) The Minister shall administer the Trust.

(5) The Trust consists of

(a) property acquired pursuant to subsection (2) or money from the disposition of such property; and

(b) income accruing to the Trust.

(6) The Governor in Council may make regulations

(a) respecting the governance and distribution of the Trust, including the appointment of external directors or trustees;

(b) directing certain money from fines be designated to the Trust;

(c) permitting settlements made relative to prosecutions under this Act to be directed to the Trust.

(7) The exercise by the Governor in Council of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 1994-95, c. 1, s. 28; 2006, c. 30, s. 10.

Nova Scotia Youth Conservation Corps

28 (1) The Nova Scotia Youth Conservation Corps is established.

(2) The purpose of the Corps is to

(a) promote youth involvement in environmental stewardship and commitment to the conservation and enhancement of the environment;

(b) provide youth with opportunities to participate in environmental projects, thereby providing Corps members with leader-

ship skills and training and building community capacity in environmental management;

(c) provide summer and longer term employment, including relevant training and education, for youth; and

(d) facilitate and encourage movement of participants in the Corps program to private sector employment by linking the program with the private sector through co-operative work programs. 1994-95, c. 1, s. 29; 2006, c. 30, s. 11; 2011, c. 61, s. 10.

Regulations

29 (1) The Governor in Council may make regulations

(a) respecting any matter necessary or advisable for the administration of the Trust;

(b) respecting any matter necessary or advisable for the administration of the Corps.

(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*. 1994-95, c. 1, s. 30.

PART IV

ENVIRONMENTAL-ASSESSMENT PROCESS

Application of Part

30 (1) Subject to subsection (2), the environmental-assessment process under this Part applies with respect to an undertaking as determined by the Minister or as prescribed by the regulations.

(2) This Part does not apply to class environmental assessments as prescribed by the regulations. 1994-95, c. 1, s. 31; 2006, c. 30, s. 12.

No work without approval

31 (1) Until the Minister has notified the proponent in writing that an undertaking is approved, no person shall commence work on the undertaking.

(2) The Minister may impose conditions upon the approval of an undertaking and the proponent shall comply with the conditions if the undertaking proceeds. 1994-95, c. 1, s. 32.

Registration of undertaking

32 Every proponent of an undertaking shall

(a) register the undertaking with the Minister in the time and manner prescribed by the regulations; and

(b) publish a notice of the undertaking containing the information prescribed by the regulations. 1994-95, c. 1, s. 33.

Examination of information

33 (1) After an undertaking is registered pursuant to Section 32, the Minister shall examine or cause to be examined the information that is provided respecting an undertaking and shall determine whether

- (a) additional information is required;
- (b) a focus report is required;
- (c) an environmental-assessment report is required;
- (d) all or part of the undertaking may be referred to alternative dispute resolution;
- (e) a focus report or an environmental-assessment report is not required, and the undertaking may proceed;
- (f) the undertaking is rejected because of the likelihood that it will cause adverse effects or environmental effects that cannot be mitigated.

(2) The Minister shall notify the proponent, in writing, of the decision pursuant to subsection (1), together with reasons for the decision, within the time period prescribed by the regulations.

(3) In case of a determination pursuant to clause (1)(a), (b), (c), (d) or (e), the registration of an undertaking is deemed to have been withdrawn if

- (a) the Minister is not aware of any action taken by the proponent on the environmental assessment of the undertaking within the time period prescribed in the regulations;
- (b) the Minister has notified the proponent when no action has been taken within the time period prescribed by the regulations; and
- (c) the proponent has not given any reasonable explanation for the delay within the time period prescribed by the regulations.

(4) A proponent may withdraw the registration of an undertaking.

(5) At any stage during the environmental-assessment process, where the Minister believes the proponent is not complying with this Act or the regulations, the Minister may suspend the environmental-assessment process until such time as the Minister is satisfied the proponent is in compliance. 1994-95, c. 1, s. 34; 2006, c. 30, s. 13.

Focus report

34 (1) Where the Minister decides that a focus report is necessary pursuant to Section 33, an administrator shall provide the proponent with terms of reference for the preparation of the focus report.

(2) The proponent shall undertake the necessary study for the preparation of the focus report and submit the report to the Minister.

(3) Upon receiving the focus report, the Minister shall examine the report or cause it to be examined and shall determine whether

- (a) an environmental-assessment report is required;
- (b) all or part of the undertaking may be referred to alternative dispute resolution;
- (c) an environmental-assessment report is not required and the undertaking may proceed; or
- (d) the undertaking is rejected because of the likelihood that it will cause adverse effects or environmental effects that cannot be mitigated.

(4) The Minister shall notify the proponent, in writing, of the decision pursuant to subsection (3), together with reasons for the decision, within the time period prescribed by the regulations. 1994-95, c. 1, s. 35.

Terms of reference

35 Where the Minister decides that an environmental-assessment report is required, the Minister shall

- (a) prepare proposed terms of reference for the environmental assessment;
- (b) give the public and the proponent an opportunity to comment on the proposed terms of reference in the prescribed manner;
- (c) modify the terms of reference as the Minister considers appropriate; and
- (d) provide the proponent with the terms of reference. 1994-95, c. 1, s. 36; 2011, c. 61, s. 11.

Examination of report

36 (1) Upon receiving the environmental-assessment report, the Minister shall examine it or cause it to be examined to determine whether it adheres to the terms of reference.

(2) Where the environmental-assessment report is deficient in any respect, the Minister shall notify the proponent, in writing, and may require the proponent to conduct such further work or provide such further information as may be necessary to complete the report.

(3) Where the environmental-assessment report is acceptable, the Minister shall so notify the proponent in writing. 1994-95, c. 1, s. 37; 2011, c. 61, s. 12.

Duties and powers of Minister

37 (1) Upon receiving an environmental-assessment report, and before approving or rejecting an undertaking pursuant to Section 39, the Minister

- (a) shall release the environmental-assessment report to interested persons and the public generally;
- (b) shall refer the environmental-assessment report to a review panel on Class II undertakings as defined in the regulations;
- (c) may refer the environmental-assessment report to a review panel on Class I undertakings as defined in the regulations;

(d) may refer all or part of an undertaking to alternative dispute resolution;

(e) may give directions regarding the scope of a review to be conducted by a review panel or by alternative dispute resolution.

(2) On Class I undertakings not referred to a review panel or to alternative dispute resolution, the Minister may approve the undertaking, reject the undertaking or approve the undertaking with conditions.

(3) The Minister shall notify the proponent, in writing, of the decision pursuant to subsection (2), together with reasons for the decision, within the time period prescribed by the regulations. 1994-95, c. 1, s. 38; 2011, c. 61, s. 13.

Hearing and recommendation by review panel

38 (1) Upon receiving a referral from the Minister pursuant to Section 37, a review panel shall conduct a public hearing or review and submit a report and make a recommendation to the Minister to approve the undertaking, reject the undertaking or approve the undertaking with conditions.

(2) Upon receiving a recommendation from a review panel, the Minister shall approve the undertaking, reject the undertaking or approve the undertaking with conditions.

(3) The Minister shall notify the proponent, in writing, of the decision pursuant to subsection (2), together with reasons for the decision, within the time period prescribed by the regulations. 1994-95, c. 1, s. 39; 2011, c. 61, s. 14.

Powers of Minister

39 (1) Upon receiving information under Section 33, a focus report under Section 34, an environmental-assessment report under Section 37, a recommendation from a review panel under Section 38 or from a referral to alternative dispute resolution, the Minister may

- (a) approve the undertaking;
- (b) approve the undertaking, subject to any conditions the Minister considers appropriate; or
- (c) reject the undertaking.

(2) The Minister shall notify the proponent, in writing, of the decision pursuant to subsection (1), together with reasons for the decision, within the time period prescribed by the regulations. 1994-95, c. 1, s. 40; 2011, c. 61, s. 15.

Requirements after approval

40 Where approval for an undertaking has been given to a proponent pursuant to this Part, the Minister shall require the proponent to

- (a) carry out environmental monitoring and rehabilitation studies and programs in order to determine the effect of mitigation measures;
- (b) remediate the affected environment to a level acceptable to the Minister. 1994-95, c. 1, s. 41.

Amendment of approval

41 (1) The Minister may amend a term or condition of an environmental-assessment approval only

- (a) upon the request of the approval holder, if the Minister considers it appropriate to do so;
- (b) if an adverse effect or an unacceptable environmental effect has occurred or may occur;
- (c) if the term or condition relates to
 - (i) a monitoring or reporting requirement, or
 - (ii) a standard; or
- (d) to correct a typographical error.

(2) The Minister shall give notice in writing, together with reasons, to the approval holder at least 30 days in advance of making an amendment pursuant to subsection (1). 2006, c. 30, s. 14.

Transfer of approval

42 (1) No person shall transfer, sell, lease, assign or otherwise dispose of an environmental-assessment approval under this Part without the written consent of the Minister.

(2) The Minister may impose any terms or conditions that the Minister considers appropriate in respect of the transfer, assignment or other disposition of an environmental-assessment approval.

(3) A consent pursuant to subsection (1) must be given within 60 days of the receipt of an application or request, unless the Minister notifies the applicant otherwise, in writing, within 10 days of receipt of the application or request. 2006, c. 30, s. 14.

Review panels

43 (1) The Minister may appoint persons to a review panel for the purpose of conducting a review of an environmental-assessment report and making a report and recommendation to the Minister with respect to the undertaking to which the environmental-assessment report relates.

(2) A review panel shall conduct public hearings or reviews and carry out the other functions assigned to the review panel by this Act or as may be prescribed by the regulations.

(3) A review panel consists of a Chair and such other members, not exceeding five, as are appointed by the Minister in accordance with the regulations. 1994-95, c. 1, s. 42; 2011, c. 61, s. 16.

Duties of review panel

44 A review panel shall

- (a) review an environmental-assessment report with respect to an undertaking referred to the review panel by the Minister in accordance with the directions of the Minister;

- (b) consult with the public in accordance with this Act; and
- (c) recommend to the Minister the approval or rejection of the undertaking, or conditions that ought to be imposed upon the undertaking if it proceeds. 1994-95, c. 1, s. 43; 2011, c. 61, s. 17.

Public consultation

45 (1) In reviewing an environmental-assessment report pursuant to Section 44, a review panel shall consult with the public by inviting written submissions from the public, by conducting a public hearing or review or in such other manner as determined by the review panel.

(2) A public hearing or review conducted pursuant to subsection (1) must be conducted in accordance with the regulations.

(3) For the purpose of any public hearing or review conducted pursuant to subsection (1), a review panel may

- (a) administer oaths to witnesses and require the witnesses to give evidence under oath;
- (b) issue summonses requiring the attendance of witnesses and the production of documents and things;
- (c) pay witnesses summonsed to give evidence before the review panel. 1994-95, c. 1, s. 44; 2011, c. 61, s. 18.

Municipal approvals

46 The Minister may, before the Minister approves or rejects the undertaking, require a proponent to obtain any municipal approval, permit or other authorization required at the time of registration pursuant to this Part. 1994-95, c. 1, s. 45.

Other enactments

47 This Part does not exempt the proponent of any undertaking from the requirements of any other enactment or other provision of this Act, whether or not the proponent has submitted an environmental-assessment report. 1994-95, c. 1, s. 46.

Joint assessments

48 (1) Where an undertaking is also subject to the environmental assessment or other review requirements of a municipality, the Crown in right of Canada, another province of Canada or another review process of the Government, the Minister may enter into an agreement with the other government, Government agency or municipality in order to

- (a) determine what aspects of the undertaking are governed by the laws of the respective governments;
- (b) provide for the carrying out of
 - (i) the environmental assessment in whole or in part for the purpose of this Part, or
 - (ii) the review of the undertaking under any enactment;

- (c) adopt, for the purpose of the review,
 - (i) all or part of the procedures for environmental assessment or other review,
 - (ii) reports and similar documents prepared by or under the authority of any enactment as part of the environmental assessment or other review;
- (d) determine what issues must be addressed in the assessment or review; and
- (e) delegate the Minister's administrative responsibilities under this Part to the other government, Government agency or municipality, or accept the delegation of these responsibilities.

(2) Subject to subsection (3), the Minister, when negotiating an agreement pursuant to subsection (1), may vary the environmental-assessment administrative requirements of this Part.

(3) An agreement entered into pursuant to this Section must stipulate time limitations for various stages of the assessment. 1994-95, c. 1, s. 47; 2006, c. 30, s. 15.

Single hearing process

49 Notwithstanding any other enactment, where an undertaking is subject to a municipal hearing, or a hearing under another review process of the Government, the Minister may enter into an agreement with the other party to provide for a single hearing process for the undertaking and the issues to be addressed at the single hearing. 1994-95, c. 1, s. 48.

Regulations

- 50 (1) The Governor in Council may make regulations
- (a) designating an undertaking or any class of undertakings to which this Part applies;
 - (b) prescribing when an undertaking must be registered and the information to be provided in an environmental-assessment registration document;
 - (c) prescribing terms of reference to be contained in a notice respecting an undertaking;
 - (d) prescribing terms of reference for the preparation of a focus report or an environmental-assessment report;
 - (e) respecting public consultation during the environmental-assessment process;
 - (f) respecting the format of any report;
 - (g) establishing criteria for the examination of proposed undertakings in order to determine whether an environmental-assessment report is required;
 - (h) respecting the reference of any matter related to an environmental assessment of an undertaking or aspects of an undertaking to alternative dispute resolution;

- (i) respecting procedures for alternative dispute resolution;
- (j) prescribing periods of time within which the Minister or other persons must perform certain duties pursuant to this Part;
- (k) prescribing duties and procedures to be followed by a review panel;
- (l) respecting public hearings and reviews by a review panel;
- (m) respecting remuneration for members of a review panel and experts retained by a review panel;
- (n) exempting any person, class of persons, undertaking or class of undertakings from this Part;
- (o) respecting a time period during which a proponent can act upon the approval of an undertaking;
- (p) respecting the requirements, design and implementation of environmental monitoring and rehabilitation programs;
- (q) respecting class environmental assessments;
- (r) respecting assessments under other enactments carried out jointly with an environmental assessment under this Act;
- (s) respecting the designation of undertakings for the purpose of class environmental assessments;
- (t) respecting the amendment of environmental-assessment registrations and the terms and conditions of such amendments;
- (u) respecting the environmental-assessment process;
- (v) generally, respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 49; 2006, c. 30, s. 16; 2011, c. 61, s. 19.

PART V

APPROVALS, NOTIFICATIONS, STANDARDS AND CERTIFICATES

Approvals

Prohibition

51 (1) No person shall knowingly commence or continue any activity designated by the regulations as requiring an approval unless that person holds the appropriate class of approval required for that activity.

(2) No person shall commence or continue any activity designated by the regulations as requiring an approval unless that person holds the appropriate class of approval required for that activity. 1994-95, c. 1, s. 50; 2012, c. 61, s. 21.

Exception

52 Nothing in Section 51 prohibits the commencement of work that, in the opinion of the Minister or according to the regulations, is work that is permitted to enable a proponent to comply with Part IV. 1994-95, c. 1, s. 51.

Decision not to approve proposed activity

53 (1) Where the Minister is of the opinion that a proposed activity should not proceed because it is not in the public interest having regard to the purpose of this Act, the Minister may, at any time, decide that no approval be issued in respect of the proposed activity if notice is given to the proponent, together with reasons.

(2) When deciding, pursuant to subsection (1), whether a proposed activity should proceed, the Minister shall take into consideration such matters as whether the proposed activity contravenes a policy of the Government or the Department, whether the location of the proposed activity is unacceptable and whether adverse effects from the proposed activity are unacceptable. 1994-95, c. 1, s. 52.

Application for approval

54 (1) An application for an approval must be made in the manner prescribed by the regulations for the class of approval being sought by the applicant and must contain the information prescribed by the regulations.

(2) The Minister may require an applicant for an approval to submit any additional information the Minister considers necessary.

(3) Where the Minister considers an application to be incomplete, the application may not be processed until the information required is submitted.

(4) The Minister may require, as part of an application for an approval, that an applicant obtain any municipal approval, permit or other authorization that is required at the time of the application made pursuant to this Part.

(5) The Minister shall require, as part of an application for an approval respecting an underground mine, that an applicant obtain written confirmation from the Executive Director of the Occupational Health and Safety Division of the Department of Labour, Skills and Immigration that

(a) the applicant has provided the Executive Director with sufficient information to comply with the filing requirements of the *Underground Mining Regulations* in respect of the proposed underground mine; and

(b) a review of the information provided pursuant to the *Underground Mining Regulations* has not revealed any apparent violation of the *Occupational Health and Safety Act* or regulations made pursuant to that Act. 1994-95, c. 1, s. 53; 1999 (2nd Sess.), c. 12, s. 76; 2011, c. 61, s. 22.

Decision re application

55 (1) A decision on an application for an approval must be made within 60 days of the receipt of the completed application unless the Minister notifies the applicant otherwise in writing.

(2) For greater certainty, an application respecting an approval for an underground mine is not a completed application until the written confirmation required by subsection 54(5) has been submitted. 2011, c. 61, s. 23.

Change of activity

56 (1) No person shall, in any manner, change an activity that is the subject of an approval in a manner that will result, or may result, in an adverse effect unless an approval or an amendment to an approval authorizing the change is issued by the Minister.

(2) A person who wishes to change an activity under subsection (1) shall apply to the Minister.

(3) Subsection (1) does not apply to adjustments, repairs, replacements or maintenance made in the normal course of operations. 1994-95, c. 1, s. 55.

Approval

57 (1) The Minister may issue or refuse to issue an approval.

(2) Without restricting the generality of subsection (1), the Minister shall refuse to issue an approval if the written confirmation required by subsection 54(5) has not been submitted.

(3) The Minister may issue an approval subject to any terms and conditions the Minister considers appropriate to prevent an adverse effect.

(4) Without restricting the generality of subsection (3), the Minister may require rehabilitation plans, implementation schedules and security from the approval holder.

(5) In environmentally sensitive areas, the terms and conditions of an approval may be more stringent, but may not be less stringent, than applicable terms and conditions provided in the regulations or standards adopted or incorporated by the Minister. 1994-95, c. 1, s. 56; 1999 (2nd Sess.), c. 12, s. 76; 2011, c. 61, s. 24.

Temporary approval

58 (1) The Minister may issue a temporary approval to the owner of a designated activity who is operating without an approval required by this Act or the regulations.

(2) A temporary approval issued pursuant to subsection (1) must contain the terms and conditions and the dates for compliance that must be followed by the owner to whom the temporary approval was issued.

(3) Where the owner to whom the temporary approval was issued does not fully comply with all the terms or conditions or time requirements of the temporary approval, the temporary approval is void. 2011, c. 61, s. 25.

Amendment of approval

59 (1) On application by an approval holder, the Minister may, if the Minister considers it appropriate to do so,

- (a) amend a term or condition of an approval;
- (b) add a term or condition to an approval; or
- (c) delete a term or condition from an approval.

(2) The Minister may amend a term or condition of an approval, add a term or condition to an approval or delete a term or condition from an approval

- (a) if an adverse effect has occurred or may occur;
- (b) for the purpose of addressing matters related to a temporary suspension of the activity by the approval holder;
- (c) if, since the approval was issued, a standard has changed or been created for an activity to which the approval relates;
- (d) if the Minister determines that a term or condition imposing a monitoring or reporting requirement should be changed or added;
- (e) if the approval was issued prior to January 1, 1995, and has no expiry date; or
- (f) to correct a typographical error.

(3) For greater certainty, the Minister may add a term specifying an expiry date for the approval to an approval issued prior to January 1, 1995.

(4) The Minister shall give notice in writing, together with reasons, to the approval holder at least 30 days in advance of making an amendment, addition or deletion pursuant to subsection (2). 2011, c. 61, s. 25.

Cancellation or suspension of approval

60 (1) The Minister may cancel or suspend an approval

- (a) for breach or default of the approval;
- (b) if new or corrected information respecting an adverse effect is brought to the attention of the Minister; or
- (c) if an approval is no longer required under this Act or the regulations.

(2) The Minister shall forthwith on cancellation or suspension of an approval pursuant to subsection (1) give notice in writing, together with reasons, of the cancellation or suspension to the approval holder. 2011, c. 61, s. 25.

Transfer or amendment of approval

61 (1) No person shall transfer, sell, lease, assign or otherwise dispose of an approval without the written consent of the Minister.

(2) A consent pursuant to subsection (1) must be given within 60 days of the receipt of an application or request, unless the Minister notifies the applicant otherwise, in writing, within 10 days of receipt of the application or request.

(3) The Minister may impose any terms or conditions that the Minister considers appropriate in respect of the transfer, assignment or other disposition of an approval. 1994-95, c. 1, s. 59; 2006, c. 30, s. 18.

New information

62 An approval holder shall forthwith submit to the Minister any new and relevant information respecting any adverse effect that actually results or may potentially result from the activity to which the approval relates that comes to the attention of the approval holder after the issuance of the approval. 1994-95, c. 1, s. 60.

Application for certificate of variance

63 (1) An approval holder or any person engaged in an activity for which an approval may be issued may apply to the Minister for a certificate of variance to vary a term or condition of the approval or a requirement of the regulations.

(2) The Minister may issue a certificate of variance if the Minister considers that the proposed variance is not likely to cause an adverse effect and shall advise the applicant and the approval holder of the decision.

(3) The Minister may

(a) impose any term or condition that the Minister considers appropriate with respect to any certificate of variance;

(b) specify requirements as to the manner in which the activity to which the certificate of variance relates is to be carried out or operated; or

(c) amend a term or condition of, add a term or condition to, or delete a term or condition from a certificate of variance.

(4) A certificate of variance is in effect only during the period prescribed and, notwithstanding anything contained in this Act, during that period the terms and conditions of the approval or the requirements of the regulations that are not varied by the certificate apply to the activity to which the certificate relates. 1994-95, c. 1, s. 61; 2006, c. 30, s. 19; 2011, c. 61, s. 26.

Notifications

Provision of notification

64 (1) No person shall knowingly

(a) commence any activity designated by the regulations as requiring a notification; or

(b) continue any activity designated by the regulations as requiring a notification beyond the length of time prescribed by the regulations,

unless that person provides a notification to the Minister.

- (2) No person shall
- (a) commence any activity designated by the regulations as requiring a notification; or
 - (b) continue any activity designated by the regulations as requiring a notification beyond the length of time prescribed by the regulations,

unless that person provides a notification to the Minister. 2011, c. 61, s. 27.

Notifications

65 A notification to the Minister must

- (a) be provided in the manner; and
- (b) contain the information,

prescribed by the regulations. 2011, c. 61, s. 27.

Standards

Standards

66 (1) No person shall knowingly commence or continue any activity designated by the regulations as being governed by a standard except in accordance with that standard.

(2) No person shall commence or continue any activity designated by the regulations as being governed by a standard except in accordance with that standard. 2011, c. 61, s. 27.

Certificate of Qualification

Certificate of qualification

67 No person shall commence or continue any activity or the use of any thing that is designated by the regulations as an activity or thing in respect of which a certificate of qualification is required unless that person holds the appropriate certificate of qualification. 1994-95, c. 1, s. 62.

Application for certificate

68 (1) Application for a certificate of qualification must be made to the Minister or the authorized representative of a designated organization in accordance with the regulations.

(2) The Minister or authorized representative may require an applicant for a certificate of qualification to submit any additional information the Minister or authorized representative considers necessary. 1994-95, c. 1, s. 63; 2011, c. 61, s. 28.

Issuance of certificate

69 (1) The Minister or the authorized representative of a designated organization may issue or refuse to issue a certificate of qualification in accordance with the regulations.

(2) The Minister may issue a certificate of qualification subject to any terms and conditions considered appropriate.

(3) A certificate of qualification is valid for the term prescribed by the regulations. 1994-95, c. 1, s. 64; 2011, c. 61, s. 29.

Amendment and cancellation of certificate

70 (1) The Minister may

(a) amend a term or condition of, add a term or condition to, or delete a term or condition from a certificate of qualification if the Minister considers it appropriate to do so;

(b) cancel or suspend a certificate of qualification if the Minister considers it appropriate to do so;

(c) correct a typographical error in a certificate of qualification; or

(d) cancel a certificate of qualification on application by the holder of the certificate of qualification.

(2) The Minister shall give notice in writing, together with reasons, to the holder of a certificate of qualification at least 30 days in advance of making an amendment, addition or deletion pursuant to clause (1)(a).

(3) The Minister shall forthwith on cancellation or suspension of a certificate of qualification pursuant to clause (1)(b) give notice of the cancellation or suspension, in writing, together with reasons, to the holder of the certificate of qualification.

(4) The Minister may exercise a power under subsection (1) in respect of a certificate of qualification issued by the authorized representative of a designated organization. 1994-95, c. 1, s. 65; 2006, c. 30, s. 20; 2011, c. 61, s. 30.

Security

71 (1) Where required by the regulations, a person who

(a) applies for an approval, a certificate of qualification or a certificate of variance to carry out an activity or undertaking;

(b) commences or continues an activity that is governed by the regulations;

(c) commences or continues an activity that is designated by the regulations as being governed by a standard;

(d) is the owner of land upon which an activity that is governed by the regulations is occurring or is about to occur; or

(e) is the owner of land upon which an activity that is designated by the regulations as being governed by a standard is occurring or is about to occur,

shall, in respect of the activity or undertaking, provide financial or other security or carry insurance.

(2) The Minister may determine the manner in which, and the conditions under which, any security that is deposited pursuant to subsection (1) may be forfeited or returned, in whole or in part.

(3) Subsection (1) does not apply to the Government or a Government agency. 2011, c. 61, s. 31.

Regulations

- 72 (1) The Governor in Council may make regulations
- (a) prescribing classes of approvals;
 - (b) designating activities or classes of activities in respect of which an approval is required and specifying the class of approval required;
 - (c) designating activities in respect of which a notification is to be provided or compliance with a standard is mandated;
 - (d) respecting the circumstances under which an approval or notification is required and prescribing the persons or classes of persons who are required to obtain an approval or to provide a notification;
 - (e) respecting the procedures related to the provision of notifications;
 - (f) respecting the procedures related to the application for or issuance of approvals;
 - (g) respecting temporary approvals;
 - (h) designating activities or things or classes of activities or things in respect of which a certificate of qualification is required and specifying the kind of certificate of qualification required;
 - (i) prescribing the persons or classes of persons who are required to obtain a certificate of qualification;
 - (j) respecting the procedures related to the application for or issuance of certificates of qualification;
 - (k) respecting the terms and conditions upon which approvals and certificates of qualification may be granted and to which they are subject;
 - (l) respecting the terms and conditions upon which certificates of qualification may be reinstated;
 - (m) designating organizations for the purpose of issuing certificates of qualification and specifying the kinds of certificates of qualification the authorized representative of a designated organization is authorized to issue;
 - (n) prescribing the length of time for which certificates of qualification may be issued by the Minister;
 - (o) prescribing the length of time for which certificates of qualification may be issued by the authorized representatives of a designated organization;

(p) prescribing the length of time for which approvals may be issued and the length of time during which an activity for which a notification is to be provided is permitted to continue after notification;

(q) permitting an approval or certificate of qualification to be issued for a shorter period of time than that prescribed by the regulations;

(r) requiring operators, installers or designers of equipment or other things that may have an impact on the environment to meet the specified eligibility requirements as to training or experience or both, or to hold a specified kind of certificate of qualification;

(s) prescribing certificates and other proofs of qualification from other jurisdictions as certificates of qualification for the purpose of this Act;

(t) governing and prohibiting any activity or the use of any thing for the purpose of the protection of the environment, including regulations governing the design, construction, maintenance or use of the activity or thing;

(u) governing and prohibiting the manufacture, sale or use of any equipment, device or service designed or provided for any purpose related to the protection of the environment;

(v) establishing the means of determining what constitutes adjustments, repairs, replacements or maintenance made in the normal course of operations for the purpose of subsection 56(3);

(w) respecting security under Section 71;

(x) respecting the establishment and administration of any board or designated organization governing the oversight of persons with certificates of qualification and establishing reporting requirements applicable to such boards and designated organizations;

(y) respecting the submission of reports and returns in respect of activities;

(z) respecting the records to be kept in respect of an activity, including the form of records, and the person by whom, the place at which and the length of time for which records are to be kept;

(aa) requiring the submission of records to the Minister and providing for the inspection of records by the Minister;

(ab) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 66; 2006, c. 30, s. 22; 2011, c. 61, s. 32.

PART VI

RELEASE OF SUBSTANCES

Prohibitions

73 (1) No person shall knowingly release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause an adverse effect, unless authorized by an approval or the regulations.

(2) No person shall release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause an adverse effect, unless authorized by an approval or the regulations. 1994-95, c. 1, s. 67; 2006, c. 30, s. 23.

Prohibitions

74 (1) No person shall knowingly release or permit the release of a substance into the environment in an amount, concentration or level or at a rate of release that is in excess of that expressly authorized by an approval or the regulations.

(2) No person shall release or permit the release of a substance into the environment in an amount, concentration or level or at a rate of release that is in excess of that expressly authorized by an approval or the regulations. 1994-95, c. 1, s. 68.

Duty to report release

75 (1) Any person responsible for the release of a substance into the environment that has caused, is causing or may cause an adverse effect shall forthwith, as soon as that person knows or ought to know of the release, report it to

- (a) the Department, at its emergency telephone number;
- (b) the owner of the substance, where applicable, if the person reporting knows or is readily able to ascertain the identity of the owner;
- (c) the person having care, management or control of the substance, where applicable, if the person reporting knows or is readily able to ascertain the identity of that person; and
- (d) any other person who the person reporting knows or ought to know may be directly affected by the release.

(2) Any person responsible for the release of a substance into the environment that is in excess of an amount, concentration, level or rate of release expressly authorized by an approval or the regulations shall forthwith, as soon as that person knows or ought to know of the release, report it in the manner prescribed in the approval or the regulations, as the case may be, to the persons identified in clauses (1)(a) to (d).

(3) Any person who discovers or becomes aware of a release of a substance into the environment that is in excess of an amount, concentration, level or rate of release expressly authorized by an approval or the regulations shall forth-

with, as soon as that person knows or ought to know of the release, report it in the manner prescribed in the approval or the regulations, as the case may be, to the persons identified in clauses (1)(a) to (d). 1994-95, c. 1, s. 69; 2011, c. 61, s. 33.

Voluntary submission of information

76 (1) Any person responsible who voluntarily provides the Department with detailed information obtained through an environmental audit or environmental-site assessment about non-compliance with the requirements of this Act by that person shall not be prosecuted for the non-compliance, if the person complies with

- (a) the terms of any agreement negotiated by the Minister and the person; or
- (b) any order issued under Part XV to address the non-compliance by the person.

(2) Subsection (1) does not apply if the Department is independently aware of the non-compliance prior to receiving the information from the person. 1994-95, c. 1, s. 70.

Duty to take remedial measures

77 Any person responsible for the release of a substance under this Part shall, as soon as that person knows or ought to have known of the release of a substance into the environment that has caused, is causing or may cause an adverse effect at that person's own cost,

- (a) take all reasonable measures to
 - (i) prevent, reduce and remedy the adverse effects of the substance, and
 - (ii) remove or otherwise dispose of the substance in such a manner as to minimize adverse effects;
- (b) take any other measures required by an inspector or an administrator; and
- (c) rehabilitate the environment to a standard prescribed or adopted by the Department. 1994-95, c. 1, s. 71.

Emergency measures

- 78 (1)** Where an inspector or an administrator is of the opinion that
- (a) a release of a substance into the environment may occur, is occurring or has occurred; and
 - (b) the release may cause, is causing or has caused an environmental emergency,

the inspector or administrator may take such emergency measures prescribed by the regulations that the inspector or administrator considers necessary to prevent, reduce and remedy the adverse effects.

(2) Subsection (1) applies whether or not the release of the substance into the environment is or was expressly authorized by, and is or was in compliance with, an approval or the regulations. 1994-95, c. 1, s. 72.

Powers of Minister

79 The Minister may

- (a) classify releases for the purpose of this Part and exempt any release or any class of release from the application of this Part and attach terms and conditions to any such exemption;
- (b) prescribe the concentration, amount, level and rate, including the maximum concentration, amount, level and rate of a substance that may be released into the environment;
- (c) establish procedures respecting the conducting of sampling, analyses, tests, measurements or monitoring of substances;
- (d) determine the manner in which a report of a release of a substance is to be made and the contents of the report. 1994-95, c. 1, s. 73; 2006, c. 30, s. 24.

Regulations

80 (1) The Governor in Council may make regulations

- (a) respecting release reporting under Section 75;
- (b) respecting environmental-site assessments and environmental audits provided pursuant to Section 76;
- (c) respecting remediation measures under Section 77;
- (d) respecting emergency measures taken under Section 78, including acceptable qualifications for emergency responders;
- (e) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 74; 2006, c. 30, s. 25.

PART VII**DANGEROUS GOODS AND PESTICIDES****Storing and handling**

81 Unless authorized under this Part or the regulations made pursuant to this Part, a person who handles dangerous goods, waste dangerous goods or pesticides shall do so in a manner that ensures that the dangerous goods, waste dangerous goods or pesticides do not cause an adverse effect to the environment. 1994-95, c. 1, s. 75.

Prohibition

82 Subject to the regulations, no person shall sell or distribute any crop, food, feed, animal, plant, water, produce, product or other matter that

- (a) contains dangerous goods, waste dangerous goods or a pesticide in excess of the permissible concentrations as established by this Act, the *Food and Drugs Act* (Canada) or the *Pest Control Products Act* (Canada); or

(b) the person knows or ought reasonably to know has been contaminated by dangerous goods, waste dangerous goods or pesticides in excess of permissible concentrations as established by this Act, the *Food and Drugs Act* (Canada) or the *Pest Control Products Act* (Canada). 1994-95, c. 1, s. 76.

Research

83 The Minister shall undertake research and adopt policies, programs and strategies to find alternatives to the use of dangerous goods and pesticides and to reduce the production of waste dangerous goods and pesticides. 1994-95, c. 1, s. 77.

Dangerous Goods and Waste Dangerous Goods

Powers of Minister

84 (1) The Minister may

(a) stipulate the quantity or concentration of dangerous goods or waste dangerous goods that may be released into the environment, either alone or in combination with any other substance from any source;

(b) stipulate the manner and conditions under which dangerous goods or waste dangerous goods may be released into the environment, either alone or in combination with any other substance;

(c) establish procedures respecting the conducting of sampling, analyses, tests, measurements or monitoring of dangerous goods or waste dangerous goods and the submission of the results to the Minister;

(d) establish procedures requiring and respecting the submission of samples of dangerous goods or waste dangerous goods to the Minister.

(2) The Minister may direct a person responsible for dangerous goods or waste dangerous goods to

(a) take specified precautions regarding the handling of dangerous goods or waste dangerous goods;

(b) handle dangerous goods or waste dangerous goods in accordance with specified terms and conditions;

(c) remove dangerous goods or waste dangerous goods from a specified location;

(d) take dangerous goods or waste dangerous goods to a specified location;

(e) take specified precautions with respect to the treatment or decontamination of a place affected by dangerous goods or waste dangerous goods;

(f) take specified precautions with respect to the future use of a place affected by dangerous goods or waste dangerous goods;

(g) undertake, in respect of dangerous goods or waste dangerous goods, investigations, tests, surveys or other action and report the results to the Minister;

(h) prepare and submit to the Minister a written contingency plan respecting the handling of dangerous goods or waste dangerous goods. 1994-95, c. 1, s. 78.

Pesticides

Prohibitions

85 (1) Subject to subsection (2), no person shall

(a) sell, distribute, use, apply, handle, store or transport a pesticide;

(b) operate or clean any machinery, equipment, vehicle, aircraft or vessel used in connection with the sale, distribution, use, application, handling, storage or transportation of a pesticide; or

(c) use or clean a pesticide container,

except in accordance with the regulations and the label filed with the certificate of registration for that pesticide.

(2) Where there is a conflict between any applicable provision of a regulation and the provision on the label referred to in subsection (1), the most stringent provision prevails.

(3) No person shall dispose of a pesticide, a mixture containing a pesticide, a thing that is treated or contaminated with a pesticide or a container that has been used to hold a pesticide in a manner other than the manner prescribed by the regulations. 1994-95, c. 1, s. 79.

Pesticide research

86 (1) A person conducting pesticide research in the Province shall

(a) notify the Department before commencing the pesticide research; and

(b) provide the Department with such information as the Minister considers necessary.

(2) The Minister may give such additional directions as the Minister considers appropriate to a person to whom a research authorization certificate or a research notification certificate is issued pursuant to the *Pest Control Products Regulations* (Canada).

(3) Crops used for pesticide research must be destroyed or otherwise prevented from direct or indirect entry into food-marketing channels unless otherwise approved for entry into food-marketing channels by the Department of Health (Canada). 2011, c. 61, s. 34.

Powers and duties of Minister

87 The Minister

(a) shall develop, coordinate and enforce policies, planning and programs respecting integrated pest management and alternatives to the use of pesticides;

(b) may make grants and loans for research related to pesticides and integrated pest management and the control of pests in such amounts and on such terms and conditions as the regulations prescribe. 1994-95, c. 1, s. 81.

Petroleum Products

“motive fuel” defined

88 In Sections 89 and 90, “motive fuel” means any petroleum product used to power a vehicle, aircraft or vessel and includes gasoline and diesel oil, but does not include kerosene or fuel oil. 1994-95, c. 1, s. 82.

Prohibitions

89 (1) No person shall store or sell as a retailer, wholesaler or wholesaler-retailer any motive fuel or fuel oil from

(a) a terminal, bulk plant, bulk station or other facility operated in the Province by a wholesaler of motive fuel or fuel oil;

(b) a motive fuel or fuel oil outlet operated by that person;
or

(c) any other facility,

unless that person holds a valid approval.

(2) No retailer shall sell or store motive fuel or fuel oil unless

(a) the motive fuel or fuel oil is purchased from a wholesaler who holds a valid approval; or

(b) that person is a wholesaler-retailer who holds a valid approval. 1994-95, c. 1, s. 83.

Regulations

90 (1) The Governor in Council may make regulations

(a) designating dangerous goods and waste dangerous goods, and classifying dangerous goods and waste dangerous goods;

(b) respecting the places where dangerous goods, waste dangerous goods or pesticides may be released into the environment;

(c) respecting the quantity or concentration of dangerous goods, waste dangerous goods or pesticides that may be handled;

(d) respecting the purposes for which dangerous goods, waste dangerous goods or pesticides or a product containing dangerous goods, waste dangerous goods or pesticides may be handled;

(e) regulating or prohibiting the handling of dangerous goods, waste dangerous goods or pesticides, and containers holding dangerous goods, waste dangerous goods or pesticides;

(f) respecting the sale or distribution of items referred to in Section 82;

(g) requiring and respecting the submission of information, including manifests relating to dangerous goods, waste dangerous goods or pesticides, to the Minister;

(h) requiring manufacturers, distributors or sellers to recall products or materials containing dangerous goods, waste dangerous goods or pesticides;

(i) governing signs, markings or other identification to be used for public notification;

(j) respecting the use, operation and cleaning of vehicles, aircraft, vessels, machinery, equipment and containers used in connection with the handling of dangerous goods, waste dangerous goods or pesticides;

(k) determining, in the case of any fluid or substance, whether or not that fluid or substance is motive fuel or fuel oil;

(l) prescribing the conditions under which an approval holder may purchase, receive, sell or deliver motive fuel or fuel oil;

(m) prescribing the safety requirements which may apply to this Part;

(n) designating organizations to test equipment and train persons who handle motive fuel or fuel oil according to standards or specifications established or approved by the Minister;

(o) approving equipment or any type of equipment used by an approval holder;

(p) prescribing grades of motive fuel and associated products and providing for the identification thereof;

(q) specifying the books and records required to be maintained;

(r) prohibiting or restricting giving away merchandise to promote the sale of motive fuel or fuel oil;

(s) regarding the rights of approval holders to discharge security documents and leasing arrangements for wholesale and retail motive fuel and fuel oil outlets;

(t) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*, 1994-95, c. 1, s. 84.

PART VIII
CONTAMINATED SITES

Application of Part

91 This Part applies regardless of when a substance became present over, in, on or under a contaminated site. 1994-95, c. 1, s. 85.

Orphan contaminated sites

92 The Minister may enter into agreements and establish programs and other measures the Minister considers necessary to pay for the costs of restoring and securing contaminated sites and the environment affected by contaminated sites where a person responsible for the contaminated site cannot be identified or is unable to pay for the costs. 1994-95, c. 1, s. 86.

Designation of contaminated site

93 (1) Where the Minister is of the opinion that a substance that may cause, is causing or has caused an adverse effect is present in an area of the environment, the Minister may designate that area of the environment as a contaminated site.

(2) The Minister shall follow standards, criteria or guidelines established or adopted by the Department before making a designation pursuant to subsection (1).

(3) Subsection (1) applies notwithstanding that

(a) an administrative or enforcement remedy has been pursued under this Act or under any other law in respect of the contaminated site;

(b) the substance was released in accordance with this Act or any other law;

(c) the release of the substance was not prohibited under this Act; or

(d) the substance originated from a source other than the contaminated site.

(4) The Minister may cancel the designation of a contaminated site made pursuant to this Section. 1994-95, c. 1, s. 87.

Notice of designation

94 The Minister shall

(a) give notice, in writing, of a preliminary determination of a designation of an area of the environment as a contaminated site, provide an opportunity for comment on the determination, make a final determination on whether or not the site is contaminated and give notice, in writing, together with reasons, of the final determination to

(i) any person responsible for the contaminated site that the Minister considers appropriate,

- (ii) any registered owner of real property directly affected by the designation,
- (iii) the municipality or municipalities in which the contaminated site is located;
- (b) give notice to the persons referred to in clause (a) respecting the cancellation of a designation;
- (c) file the designation or cancellation of the designation in the environmental registry. 1994-95, c. 1, s. 88.

Remedial action plans and agreements

95 (1) A person responsible for a contaminated site may, in accordance with the regulations,

- (a) prepare for the approval of the Minister a remedial action plan in respect of the contaminated site; and
- (b) enter into a written agreement with the Minister or with other persons responsible for the contaminated site or with both the Minister and other persons responsible, providing for the remedial action to be taken in respect of the contaminated site and providing for the apportionment of the costs of taking that action.

(2) An agreement pursuant to clause (1)(b) to which the Minister is not a party is not binding on the Minister unless it is approved by the Minister.

(3) Where the persons responsible for a contaminated site cannot reach an agreement or where the Minister rejects an agreement entered into pursuant to clause (1)(b), the Minister may refer the matter to alternative dispute resolution under Part II.

(4) Where alternative dispute resolution is unsuccessful or considered inappropriate by the Minister, the Minister may make an order under Part XV.

(5) A person responsible for the contaminated site who violates a term of an agreement reached under clause (1)(b) is guilty of an offence.

(6) Where a person responsible for a contaminated site does not, within a reasonable period of time, comply with subsection (1), the Minister may make an order under Part XV. 1994-95, c. 1, s. 89; 2011, c. 61, s. 35.

Powers of Minister

96 The Minister may

- (a) determine the criteria respecting the designation and classification of a contaminated site;
- (b) determine the manner and time frame in which the contaminated site must be rehabilitated or managed;
- (c) adopt or establish standards, policies, guidelines, procedures or protocols, including risk-based assessment and management models and tools, for the assessment, rehabilitation or management of contaminated sites;

- (d) subject to Section 208, enter into written agreements pursuant to Section 95 respecting the liability of secured creditors, receivers, receiver managers, trustees in bankruptcy, executors, administrators and other persons;
 - (e) compile a list of persons or classes of persons who are not responsible for rehabilitation at a contaminated site;
 - (f) establish programs and enter into agreements to rehabilitate or manage a contaminated site or prevent the creation of a contaminated site.
- 1994-95, c. 1, s. 90; 2006, c. 30, s. 26.

Regulations

- 97** (1) The Governor in Council may make regulations
- (a) respecting assessment and rehabilitation criteria used for the purpose of defining, determining or designating contaminated sites or for the rehabilitation and cleanup of such sites;
 - (b) designating persons or classes of persons who are not persons responsible for contaminated sites;
 - (c) respecting the duties and rights of any persons, including vendors, purchasers, owners, occupiers or site professionals, in relation to property that is or may be contaminated;
 - (d) respecting reporting and remediation requirements;
 - (e) respecting procedures to cover the allocation of liability or agreements negotiated under this Part;
 - (f) establishing standards and procedures respecting the conducting of sampling, analyses, tests, measurements or monitoring of substances at a contaminated site;
 - (g) respecting the identification and notification of the discovery of contaminated sites;
 - (h) respecting site assessment and the development of remedial action plans involving contaminated sites;
 - (i) respecting voluntary remediation agreements made with the Department involving contaminated sites;
 - (j) respecting the use and application of generic and risk-based remedial criteria, including the use of scientific models to predict human health or ecological effects from contaminants;
 - (k) respecting the preparation and content of environmental-site assessment reports, risk assessment reports, site closure reports, monitoring reports and any other type of environmental report required for a contaminated site;
 - (l) respecting the requirements for insurance and qualifications of site professionals who perform work, oversee work or who take responsibility for quality and accuracy of the work to rehabilitate contaminated sites, on behalf of the person responsible for the contaminated site;
 - (m) respecting the regulatory liability of persons responsible for the contaminated site following the completion of remediation

and site closure, or for the transfer of regulatory liability between third parties;

(n) respecting the filing and transfer of records of site condition and certificates of property use and, with respect to the filing of environmental notices on property title, respecting records of site condition and certificates of property use;

(o) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 91; 2006, c. 30, s. 27; 2011, c. 61, s. 36.

PART IX

WASTE-RESOURCE MANAGEMENT

Solid-waste-resource strategy

98 The Minister shall establish a solid-waste-resource management strategy for the Province. 1994-95, c. 1, s. 92.

Waste-diversion goal

99 (1) The Province shall maintain a goal of 50% solid-waste diversion.

(2) The Minister shall, after public consultation, prescribe specific waste-diversion goals applicable to a prescribed class of works, undertakings, substances or events.

(3) The Minister may enter into waste-reduction agreements with any person having an interest in waste reduction or solid-waste-resource management.

(4) A waste-reduction goal prescribed pursuant to subsection (2) may apply to all of the Province or part of the Province as specified by the Minister, and the goal may vary in different areas of the Province.

(5) In setting a waste-reduction goal pursuant to subsection (2), the Minister may specify how and when approvals held by persons affected by the target shall be amended in order to implement a waste-reduction goal.

(6) The Governor in Council may make regulations defining any word or expression used but not defined in this Section.

(7) The exercise by the Governor in Council of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 1994-95, c. 1, s. 93; 2006, c. 30, s. 28.

Waste-resource management studies

100 (1) The Minister shall conduct, support or promote research on waste-resource management, including

- (a) the composition and distribution of waste in the Province;
- (b) source reduction, reuse, composting and recycling;
- (c) the use of packaging;
- (d) litter prevention;
- (e) market information and business opportunities for specific waste-resource management practices;
- (f) waste-disposal practices and facilities including composting, landfills and incineration;
- (g) the social and economic feasibility of household and other solid waste-separation schemes, including studies of the type and amount of recyclable materials in solid wastes from all sources in the Province.

(2) The Minister may provide financial assistance for waste-resource management studies undertaken pursuant to subsection (1). 1994-95, c. 1, s. 94.

Agreements

101 The Minister may enter into agreements or co-operate with a municipality or other persons to

- (a) establish cost-sharing arrangements or provide other financial incentives to encourage source reduction, reuse, recycling and composting;
 - (b) implement policies to recycle waste materials, to promote energy conservation and to purchase products made from recyclable materials;
 - (c) prepare model bylaws and promote the enactment of municipal legislation respecting waste-resource management, including littering, recycling and composting;
 - (d) undertake and encourage litter cleanup and composting programs, and encourage industry to support such programs;
 - (e) encourage industry stewardship and product stewardship;
 - (f) generally, promote integrated waste-resource management.
- 1994-95, c. 1, s. 95; 2006, c. 30, s. 29.

Recyclable materials

102 The Minister may

- (a) establish restrictions and prohibitions on the storage and disposal of types of waste or recyclable materials in specified types of waste treatment, storage or disposal facilities;
- (b) develop codes and guidelines for the use and content of recyclable materials in the manufacture of new substances or products;
- (c) prescribe minimum content requirements for recyclable materials in specific substances or products, or establish restrictions on the production or sale of products that cannot be reused or recycled. 1994-95, c. 1, s. 96.

Composting

103 The Minister shall promote composting as an option for waste-resource management. 1994-95, c. 1, s. 97.

Resource Recovery Fund

104 The Resource Recovery Fund is established, in accordance with the regulations. 1994-95, c. 1, s. 98.

Litter prevention

105 (1) The Minister shall encourage litter prevention or reduction by

(a) regulating waste-disposal practices at construction sites, at commercial and service outlets and at other places where litter is or may be accumulated;

(b) requiring organizers of public and private events to have available and maintain an adequate number of receptacles for recyclable and compostable materials and litter or waste disposal;

(c) regulating or prohibiting activities that result or may result in the unlawful disposal of litter or waste, including the placement of flyers on vehicles, utility poles, structures or other things;

(d) regulating the disposal of waste or litter on real property or on, into or under water or ice;

(e) providing for any matter that will prevent or reduce litter.

(2) No person may release or permit the release of litter into the environment, except as authorized by this Act or the regulations. 1994-95, c. 1, s. 99; 2006, c. 30, s. 30.

Designated materials

106 (1) The Minister may designate materials the use of which is to be banned, reduced, composted or recycled.

(2) A person who manufactures or distributes a designated material for sale in the Province and a retailer of a designated material shall, in accordance with the regulations,

(a) collect the surcharge prescribed for the designated material in accordance with the regulations;

(b) where the regulations require, deposit the surcharge in the Resource Recovery Fund.

(3) A person who manufactures or distributes a designated material for sale in the Province and a retailer shall, in accordance with the regulations, provide, in the Province, depots and other methods for the collection and recovery of the designated material.

(4) No person may sell or use, for a purpose beyond the purpose designated under subsection (1), a designated material the use of which has been banned, reduced or requires recycling under subsection (1). 1994-95, c. 1, s. 100.

Packaging and labelling

107 (1) The Minister may establish or adopt programs or policies respecting the use of packaging and labelling of materials including

- (a) imposing requirements or standards with respect to the type, size, labelling, composition, compostability and disposal of packaging, including standards for material degradability, compostability and recyclability;
- (b) reducing or mitigating the adverse effects created by packaging;
- (c) establishing measures to encourage source reduction, composting, reuse and recycling of packaging;
- (d) providing information on packaging to enable consumers to identify products or packaging that have the least impact on the environment;
- (e) requiring any person who produces or sells a product or substance to
 - (i) accept the product or substance, or packaging associated with the product or substance, from any person who no longer wants the product, substance or packaging, except for a person engaged in commercial waste management, including recycling, and
 - (ii) manage the product, substance or packaging in such a manner that there are no adverse effects upon the environment.

(2) The Minister may approve the packaging and labelling of materials.

(3) No person may use, offer for sale or sell packaging, product containers or disposable products, or any material used in packaging, product containers or disposable products, contrary to this Act or the regulations. 1994-95, c. 1, s. 101; 2006, c. 30, s. 31.

Regulations

108 (1) The Governor in Council may make regulations

- (a) respecting designated materials, including
 - (i) prescribing designated material for the purpose of this Part and creating different classes of designated material for different purposes,
 - (ii) prohibiting or restricting the manufacture, sale or distribution of designated material,
 - (iii) requiring that designated material or any other product be recycled, including the prohibition of a material or product in landfills or other disposal areas,
 - (iv) requiring the development and implementation of a waste minimization, recycling or recovery plan for designated material by manufacturers, distributors, retailers or any

other person, specifying the manner in which designated material is to be managed,

(v) respecting surcharges on designated material, including, without restricting the generality of the foregoing, regulations establishing or providing for the manner of establishing the classes of designated material for which surcharges are payable, prescribing the amount of a surcharge or the method of determining it, providing for the manner in which and the times at which surcharges are to be collected and paid and respecting the advertising of surcharges,

(vi) providing for the payment by manufacturers, distributors and retailers of designated material and any other persons of surcharges to fund litter control programs and respecting the collection and spending of these surcharges,

(vii) respecting the establishment, classification, licensing and operation of depots, including the qualifications of persons who may operate such depots,

(viii) respecting the amount and kind of designated material a retailer is required to accept at depots,

(ix) specifying designated material or other material for which payment must be made by a retailer or depot operator on its return and specifying the amount of such payment and commissions or fees that the retailer or the depot operator may retain,

(x) requiring manufacturers or distributors to pay depot operators and retailers in respect of the collection of designated material or other material and prescribing the amount of the payments, the manner in which payments are to be calculated and the commissions or fees which the manufacturer or distributor may retain,

(xi) requiring the compilation, maintenance and provision of recycle dockets or records and information in respect of designated materials;

(b) respecting the establishment and operation of the Resource Recovery Fund and respecting the manner and the purposes for which money in the Fund may be used;

(c) establishing standards for waste-separation programs, and waste-disposal programs, facilities and sites;

(d) respecting recycling, including the recycling of dangerous goods and how recyclable dangerous goods are to be dealt with when they are no longer recyclable and must be treated as waste dangerous goods;

(e) regarding the use and disposal of beverage containers;

(f) regarding the use of packaging and the labelling of materials;

(g) regarding the use or disposal of litter;

(h) respecting composting;

(i) respecting the establishment and administration of the Resource Recovery Fund Board;

(j) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 102; 2006, c. 30, s. 32.

PART X

WATER-RESOURCE MANAGEMENT

Vesting of watercourses

109 Notwithstanding any enactment, or any grant, deed or transfer made on or before May 16, 1919, whether by the Crown or otherwise, or any possession, occupation, use or obstruction of any watercourse, or any use of any water by any person for any time whatsoever, but subject to subsection 3(2) of the *Water Act*, every watercourse and the sole and exclusive right to use, divert and appropriate any and all water at any time in any watercourse is vested forever in the Crown in right of the Province and is deemed conclusively to have been so vested since May 16, 1919, and is fully freed, discharged and released of and from every fishery, right to take fish, easement, *profit à prendre* and of and from every estate, interest, claim, right and privilege, whether or not of the kind hereinbefore enumerated, and is deemed conclusively to have been so fully freed, discharged and released since May 16, 1919. 1994-95, c. 1, s. 103.

Lead agency

110 The Department is designated as the lead agency of Government to

- (a) promote sustainable management of water resources;
- (b) allocate water resources among competing users in a manner that will further sustainable development;
- (c) take such measures as are reasonable to provide access to safe, adequate and reliable water supplies for individual, municipal, industrial and agricultural uses;
- (d) promote the health and integrity of aquatic ecosystems, to protect habitats for animals and plants and to provide for continued recreational benefits;
- (e) promote informed decision-making in water-resource management through public education and participation. 1994-95, c. 1, s. 104; 2006, c. 30, s. 33.

Minister has supervision of water resources

111 (1) The Minister has supervision of the uses of all water resources and watercourses and the allocation of water in the Province.

(2) The Minister shall establish a water-resource management strategy for the Province.

- (3) The Minister may
- (a) authorize, restrict or prohibit the alteration of water-courses and wetlands;
 - (b) establish or adopt water-management goals;
 - (c) establish or adopt water-quality guidelines, objectives and standards;
 - (d) establish or adopt indicators of aquatic-ecosystem health and integrity;
 - (e) develop sensitivity indices for the water resources of the Province;
 - (f) establish or adopt goals for effluent reduction;
 - (g) establish total allowable wasteloads for water resources;
 - (h) provide funding for water-related research, investigation and monitoring;
 - (i) approve water works and sewage works and funding for water works and sewage works;
 - (j) approve watershed-protection strategies;
 - (k) adopt strategies to protect watersheds for specific uses;
 - (l) classify water resources according to their sensitivity or uses;
 - (m) promote water-resource management with any person who may have an interest, and coordinate the activities of the Government or any Government agency with interests and mandates related to water-resource management;
 - (n) co-operate with other agencies respecting areas naturally prone to flooding.

(4) The Minister may identify any qualified persons, including water or watershed advisory boards, committees or authorities, and request those persons to promote informed public participation, provide advice to the Minister respecting watershed management and undertake such aspects of watershed management as may be assigned to those persons by the Minister. 1994-95, c. 1, s. 105; 2006, c. 30, s. 34; 2011, c. 61, s. 37.

Designation of protected water area

112 (1) At the request of an operator of a waterworks or proposed waterworks, the Minister may designate an area surrounding any source or future source of water supply for a waterworks as a protected water area.

(2) The operator of a waterworks or proposed waterworks named in a designation made pursuant to subsection (1) shall

- (a) give notice of the designation of the area as a protected water area by publishing the notice in a newspaper having circulation in the county or counties in which the area is located and in the Royal Gazette;

(b) have the notice of designation recorded at the registry of deeds and the land registration office in the county or counties in which the area is located; and

(c) post signs in the area indicating that it has been designated a protected water area.

(3) The operator of a waterworks or proposed waterworks is responsible for taking all measures to protect the area designated, and the enforcement of any regulations made pursuant to subsection (8).

(4) At the request of an operator of a waterworks or proposed waterworks, the Minister may cancel a designation made pursuant to this Section, in whole or in part.

(5) Any protected water area designated pursuant to the *Water Act* prior to January 1, 1995, remains so designated.

(6) Any area surrounding a source of public water supply defined and prescribed pursuant to Section 16 of Chapter 42 of the Acts of 1963, *An Act to Amend the Water Act*, is deemed to be a protected water area designated pursuant to the *Water Act* and remains so designated.

(7) Any designation of a protected water area and any regulations regulating an activity in a designated protected water area that are referenced in subsection (6) or were in effect on April 1, 1977, are deemed to have been filed pursuant to the *Regulations Act* before April 1, 1978.

(8) At the request of the operator of the waterworks or proposed waterworks, the Minister may make regulations to prohibit, regulate or require the doing of any act or acts in a protected water area that may impair or prevent the impairment, as the case may be, of the quality of the water in the protected water area.

(9) Before designating a protected water area, the Minister shall ensure that the operator of the waterworks or proposed waterworks has provided opportunities for public consultation.

(10) No claim for injurious affection lies against any person as the result of a designation of a protected water area.

(11) The exercise by the Minister of the authority contained in subsection (8) is a regulation within the meaning of the *Regulations Act*. 1994-95, c. 1, s. 106; 2001, c. 6, s. 103; 2006, c. 30, s. 35.

No grant of fishing rights

113 Nothing in this Act authorizes the granting of any fishing right or privilege. 1994-95, c. 1, s. 107.

No rights by prescription

114 (1) Possession, occupation, use or obstruction of any watercourse, or any use of any water resource by any person for any time whatsoever on or after May 17, 1919, does not give an estate, right, title or interest therein or thereto or in respect thereof to any person.

(2) Notwithstanding subsection (1), possession, occupation or use of a watercourse where the land is no longer covered by water, for a period of not less than 40 years continuously, may give an interest therein in accordance with the principles of adverse possession or prescription. 1994-95, c. 1, s. 108; 2001, c. 6, s. 103.

Regulations

115 (1) The Governor in Council may make regulations

- (a) respecting the uses to which specified watercourses may be put;
- (b) defining contaminants for the purpose of this Part and prescribing permissible limits for such contaminants present in or being discharged into water or a watercourse;
- (c) respecting the construction, operation, classification and maintenance of water-treatment and water-distribution facilities and sewage-treatment and sewage-collection facilities and the operators of such facilities;
- (d) respecting the infilling or alteration of wetlands, swamps, marshes, ravines or gulches;
- (e) respecting the qualifications for well contractors and well-pump installers;
- (f) providing for the issuing of tags, decals, plates, devices, documents or other things to a holder of a certificate of qualification to serve as evidence that a drilling machine is being operated under a certificate;
- (g) requiring and governing the taking of samples, tests, analyses, surveys and logs and other well data and the submission of them to the Minister;
- (h) governing the reclamation of wells and the methods and requirements to be observed in reclamation operations;
- (i) respecting remedial action to be taken with respect to problem wells;
- (j) respecting the control of flowing wells;
- (k) respecting the methods of drilling and digging wells, and of determining sources of groundwater;
- (l) respecting the precautions and measures to be taken prior to and during the drilling, digging and development of a well;
- (m) respecting the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning and production of wells;
- (n) respecting the maintenance of inactive wells;
- (o) respecting the ongoing maintenance and operation of active wells;
- (p) respecting the drilling and reclamation of wells;
- (q) respecting well log books;

- (r) providing for the protection of human health and the prevention of drinking-water health hazards through the control and regulation of drinking-water supplies, drinking-water testing and reporting;
- (s) respecting water distributed by water haulers for consumption purposes;
- (t) respecting vehicles and containers used by water haulers;
- (u) respecting the qualifications of water haulers;
- (v) respecting the requirements for the selection, design, construction, installation, covering, operation, maintenance and repair of on-site sewage disposal systems;
- (w) respecting lot specifications and clearance distances for the construction and installation of on-site sewage disposal systems;
- (x) respecting the requirements for the construction and installation of innovative sewage disposal systems;
- (y) respecting the qualifications for qualified persons, installers and septic-tank cleaners for on-site sewage disposal systems;
- (z) respecting vehicles and containers used by septic-tank cleaners;
- (aa) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*, 1994-95, c. 1, s. 110; 2006, c. 30, s. 36; 2011, c. 61, s. 39.

PART XI

AIR-QUALITY MANAGEMENT

Duties and powers of Minister

- 116 (1) The Minister shall
- (a) establish Provincial ambient air-quality standards or objectives necessary for the protection of the environment; and
 - (b) establish performance specifications and standards for air-quality testing and monitoring.
- (2) The Minister may
- (a) establish air-emission standards applicable to toxic, common and nuisance air contaminants and odour;
 - (b) adopt overall provincial emission caps and production goals and product manufacturing, sale and use restrictions to address air-quality issues of regional or global significance;

- (c) conduct or require air-quality and meteorological studies and compliance-monitoring programs;
- (d) establish regional air-quality-management programs to address the combined effects of multiple sources of air contaminants;
- (e) enter into agreements respecting air-management issues;
- (f) prepare model bylaws and otherwise co-operate with municipalities to promote improved air quality;
- (g) establish requirements respecting the operation or maintenance of any equipment, device or service that may emit contaminants into the air;
- (h) maintain inventories and establish reporting requirements for emissions of air contaminants. 1994-95, c. 1, s. 111; 2006, c. 30, s. 37; 2011, c. 61, s. 40.

Regulations

117 (1) The Governor in Council may make regulations

- (a) restricting the manufacture, sale or use of a substance having the potential to release environmentally damaging substances into the atmosphere;
- (b) limiting the concentration or quantity of emissions into the atmosphere, either alone or in combination with any other substance;
- (c) requiring the submission of information related to the release of substances into the atmosphere;
- (d) establishing standards or objectives for ambient air quality;
- (e) governing or prohibiting practices or activities that may emit contaminants into the atmosphere;
- (f) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 112.

PART XII

GREENHOUSE GAS MITIGATION AND CAP-AND-TRADE PROGRAM

Interpretation of Part

118 (1) In this Part,

“cap-and-trade program” means the program established pursuant to subsection 119(1);

“compliance period” means a period prescribed by the regulations as a compliance period;

“emission allowance or credit” means an emission allowance, an offset credit, an early-reduction credit or any allowance or credit prescribed by the regulations;

“emitter” means a person to whom the emission of a greenhouse gas is attributable but does not include a person prescribed by the regulations as not being an emitter;

“GHG Registry” means the registry established or prescribed pursuant to subsection 128(1);

“Green Fund” means the fund established pursuant to subsection 131(1);

“Green Fund Manager” means the person designated by the regulations to manage and administer the Green Fund;

“greenhouse gas” means any of the following gases:

- (a) carbon dioxide;
- (b) methane;
- (c) nitrous oxide;
- (d) hydrofluorocarbons;
- (e) perfluorocarbons;
- (f) sulphur hexafluoride;
- (g) nitrogen trifluoride;
- (h) a gas prescribed by the regulations;

“participant” means an emitter or other person who is registered in the GHG Registry.

(2) For the purpose of this Part and subject to the regulations, the emission of a greenhouse gas is attributable to an emitter

(a) if the emission is released in the course of the carrying on or operation by the emitter of a business, facility or other establishment;

(b) if the emission is released in the course of the production or use of a product distributed by the emitter; or

(c) in any circumstance prescribed by the regulations.

2017, c. 10, s. 2.

Cap-and-trade program

119 (1) The Governor in Council shall, by regulation, establish a greenhouse gas emissions cap-and-trade program pursuant to which emission allowances and credits may be created and granted for the purpose of contributing to the achievement of the targets referred to in subsection 112B(1) of Chapter 1 of the Acts of 1994-95, the *Environment Act*, as it read immediately prior to January 1, 2023, and the mitigation of the costs and impact of reducing or limiting greenhouse gas emissions.

(2) One emission allowance or credit is equivalent to one metric ton of carbon dioxide equivalent. 2017, c. 10, s. 2.

Submission by emitter

120 (1) Unless exempted by the regulations, an emitter shall, for each compliance period and in the manner prescribed by the regulations, submit to the Minister an amount of emission allowances and credits equal to the amount of greenhouse gas emissions, measured in metric tons of carbon dioxide equivalents, released during the compliance period and attributable to the emitter.

(2) Where the Minister determines that an emitter has submitted an amount of emission allowances and credits greater than the amount required to satisfy the emitter's obligation pursuant to subsection (1), the Minister may, in accordance with the regulations, return the surplus emissions allowances and credits to the emitter. 2017, c. 10, s. 2.

Emission allowances and credits

121 (1) The Minister may create and grant emission allowances and credits in accordance with this Section and the regulations.

(2) The Minister may grant emission allowances by any means the Minister considers appropriate, including by

(a) allocating them without charge to emitters; or

(b) selling them at auction or by agreement to emitters.

2017, c. 10, s. 2.

Limits on emission allowances

122 (1) The Governor in Council shall, by regulation, prescribe such limits on the total amount of emission allowances that may be created by the Minister for such periods as the Governor in Council considers appropriate.

(2) The limits prescribed pursuant to subsection (1) may include specific limits on the amount of emission allowances that may be created by the Minister for the purpose of being granted to emitters engaged in such classes of activities as the Governor in Council considers appropriate. 2017, c. 10, s. 2.

Money from sale remitted to Green Fund

123 Where the Minister sells an emission allowance or credit, the Minister shall remit all money received from the sale to the Green Fund. 2017, c. 10, s. 2.

Disposal and acquisition of allowance or credit

124 (1) A participant may, in accordance with and if permitted by the regulations, dispose of or acquire an emission allowance or credit.

(2) Unless cancelled by or submitted to the Minister, an emission allowance or credit does not expire except as provided by the regulations. 2017, c. 10, s. 2.

Suspension or cancellation of allowance or credit

125 (1) The Minister may, in accordance with the regulations, cancel or suspend an emission allowance or credit

- (a) if the emission allowance or credit was created, granted, disposed of, acquired or submitted to the Minister on the basis of false or inaccurate information;
- (b) if the holder of the emission allowance or credit has contravened this Part or the regulations made pursuant to this Part; or
- (c) under any other circumstances prescribed by the regulations.

(2) A suspended emission allowance or credit may not be disposed of, acquired or submitted to the Minister in compliance with subsection 120(1). 2017, c. 10, s. 2.

Where person ceases to be emitter

126 (1) A person to whom the Minister has allocated an emission allowance or credit without charge shall notify the Minister in writing if the person ceases or is about to cease to be an emitter.

(2) Subject to the regulations, where a person notifies the Minister pursuant to subsection (1), the person shall surrender any emission allowances or credits that

- (a) were allocated without charge to, and remain held by, the person;
- (b) are not required to be submitted in compliance with subsection 120(1); and
- (c) are requested by the Minister to be surrendered. 2017, c. 10, s. 2.

Agreements

127 (1) The Minister may, on behalf of the Crown in right of the Province and with the approval of the Governor in Council, enter into an agreement with the Government of Canada, the government of a province of Canada, the government of a foreign country or a state thereof, an international organization or an agency of any of the foregoing, for the purpose of harmonizing, integrating or linking the cap-and-trade program with any similar program established or carried on by another party to the agreement.

(2) Without limiting the generality of the foregoing, the agreement may provide for

- (a) the reciprocal recognition of
 - (i) any emission allowances and credits created and granted, and
 - (ii) any other rights, privileges or obligations conferred or imposed,
- pursuant to the programs;

(b) the consolidation of any registries established or prescribed pursuant to the programs; and

(c) the mutual recognition of decisions made by the competent authorities pursuant to the programs respecting the creation, granting, use, disposition, acquisition, cancellation or suspension of emission allowances and credits. 2017, c. 10, s. 2.

Registry

128 (1) A registry of participants must be established by the Minister or prescribed by the regulations.

(2) An emitter shall, in accordance with the regulations, register and remain registered in the GHG Registry, unless exempted by the regulations.

(3) A person prescribed by the regulations may, in accordance with the regulations, register in the GHG Registry.

(4) For each participant, the Minister shall record in the GHG Registry

(a) where the participant is an emitter, the nature and reported amount of the greenhouse gas emissions attributable to the participant;

(b) the emission allowances and credits held by the participant; and

(c) any other information prescribed by the regulations.

(5) The Minister shall ensure that the GHG Registry is maintained in accordance with the regulations.

(6) The information recorded in the GHG Registry, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, may be disclosed and published as authorized by the regulations. 2017, c. 10, s. 2.

Report by participant

129 (1) At such times and in such manner as the regulations may prescribe, a participant shall

(a) where the participant is an emitter, report to the Minister the amount of any greenhouse gas emissions attributable to the participant;

(b) provide to the Minister any records, and disclose to the Minister any information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, prescribed by the regulations; and

(c) pay the fee prescribed by the regulations for registration in the GHG Registry.

(2) A participant shall maintain the records referred to in clause (1)(b) for the period prescribed by the regulations and allow the records to be audited in accordance with the regulations. 2017, c. 10, s. 2.

Report by emitter

130 An emitter and any other person prescribed by the regulations shall, in accordance with the regulations,

(a) quantify and report the nature and amount of greenhouse gases attributable to the emitter; and

(b) verify or facilitate the verification of the nature and amount of greenhouse gases reported by the emitter as being attributable to the emitter. 2017, c. 10, s. 2.

Green Fund

131 (1) The Green Fund is established.

(2) The money and property in the Green Fund must be managed and used in accordance with the regulations for the following purposes:

(a) financing measures to reduce, limit or avoid greenhouse gas emissions;

(b) financing the research and development of innovative technology to reduce, limit or avoid greenhouse gas emissions;

(c) financing measures to mitigate the economic and social impact of measures to reduce, limit or avoid greenhouse gas emissions;

(d) financing public awareness campaigns respecting climate change or measures to reduce, limit or avoid greenhouse gas emissions;

(e) financing adaptation to climate change;

(f) financing the development of, and the participation of the Government of the Province in, regional and international initiatives respecting climate change;

(g) a purpose prescribed by the regulations.

(3) The Green Fund must be managed by the Green Fund Manager in accordance with this Part and the regulations made pursuant to this Part.

(4) The Green Fund Manager may acquire and dispose of property on behalf of the Green Fund.

(5) The Green Fund consists of

(a) property acquired pursuant to subsection (4) and money from the distribution of such property;

(b) money received from the sale of emission allowances under clause 121(2)(b) and the payment of administrative penalties imposed pursuant to Section 214;

- (c) money remitted to the Green Fund in accordance with the regulations from
 - (i) fees paid in relation to the administration of the cap-and-trade program, or
 - (ii) fines paid in relation to the contravention of subsection 120(1); and
- (d) income accruing to the Green Fund. 2017, c. 10, s. 2.

Report by Minister

132 No later than July 31st in each year, the Minister shall table in the Assembly a report on the use of the Green Fund if the Assembly is then sitting or, where it is not then sitting, file the report with the Clerk of the Assembly. 2017, c. 10, s. 2; 2022, c. 46, s. 2.

Regulations

- 133** (1) The Governor in Council may make regulations
- (a) prescribing periods as being compliance periods;
 - (b) prescribing allowances and credits as being emission allowances and credits;
 - (c) prescribing persons as not being emitters;
 - (d) designating a person as the Green Fund Manager;
 - (e) prescribing a gas as being a greenhouse gas;
 - (f) respecting the attribution of a greenhouse gas emission to an emitter;
 - (g) prescribing the amount of emissions of a particular type of greenhouse gas that is represented by an emission allowance or credit;
 - (h) prescribing provincial greenhouse gas emission-reduction targets for specified periods, including specific greenhouse gas emission-reduction or emission-limitation targets for specific classes of activities;
 - (i) establishing a greenhouse gas emissions cap-and-trade program;
 - (j) respecting the requirement to submit emission allowances or credits to the Minister pursuant to subsection 120(1), including
 - (i) prescribing the circumstances in which an emitter is not subject to the requirement,
 - (ii) prescribing the manner by which emission allowances and credits may be submitted to the Minister, and
 - (iii) respecting the return by the Minister of surplus emission allowances and credits submitted by an emitter in compliance with subsection 120(1);

- (k) respecting the creation, granting, value, disposition, acquisition and use of emission allowances and credits;
- (l) prescribing limits on the total amount of emission allowances that may be created by the Minister for specified periods, including specific limits on the amount of emission allowances that may be created by the Minister for the purpose of being granted to emitters engaged in specific classes of activities;
- (m) respecting the disposition or acquisition of emission allowances and credits;
- (n) respecting the expiration of emissions allowances and credits;
- (o) respecting the cancellation or suspension of an emission allowance or credit, including prescribing the circumstances under which the Minister may cancel or suspend an emission allowance or credit;
- (p) respecting the surrender of unused emission allowances or credits that were allocated to an emitter without charge;
- (q) respecting agreements made pursuant to Section 127 and the harmonization, integration or linking of the cap-and-trade program with any similar program established or carried on by another party to such an agreement;
- (r) prescribing a registry as the GHG Registry;
- (s) respecting the registration of persons in the GHG Registry;
- (t) exempting emitters and other persons who hold an emission allowance or credit from the requirement to register and remain registered in the GHG Registry;
- (u) prescribing persons as eligible to register in the GHG Registry;
- (v) prescribing information to be recorded by the Minister in the GHG Registry;
- (w) respecting the GHG Registry and its maintenance;
- (x) respecting the disclosure and publication of information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, recorded in the GHG Registry;
- (y) prescribing the times and manner in which a participant is to comply with the obligations imposed by subsection 129(1);
- (z) prescribing records to be provided and information to be disclosed, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, to the Minister and maintained by participants and the period during which any such records must be maintained;
- (aa) respecting the auditing of records maintained by emitters;

(ab) respecting the quantification, reporting and verification of the nature and amount of greenhouse gas emissions attributable to an emitter;

(ac) respecting the management and use of money and property in the Green Fund, including prescribing purposes for which such money and property may be managed and used;

(ad) directing that some or all of the following be remitted to the Green Fund:

(i) fees paid in relation to the administration of the cap-and-trade program,

(ii) fines and settlement money paid in relation to the contravention of subsection 120(1),

(iii) contributions or donations made to the Government;

(ae) respecting the responsibilities of the Green Fund Manager;

(af) defining any word or expression used but not defined in this Part;

(ag) further defining any word or expression defined in this Part;

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

(2) A regulation made pursuant to subsection (1) may be of general application or may apply to such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of matters or things.

(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*, 2017, c. 10, s. 2.

PART XIII

OUTPUT-BASED PRICING SYSTEM

Interpretation

134 In this Part,

“carbon dioxide equivalent” means, in reference to a quantity of greenhouse gas, the carbon dioxide equivalent as calculated and prescribed by the regulations;

“Climate Change Fund Manager” means the Nova Scotia Climate Change Fund Manager designated by the regulations;

“compliance obligation” means any action including compliance options that a regulated facility is required to take under this Act and the reg-

ulations if the regulated facility has failed to reduce its emissions of greenhouse gases under subsection 139(1);

“compliance option” means

- (a) a fund credit;
- (b) a performance credit; and
- (c) any other type of credit prescribed by the regulations;

“compliance period” means a period prescribed as a compliance period by the regulations;

“electricity generation” means the operation of electric utilities that generate, transmit, store, control and distribute electric power;

“facility” means an integrated facility or a pipeline transmission system;

“Fund” means the Nova Scotia Climate Change Fund established under Section 145;

“fund credit” means a credit obtained by a regulated facility by paying money to the Province in accordance with this Part and the regulations;

“greenhouse gas” means any of the following gases:

- (a) carbon dioxide;
- (b) hydrofluorocarbons;
- (c) methane;
- (d) nitrogen trifluoride;
- (e) nitrous oxide;
- (f) perfluorocarbons;
- (g) sulphur hexafluoride; and
- (h) a gas prescribed by the regulations;

“greenhouse gas emitter” means a person who meets the criteria prescribed by the regulations for being a greenhouse gas emitter, but does not include a regulated facility;

“industrial facility” means a facility in the Province engaged in

- (a) electricity generation;
- (b) manufacturing and processing;
- (c) mining, quarrying and oil and gas extraction; or
- (d) any other activity prescribed by the regulations;

“integrated facility” means all buildings, equipment, structures, on-site transportation machinery and stationary items that are located on a single site, on multiple sites or between multiple sites that are owned or operated by the same person or persons and that function as a single integrated site, but does not include vehicles or equipment when being transported between sites on public roads;

“manufacturing and processing” means the chemical, mechanical or physical transformation of materials or substances into finished or semi-finished products;

“mining, quarrying and oil and gas extraction” means the extraction of minerals, solid materials, liquids and gases;

“opted-in facility” means an industrial facility designated as an opted-in facility under Section 137, while the designation remains in effect;

“output-based pricing system” means the system established under Section 135;

“owner or operator” means

(a) the person who is responsible for an industrial facility’s operations as of December 31st of a year; or

(b) where an industrial facility closed during a year, the person who last operated the industrial facility in that year;

“performance credit” means, subject to the regulations, a credit expressed in carbon dioxide equivalent awarded by the Minister to a regulated facility for reaching or surpassing the greenhouse gas emissions reductions threshold set in accordance with the regulations for a given compliance period;

“pipeline transmission system” means the portion of a transmission pipeline system within the Province, used to transmit carbon dioxide or natural gas, of which the pipelines and associated installations or equipment, including compressor stations, storage installations and compressors, are operated in an integrated way, but does not include straddle plants or other processing installations and pipelines, installations or equipment that are used in the local distribution of natural gas and that are downstream of a metering station;

“registry” means the output-based pricing system registry established pursuant to Section 143;

“regulated facility” means any industrial facility that meets the following criteria:

(a) an industrial facility that emits 50,000 tonnes or more of carbon dioxide equivalent of greenhouse gases in any of the three years immediately preceding January 1, 2023, and in any year thereafter; or

(b) an industrial facility that is designated under Section 137 as an opted-in facility;

“standard” means a standard made by the Minister under subsection 150(1). 2022, c. 46, s. 3.

Greenhouse gas emissions output-based pricing system

135 The Governor in Council may, by regulation, establish a greenhouse gas emissions output-based pricing system to which emission limits, compliance obligations and credits may be created, granted, cancelled or expired for the purpose of contributing to the achievement of provincial greenhouse gas emission targets and the mitigation of costs and impacts of reducing or limiting greenhouse gas emissions. 2022, c. 46, s. 3.

Minister's powers

136 (1) Subject to the approval of the Governor in Council, the Minister may prescribe compliance periods, emission limits and compliance obligations for regulated facilities that the Minister considers appropriate in accordance with this Section and the regulations.

(2) The emission limits, compliance periods and compliance obligations prescribed pursuant to subsection (1) may include compliance options and credits that may be created, granted, cancelled or subject to an expiration date established by the Minister in accordance with this Act and the regulations.

(3) The Minister may, in accordance with the regulations, create, grant, cancel or establish expiration dates for

(a) a fund credit;

(b) a performance credit; and

(c) any other type of credit prescribed by the regulations.

2022, c. 46, s. 3.

Opted-in facilities

137 (1) The owner or operator of an industrial facility may apply to the Minister to have the facility designated as an opted-in facility in the manner prescribed by the regulations.

(2) The Minister may establish threshold criteria and times for designation as an opted-in facility in accordance with the regulations.

(3) The owner or operator seeking designation of an industrial facility pursuant to subsection (1) must

(a) submit an application in the manner prescribed by the regulations; and

(b) provide any other documents or information prescribed by the regulations. 2022, c. 46, s. 3.

Regulated facilities

138 (1) Unless exempted by the regulations, the owner or operator of a regulated facility shall register the regulated facility within the time and in the manner and form prescribed by the regulations.

(2) An owner or operator of a regulated facility who fails to register the regulated facility pursuant to subsection (1) is guilty of an offence.

(3) The owner or operator of a regulated facility that meets the criteria and requirements established in the regulations for removal of registration may apply to the Minister in accordance with the regulations requesting removal of its registration.

(4) The Minister may remove a regulated facility from registration pursuant to subsection (3) in accordance with the regulations and subject to such terms and conditions as the Minister considers appropriate. 2022, c. 46, s. 3.

Compliance obligations on regulated facilities

139 (1) The owner or operator of a regulated facility shall reduce the facility's greenhouse gas emissions for each compliance period in accordance with the regulations.

(2) The Minister shall impose a compliance obligation, in accordance with the regulations, on the owner or operator of a regulated facility that does not reduce its greenhouse gas emissions as required under subsection (1).

(3) The owner or operator of a regulated facility upon which a compliance obligation is imposed shall, within the time prescribed by the regulations, fulfill its obligation in accordance with the regulations.

(4) An owner or operator of a regulated facility who fails to fulfill a compliance obligation imposed pursuant to subsection (3) is guilty of an offence. 2022, c. 46, s. 3.

Greenhouse gas emissions report

140 (1) The owner or operator of a regulated facility shall submit to the Minister a greenhouse gas emissions report containing the information prescribed by the regulations.

(2) The report must be submitted in the manner and within the time prescribed by the regulations.

(3) The report must be verified in accordance with the regulations. 2022, c. 46, s. 3.

Further prescribed information

141 (1) The Minister may require a greenhouse gas emitter to submit a greenhouse gas emissions report containing the information prescribed by the regulations.

(2) The report required under subsection (1) must be submitted in the manner and within the time prescribed by the regulations.

(3) The Minister may require verification of a report required under subsection (1). 2022, c. 46, s. 3.

Prescribed method for calculating greenhouse gas emissions

142 (1) This Section applies to a regulated facility and to a greenhouse gas emitter prescribed by the regulations.

(2) The owner or operator of a regulated facility or a greenhouse gas emitter referred to in subsection (1) shall calculate its greenhouse gas emissions using the method prescribed by the regulations. 2022, c. 46, s. 3.

Registry for compliance options

143 (1) The Minister may establish and maintain a registry that records the serial numbers of the compliance options issued by the Minister and the obtention, distribution, exchange, trading, sale, use, cancellation and expiration of

compliance options, as applicable, and may include such requirements and information as the Minister considers appropriate for the purpose of this Part in accordance with the regulations.

(2) The Minister shall ensure that the registry is maintained in accordance with the regulations.

(3) The information recorded in the registry, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, may be disclosed and published as authorized by the regulations. 2022, c. 46, s. 3.

Minister may enter into agreements

144 The Minister may, on behalf of the Crown in right of the Province and with the approval of the Governor in Council, enter into an agreement with the Government of Canada, the government of a province of Canada, the government of a foreign country or a state thereof or an international organization or an agency thereof for any purpose related to this Part. 2022, c. 46, s. 3.

Nova Scotia Climate Change Fund

145 (1) The Nova Scotia Climate Change Fund is established.

(2) The money and property in the Fund must be managed and used, in accordance with the regulations and subject to the approval of the Treasury and Policy Board,

- (a) to reduce, limit, avoid or capture greenhouse gas emissions;
- (b) to mitigate the economic and social impacts of climate change and greenhouse gas emissions;
- (c) for the development, administration and implementation of equitable approaches to adapt to a changing climate;
- (d) for efforts to reduce, limit, avoid or capture greenhouse gas emissions;
- (e) to research, develop and demonstrate measures that may reduce, limit, avoid or capture greenhouse gas emissions or help adapt to current and future climate conditions;
- (f) for public awareness, education, outreach, engagement or capacity building related to climate change;
- (g) for adapting to the changing climate;
- (h) for the development of and participation in regional and international initiatives respecting climate change;
- (i) for the development of climate change policy and the measurement, tracking and reporting of climate change initiatives; and
- (j) for such other purposes as prescribed by the regulations.

(3) The Fund must be managed by the Climate Change Fund Manager in accordance with this Part and the regulations made pursuant to this Part.

(4) The Climate Change Fund Manager may acquire and dispose of property on behalf of the Fund in accordance with this Part and the regulations.

(5) Except as may be directed by a court under clause (f), the Fund may consist of and be credited with any amount from any of the following sources, as determined by the Treasury and Policy Board:

(a) property acquired pursuant to subsection (4) and money from the distribution of such property;

(b) income accruing to the Fund;

(c) money remitted to the Province by a regulated facility for the purchase of a fund credit in accordance with this Part and the regulations;

(d) money remitted to the Province in accordance with this Part and the regulations from

(i) fees paid in relation to the administration of the output-based pricing system program, or

(ii) fines paid in relation to the contravention of subsections 138(2) and 139(4);

(e) amounts paid as administrative penalties under this Part and the regulations;

(f) money remitted in accordance with clause 209(1)(k) to fulfill a compliance obligation; and

(g) any other money directed into the Fund.

(6) Any amount that is required to be paid to the Province under clauses (5)(c) to (f) which remains unpaid is a debt due to the Crown in right of the Province and may be recovered by an action in the name of the Crown in right of the Province in a court of competent jurisdiction. 2022, c. 46, s. 3.

Provincial greenhouse gas emission reduction targets

146 (1) The Governor in Council may, by regulation, prescribe such provincial greenhouse gas emission-reduction targets for such periods as the Governor in Council considers appropriate.

(2) Targets prescribed under subsection (1) may include specific greenhouse gas emission-reduction or emission-limitation targets for such class of activities as the Governor in Council considers appropriate.

(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*. 2022, c. 46, s. 3.

Minister to table report

147 No later than two years after the end of the period in respect of which provincial greenhouse gas emission-reduction targets are prescribed pursuant to

subsection 146(1), the Minister shall table in the Assembly a report on the progress made in achieving the targets if the Assembly is then sitting or, where it is not then sitting, file the report with the Clerk of the Assembly. 2022, c. 46, s. 3.

Annual progress report

148 (1) No later than one year following the end of the first compliance period prescribed by the regulations, the Minister shall release and publish a progress report on the output-based pricing system and, thereafter, shall release an annual progress report on the system.

- (2)** The report under subsection (1) must include
- (a)** the total greenhouse gas emissions from facilities and sectors covered under the output-based pricing system;
 - (b)** the total number of credits issued, by category;
 - (c)** the total compliance obligation for all facilities covered under the output-based pricing system; and
 - (d)** any other information required for the report as prescribed by the regulations. 2022, c. 46, s. 3.

Minister may require other information from regulated facility owners

149 (1) At such times and in such manner as the regulations may prescribe, the Minister may require that the owner of a regulated facility submit any other information, records or reports required by the Minister in accordance with the regulations.

(2) The report must be submitted in the manner and within the time prescribed by the regulations.

(3) The owner or operator of a regulated facility shall maintain any information, records or reports referred to in subsection (1) for the period prescribed by the regulations and allow the records to be audited in accordance with the regulations. 2022, c. 46, s. 3.

Regulations establishing standards

150 (1) The Minister may make regulations establishing standards in respect of all matters under this Part on which the Governor in Council has authority to make a regulation, other than those matters referred to in clauses 152(1)(c) and (y).

(2) A standard made under this Section may be retroactive to any date, including a date before January 1, 2023.

(3) A standard authorized by this Section may incorporate by reference, in whole or in part, any regulatory instrument, code, other standard, procedure or guideline as it is amended from time to time before or after the making of the standard or as it read at a fixed time, and may require compliance with the regulatory instrument, code, standard, procedure or guideline so incorporated.

(4) Regulations or a standard made under this Section may vary in respect of different processes, greenhouse gases, facilities, businesses, sectors or

products or in respect of different categories of processes, greenhouse gases, facilities, businesses, sectors or products.

(5) Where there is a conflict or inconsistency between a regulation made by the Governor in Council under this Part and a standard made by the Minister under this Part, the regulation made by the Governor in Council prevails.

(6) The Minister may, in accordance with the regulations made under Section 152, prescribe the criteria, conditions and circumstances under which an exemption from a requirement or provision under this Part, the regulations or standards may apply.

(7) The exercise by the Minister of the authority contained in subsection (1) or (6) is a regulation within the meaning of the *Regulations Act*. 2022, c. 46, s. 3.

Standard to be published and copies made available

151 Where a standard is made under subsection 150(1), the Minister shall, as soon as circumstances permit after the standard is made,

- (a) publish the standard on the website of the Department of Environment and Climate Change; and
- (b) make a copy available to the public at the head office of the Department during normal business hours. 2022, c. 46, s. 3.

Regulations

152 (1) The Governor in Council may make regulations

- (a) prescribing the manner of determining the carbon dioxide equivalent and prescribing the value of the global warming potential;
- (b) establishing compliance obligations for regulated facilities that do not reduce their greenhouse gas emissions as required by Section 139;
- (c) prescribing a gas as being a greenhouse gas for the purpose of the definition of “greenhouse gas” set out in Section 134;
- (d) prescribing the criteria under which a person is considered a greenhouse gas emitter;
- (e) further defining or prescribing other activities related to industrial facilities for the purpose of this Part;
- (f) respecting the issuance of performance credits, including the setting of greenhouse gas emission reductions thresholds that must be reached by a regulated facility in order to be awarded a performance credit;
- (g) prescribing the manner of determining the performance credit threshold;
- (h) respecting the registration of regulated facilities including the information, dates, manner and procedures to be followed and the terms and conditions and deadlines by which regulated facilities must register;

- (i) respecting the establishment of an output-based pricing system;
- (j) prescribing compliance periods and emission limits for regulated facilities;
- (k) respecting compliance options and prescribing other types of credits;
- (l) respecting the imposition of requirements, terms, conditions, limits or prohibitions in respect of the creation, registration, obtention, distribution, exchange, trading, sale, use, variation, cancellation and expiration dates of compliance options and credits;
- (m) establishing the criteria for the issuance of fund credits and performance credits;
- (n) prescribing other credits and the activities required to obtain those credits;
- (o) prescribing the means, date and manner by which regulated facilities are required to reduce greenhouse gas emissions;
- (p) respecting the designation of an industrial facility as an opted-in facility, including the threshold criteria for designation under Section 139, the manner and form of application, deadlines, term and revocation of that designation;
- (q) respecting the reduction of greenhouse gas emissions by regulated facilities including establishing the bases on which regulated facilities are required to reduce their greenhouse gas emissions including on an absolute basis or an emissions-intensity basis;
- (r) respecting compliance obligations including the reporting of compliance obligations and the provision of compliance reports;
- (s) respecting the monitoring of greenhouse gas emissions, the submission of greenhouse gas emission reports and the verification of these reports including the time, content and means by which the report must be submitted;
- (t) prescribing the method of calculating greenhouse gas emissions for the purpose of subsection 142(2);
- (u) respecting the creation, operation, information and management for the registry created for the purpose of Section 143;
- (v) designating a person as the Nova Scotia Climate Change Fund Manager;
- (w) respecting responsibilities of the Climate Change Fund Manager;
- (x) respecting the management and use of money and property in the Fund, including prescribing the purpose for which such money and property may be managed and used;
- (y) directing that some or all of any of the following be remitted to the Province:

- (i) fees paid in relation to the administration of the output-based pricing system,
- (ii) fines and settlement money paid in relation to a contravention under subsection 138(2) or 139(4),
- (iii) contributions or donations made to the Government;
- (z) prescribing provincial greenhouse gas emission-reduction targets for specified periods;
- (aa) prescribing the manner and dates by which compliance obligations must be fulfilled;
- (ab) prescribing penalties for the non-fulfillment of a compliance obligations;
- (ac) prescribing registration fees;
- (ad) respecting the recognition of similar credits granted under similar regulatory schemes for credits in other jurisdictions;
- (ae) prescribing the information and documents that must be retained by regulated facilities and the period for which the information must be retained;
- (af) respecting the payments to the Province of any or all amounts payable to the Crown in right of the Province through the operation of the regulations made under this Part;
- (ag) respecting exemptions from any requirement of this Part and the regulations or the standards or from any provision under this Part and the regulations;
- (ah) respecting the circumstances under which and the conditions upon which exemptions provided under this Part apply;
- (ai) prescribing any other information to be included in reports required under Section 149;
- (aj) respecting fees for the purpose of this Part and the regulations;
- (ak) defining any word or expression used by not defined in this Part;
- (al) further defining any word or expression defined in this Part;
- (am) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Part.

(2) A regulation made under subsection (1) may be of general application or may apply to such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of matters or things.

(3) A regulation made under subsection (1) may be retroactive to any date, including a date before January 1, 2023.

(4) A regulation made under subsection (1) may incorporate by reference, in whole or in part, any regulatory instrument, any code, any standard established by the Minister or other standard, any procedure or any guideline as it is amended from time to time before or after the making of the regulation or as it read at a fixed time and may require compliance with the regulatory instrument, code, standard, procedure or guideline so incorporated.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2022, c. 46, s. 3.

PART XIV

INSPECTIONS AND INVESTIGATIONS

Inspector deemed peace officer

153 An inspector, in carrying out duties pursuant to this Act, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada). 1994-95, c. 1, s. 113.

Programs to promote reporting

154 The Minister shall establish programs to promote the reporting of

- (a) acts or omissions that cause adverse effects; and
- (b) acts or omissions that may constitute offences under this Act.

1994-95, c. 1, s. 114.

Application for investigation

155 (1) Any person who is of the opinion that an offence has been committed under this Act may apply to the Department to have an investigation of the alleged offence conducted.

(2) Where the Department so requests, an application pursuant to subsection (1) must be accompanied by a solemn declaration

- (a) stating the name and address of the applicants;
- (b) stating the nature of the alleged offence and the name of each person alleged to be involved in its commission; and
- (c) containing a concise statement of the evidence supporting the allegations of the applicants.

(3) Any person who wilfully or intentionally provides false information in an application pursuant to subsection (1) is guilty of an offence. 1994-95, c. 1, s. 115.

Investigation

156 (1) On receipt of an application pursuant to Section 155, the Minister shall acknowledge receipt of the application and shall investigate all matters that the Minister considers necessary for a determination of the facts about the alleged offence.

(2) Within 90 days after receiving the application, the Minister shall report to the applicant on the progress of the investigation and the action, if any, proposed to be taken in respect of the alleged offence, but information must not be disclosed to the applicant, where such disclosure would be contrary to the *Freedom of Information and Protection of Privacy Act*.

(3) The Minister may discontinue an investigation if the Minister is of the opinion that the alleged offence does not require further investigation.

(4) Where an investigation is discontinued, the Minister shall

(a) prepare a statement, in writing, of the reasons for its discontinuance; and

(b) send a copy of the statement to the applicant and to any person whose conduct was investigated. 1994-95, c. 1, s. 116; 2011, c. 61, s. 41.

Inspections must be permitted

157 It is a condition of every approval, certificate of qualification or certificate of variance that the holder must forthwith on request permit inspectors to carry out inspections authorized pursuant to this Part of any place, other than a dwelling place, to which the approval, certificate of qualification or certificate of variance relates. 1994-95, c. 1, s. 117.

Assistance to inspectors

158 The owner or occupier of any place in respect of which an inspector is exercising powers or carrying out duties pursuant to this Part, or any person the inspector reasonably believes is related to or associated with any activity at the place, shall

(a) give the inspector all reasonable assistance to enable the inspector to exercise those powers and carry out those duties; and

(b) furnish all information relative to the exercising of those powers and the carrying out of those duties that the inspector may reasonably require. 1994-95, c. 1, s. 118; 2006, c. 30, s. 38.

Right of entry and inspection

159 (1) For the purpose of ensuring compliance with this Act, the regulations, a standard or an order made under Part XV, an inspector, subject to Sections 21 and 160, may, at any reasonable time,

(a) enter and inspect any place to which this Act applies to determine

(i) the extent, if any, to which a substance may cause, is causing or has caused an adverse effect,

(ii) the cause of any adverse effect that may occur, is occurring or has occurred,

(iii) how an adverse effect may be prevented, eliminated, reduced or ameliorated and how the environment may be rehabilitated,

- (iv) compliance with this Act, the regulations and the standards;
 - (b) enter and inspect any place to which this Act applies if the inspector believes waste can be found in that place;
 - (c) enter and inspect any place to which this Act applies in or from which the inspector believes a substance is being, has been or may be released into the environment;
 - (d) enter and inspect any place to which this Act applies that the inspector believes is likely to contain documents related to
 - (i) an activity or thing that is regulated pursuant to this Act, the regulations or a standard, or
 - (ii) the release of a substance into the environment;
 - (e) enter and inspect any place to which this Act applies that the inspector believes is, or is required to be, the subject of or referred to in an approval, notification, standard, temporary approval, certificate of qualification, certificate of variance or order;
 - (f) enter and inspect any place to which this Act applies that the inspector believes is being used by a designated organization to provide training or examinations for, or to keep records or other documents related to the training, application for or issuance of, certificates of qualification;
 - (g) stop and inspect any vehicle, aircraft or vessel to which this Act applies to ascertain whether it or the manner in which it is being operated complies with this Act;
 - (h) where the inspector believes that any thing may release, is releasing or has released into the environment a substance that may cause, is causing or has caused an adverse effect,
 - (i) require the person having care, management or control of the thing to detain the thing at the place where it is found, or
 - (ii) remove the thing or cause it to be removed from the place where it is found and give a receipt for it;
 - (i) require the production of any documents that are required to be kept pursuant to this Act or any other documents that are related to the purpose for which the inspector is exercising any power under clauses (a) to (h).
- (2) An inspector and a person lawfully accompanying an inspector may, while carrying out duties under this Act, enter on or pass over any land or water, whether enclosed or not, without being liable for trespass and without the owner of the property having the right to object.
- (3) In the course of exercising powers pursuant to subsection (1), an inspector may do any or all of the following:
- (a) require that any thing be operated, used or set in motion under conditions specified by the inspector;

- (b) use any machine, structure, material or equipment in the place being inspected in order to carry out the inspection;
- (c) take samples, or require that samples be taken, of any substance or thing;
- (d) conduct tests or take measurements, or require that tests be conducted or measurements be taken, in respect of any substance or thing;
- (e) make copies of or take extracts from any documents referred to in clause (1)(i);
- (f) use any computer system at any place to examine any data contained in or available to the computer system;
- (g) record or copy any information by any method;
- (h) reproduce any record from data in the form of a print-out or other intelligible output;
- (i) take a printout or other output for examination or copying;
- (j) use any copying equipment to make copies;
- (k) take any photographs or audio-video records;
- (l) make reasonable inquiries of any person, orally or in writing.

(4) An inspector may not detain or remove a thing pursuant to clause (1)(h) for more than five days, excluding holidays, without the consent of the person having care, management or control of it or the owner of it, except pursuant to an order issued pursuant to subsection (5).

(5) Where a justice is satisfied on evidence under oath by an inspector that there is reasonable ground to believe that a thing detained or removed pursuant to clause (1)(h) should be detained or removed for longer than five days, excluding holidays, to protect or conserve the environment, the justice may issue or renew an order authorizing an inspector to detain or remove the thing for the period of time set out in the order.

(6) An inspector who applies for an order pursuant to subsection (5) shall give reasonable notice of the application to the person having care, management or control of the thing to be detained or removed or to the owner of it.

(7) An inspector may remove documents that the inspector is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom they were taken and shall promptly return them on completion of the examination or reproduction. 1994-95, c. 1, s. 119; 2006, c. 30, s. 39; 2011, c. 61, s. 42.

Private dwelling place

160 Notwithstanding anything contained in this Act, an inspector may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place, except

- (a) with the consent of the occupant of the place; or

- (b) pursuant to an order under Section 161 to enter and inspect, or under the authority of a search warrant. 1994-95, c. 1, s. 120.

Order to enter and inspect

161 (1) Notwithstanding anything contained in this Act, where a justice is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 159; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to a place that is locked or is otherwise inaccessible,

(ii) a person has denied the inspector access to a place or there is reasonable ground for believing that a person may deny the inspector access to a place,

(iii) a person has prevented the inspector from doing anything set out in Section 159 or denied the inspector access to any thing as a result of which the inspector is unable to do anything set out in Section 159,

(iv) there is reasonable ground to believe that a person may prevent an inspector from doing anything set out in Section 159, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in Section 159,

(v) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 159 without the order might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order authorizing the inspector to do anything set out in Section 159 that is specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which is not more than 30 days.

(3) An application pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice. 1994-95, c. 1, s. 121; 2011, c. 61, s. 43.

Seizure

162 (1) An inspector may seize any thing that is produced to the inspector or that is in plain view during an inspection under Sections 159 and 161.

(2) The inspector may remove the thing seized or may detain it in the place where it is seized.

(3) The inspector shall inform the person from whom the thing was seized of the reason for the seizure and shall give the person a receipt for it. 1994-95, c. 1, s. 122; 2011, c. 61, s. 44.

Directives

163 (1) An inspector may issue a directive to a person requiring the person to

(a) take such measures in accordance with clause 77(b) as the inspector may specify;

(b) furnish the inspector with information in accordance with clause 158(b);

(c) detain a thing in accordance with subclause 159(1)(h)(i);

(d) produce a document in accordance with clause 159(1)(i); or

(e) take any action prescribed by the regulations in any circumstance prescribed by the regulations.

(2) A directive is not subject to appeal or review under this Act.

(3) The Governor in Council may make regulations

(a) respecting the issuance of directives pursuant to this Section, including

(i) prescribing the circumstances in which a directive may be issued, and

(ii) prescribing the actions a person may be required to take in relation to a directive;

(b) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Section.

(4) The exercise by the Governor in Council of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. 2011, c. 61, s. 45.

Use of assistants

164 An inspector or administrator, in carrying out any duties or exercising any powers under this Act, may be accompanied by one or more persons considered by the inspector or administrator to be necessary to enable the inspector or administrator to carry out those duties and exercise those powers. 1994-95, c. 1, s. 123.

Employee protection

165 (1) No employer shall

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose a penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to any person an act or omission that contravenes or that the employee has reasonable grounds to believe may contravene this Act.

(2) Any person who wilfully or intentionally provides false or misleading information pursuant to subsection (1) is guilty of an offence. 1994-95, c. 1, s. 124.

PART XV**ORDERS****Ministerial control order**

166 (1) Where the Minister believes on reasonable and probable grounds that a person has contravened or will contravene this Act, the Minister may, whether or not the person has been charged or convicted in respect of the contravention, issue an order requiring a person, at that person's own expense, to

- (a) cease the specified activity;
- (b) stop, limit, alter or control the release of any substance into the environment or part thereof in accordance with the directions set out in the order, either permanently or for a specified period;
- (c) alter the procedures to be followed in the control, reduction or elimination of the release of any substance into the environment or part thereof;
- (d) install, replace or alter any equipment or thing designed to control, reduce or eliminate the release of any substance into the environment or part thereof;
- (e) take interim measures to control, eliminate or manage the adverse effect, including the provision of potable water to affected parties;
- (f) undertake remedial action to control, reduce, eliminate or mitigate an adverse effect;
- (g) install, replace or alter a facility in order to control, reduce, eliminate or mitigate the release of any substance into or on the environment or part thereof;
- (h) carry out cleanup, site rehabilitation or management, site security and protection or other remedial actions in accordance with directions set out in the order;

(i) comply with directions set out in the order respecting the withdrawal of water from a watercourse, including directions to stop the withdrawal;

(j) refrain from altering a watercourse or comply with directions set out in the order respecting altering a watercourse;

(k) where a person has altered a watercourse, or has unlawfully released a contaminant into a watercourse or in a place where the contaminant may reach a watercourse, take immediate action to remedy the damage that person has caused;

(l) where a person is handling, storing or transporting dangerous goods, waste dangerous goods or pest-control products, take such action as is considered necessary to avoid contamination by the good or product;

(m) cause a crop, feed, food, animal, plant, water, produce, product or other matter contaminated by a pest-control product to be destroyed or rendered harmless;

(n) restrict the sale, handling, use or distribution of a crop, feed, food, animal, plant, water, produce, product or other matter permanently or for such period of time as considered necessary;

(o) take specified precautions with respect to the treatment or decontamination of an area affected by dangerous goods, waste dangerous goods or a pest-control product;

(p) take specified precautions with respect to the future use of an area affected by dangerous goods, waste dangerous goods or a pest-control product;

(q) restrict or prohibit the use of a contaminated site, or the use of any product that comes from a contaminated site;

(r) provide security in an amount and form specified by the Department during a cleanup and afterwards for monitoring or other purposes;

(s) do all things and take all steps necessary to comply with this Act, or to repair any injury or damage, or to control, eliminate or manage an adverse effect.

(2) In environmentally sensitive areas, an order under subsection (1) may impose terms and conditions in excess of requirements provided in regulations, policies, guidelines or standards prescribed or adopted by the Department.

(3) In addition to any other requirements that may be included in an order issued pursuant to this Part, the order may contain provisions

(a) requiring a person, at that person's own expense, to

(i) maintain records on any relevant matter, and report periodically to the Minister or person appointed by the Minister,

(ii) hire an expert to prepare a report for submission to the Minister or person appointed by the Minister,

- (iii) submit to the Minister or person appointed by the Minister any information, proposal or plan specified by the Minister setting out any action to be taken by the person with respect to the subject-matter of the order,
 - (iv) prepare and submit a contingency plan,
 - (v) undertake tests, investigations, surveys and other action and report results to the Minister,
 - (vi) take any other measure that the Minister considers necessary to facilitate compliance with the order or to protect or restore the environment;
- (b) fixing the manner or method of, or the procedures to be used in, carrying out the measures required by the order;
- (c) fixing the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with. 1994-95, c. 1, s. 125.

Ministerial stop order

167 Where the Minister believes on reasonable and probable grounds that there is a likelihood of an irreparable adverse effect, the Minister may make an order to shut down or stop an undertaking forthwith, either permanently or for a specified period of time. 1994-95, c. 1, s. 126.

Litter-control order

168 The Minister, an administrator or an inspector may issue an order to clean up any litter that has been disposed of contrary to this Act. 1994-95, c. 1, s. 127.

Emergency order

169 (1) In an emergency situation, an inspector may issue a written or oral order pursuant to Section 166 or 167.

(2) Any order issued pursuant to subsection (1) must be ratified and confirmed, in writing, by an administrator within three business days or the order is null and void. 1994-95, c. 1, s. 128; 2006, c. 30, s. 40; 2011, c. 61, s. 46.

Factors to be considered before making order

170 (1) In deciding whether to issue an order pursuant to this Part, the Minister, an administrator or an inspector shall be guided by the following considerations, if such information is available or accessible to the Minister, an administrator or an inspector:

- (a) when the substance became present over, in, on or under the site;
- (b) in the case of an owner, occupier or operator, or previous owner, occupier or operator of the site
 - (i) whether the substance was present over, in, on or under the site at the time that person became an owner, occupier or operator,

- (ii) whether the person knew or ought reasonably to have known that the substance was present over, in, on or under the site at the time that person became an owner, occupier or operator,
 - (iii) whether the presence of the substance over, in, on or under the site ought to have been discovered by the owner, occupier or operator had the owner, occupier or operator exercised due diligence in ascertaining the presence of the substance before the owner, occupier or operator became an owner, occupier or operator, and whether the owner, occupier or operator exercised such due diligence,
 - (iv) whether the presence of the substance over, in, on or under the site was caused solely by the act or omission of an independent third party,
 - (v) the economic benefits the person may have received and the relationship between that price and the fair market value of the site had the substance not been present over, in, on or under it;
 - (c) in the case of a previous owner, occupier or operator whether that person disposed of the interest in the site without disclosing the presence of the substance over, in, on or under the site to the person who acquired the interest;
 - (d) whether the person took all reasonable care to prevent the presence of the substance over, in, on or under the site;
 - (e) whether a person dealing with the substance ignored industry standards and practices in effect at the time or complied with the requirements of applicable enactments in effect at the time;
 - (f) whether the person contributed to further accumulation or the continued release of the substance on becoming aware of the presence of the substance over, in, on or under the site;
 - (g) what steps the person took to deal with the site on becoming aware of the presence of the substance over, in, on or under the site;
 - (h) any other criteria the Minister considers to be relevant.
- (2) An order made by the Minister pursuant to this Part may
- (a) require the person to whom the order is directed to take any measures that the Minister considers are necessary to restore or secure the contaminated site and the environment affected by the contaminated site;
 - (b) provide for the apportionment of the cost of compliance with the order;
 - (c) in accordance with the guidelines or regulations, regulate or prohibit the use of the contaminated site or the use of any product that comes from the contaminated site. 1994-95, c. 1, s. 129; 2006, c. 30, s. 41.

Order pursuant to this Part

171 (1) An order pursuant to this Part may deal with several substances and may be directed to one or more persons.

(2) An order pursuant to this Part remains in effect until it is revoked by the Minister.

(3) An order pursuant to this Part is binding on the heirs, successors, executors, administrators, trustees, receiver, receiver manager and assigns of the person to whom it is directed.

(4) An order pursuant to this Part may be issued against any person responsible regardless of whether the act or omission that resulted in issuance of the order, occurred before or after January 1, 1995. 1994-95, c. 1, s. 130.

Amendment or revocation of order

172 (1) The Minister may

- (a) amend a term or condition of, add a term or condition to, or delete a term or condition from an order;
- (b) revoke an order; or
- (c) amend a typographical error in an order.

(2) A copy of an order amended or revoked pursuant to subsection (1) must be served as prescribed in this Act on the person to whom the original order was directed. 1994-95, c. 1, s. 131.

Compliance with order

173 (1) When an order is served on a person to whom it is directed, that person shall comply with the order forthwith or, where a period for compliance is specified in the order, within the time period specified.

(2) Where the person to whom an order is directed does not comply with the order or part thereof, the Minister may take whatever action the Minister considers necessary to carry out the terms of the order.

(3) Reasonable costs, expenses or charges incurred by the Minister pursuant to this Part are recoverable by order of the Minister

- (a) against the person to whom the order was directed; or
- (b) directing any person who has purchased real property from the person to whom the order was directed to pay to the Minister from any money that is still owed to the vendor, a sum not to exceed the amount owing in respect of the costs, expenses or charges.

(4) A purchaser who pays an amount to the Minister pursuant to clause (3)(b) is discharged from any obligation to pay that amount to the vendor.

(5) For the purpose of this Section, the costs referred to in subsection (3) include any costs incurred in investigating and responding to

- (a) any matter to which an order relates; or

(b) the failure to comply with an order.

(6) In any claim or action under this Section, a certificate purporting to be signed by the Minister setting out the amount of the cost, expense or charge is admissible in evidence and is, in the absence of evidence to the contrary, proof

(a) of the amount of the cost, expense or charge set out in the certificate; and

(b) that the cost, expense or charge was made necessary or caused by the release of a substance, contaminant, waste or thing to which the claim or action relates.

(7) Where an order to pay is issued by the Minister pursuant to subsection (3), the order may be filed with the prothonotary of the Supreme Court and recorded in the environmental registry and, when so filed and recorded,

(a) the order is of the same force and effect as if it were a judgment against real property that the person named in the order may now or hereafter own;

(b) a lien is established on the property referred to in clause (a) for the amount stated and it is deemed to be taxes in respect of the real property and may be collected in the same way and in the same priority as taxes under the *Assessment Act*; and

(c) the order may be enforced as if it were a judgment of the Supreme Court in civil proceedings.

(8) No lien under subsection (7) is created against a property registered pursuant to the *Land Registration Act* until the order is recorded in the parcel register. 1994-95, c. 1, s. 132; 2003, c. 6, s. 103.

Joint and several liability

174 (1) Where an order under this Part is directed to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs of doing so, including any costs incurred by the Minister under Section 173.

(2) Subsection (1) does not apply to an order where the Minister and the persons responsible have agreed to an apportionment of costs.

(3) Notwithstanding subsection (1), where an order is directed to a person who is acting in the capacity of executor, administrator, receiver, receiver manager or trustee in respect of a contaminated site, the liability of that person is limited to the value of the assets the person is administering, less the reasonable costs and fees of the administration.

(4) The limitation of liability under subsection (3) does not apply if the executor, administrator, receiver, receiver manager or trustee contributes to further accumulation or the continued release of the substance on becoming aware of the presence of the substance in, on or under the contaminated site.

(5) Where a person named in an order did not cause or contribute to the loss, damage, cost or expense by fault or negligence, each of the persons liable to pay compensation, whether or not they are named in the order, are liable to make contribution to and indemnify that person to such degree as is determined to be just and equitable in the circumstances.

(6) Where two or more persons are liable to pay compensation under this Part, those persons are jointly and severally liable to the person suffering the loss, damage, cost or expense but, as between those persons, in the absence of a contract or agreement, each is liable to make contribution to and indemnify each other in accordance with the following principles:

(a) where two or more persons are liable to pay compensation under this Part and one or more of them caused or contributed to the loss, damage, costs or expense by fault or negligence, such one or more of them shall make contribution to and indemnify,

(i) where one person is found at fault or negligent, any other person liable to pay compensation under this Part, and

(ii) where two or more persons are found at fault or negligent, each other and any other person liable to pay compensation under this Part in the degree in which each of such two or more persons caused or contributed to the loss, damage, cost or expense by fault or negligence;

(b) for the purpose of subclause (a)(ii), if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons liable to pay compensation under this Part caused or contributed to the loss, damage, cost or expense, such two or more persons are deemed to be equally at fault or negligent.

(7) The right of contribution or indemnification under subsections (5) and (6) may be enforced by action in a court of competent jurisdiction. 1994-95, c. 1, s. 134.

Payment by insurer

175 (1) Where a person to whom an order issued pursuant to this Part is insured under an insurance policy that provides for coverage for any cost, expense, loss, damage or charge, the insurer shall, subject to the terms of the relevant policy, pay to the Minister on demand in writing any cost, expense, loss, damage or charge incurred by the Minister while acting pursuant to Section 173.

(2) The Minister may enter into an agreement to share the proceeds of an insurance policy to which the Minister is entitled under subsection (1) on a pro rata basis or such other basis as the Minister considers appropriate with other persons who have incurred any cost, expense, loss, damage or charge in the circumstances described in subsection (1) and the insurer shall pay the proceeds in accordance with the agreement.

(3) Where an insurer has made a payment pursuant to subsection (1) or (2), the payment is deemed to be a payment with respect to the cost, expense loss, damage or charge resulting from the event for which coverage was in effect.

(4) Nothing in this Section requires an insurer to pay the Minister or any other person a sum or sums totalling in excess of the coverage limits of an insurance policy, or a sum or sums the insurer would otherwise not be obligated to pay under the policy.

(5) The Minister may, without restricting the rights of the Minister against the holder of the insurance policy, commence an action directly against the insurer for the purpose of enforcing the rights of the Minister under this Act. 1994-95, c. 1, s. 135.

Orders not regulations under Regulations Act

176 (1) Orders issued under this Part are not regulations within the meaning of the *Regulations Act*.

(2) Orders issued under this Part after February 18, 2003, are valid notwithstanding that those orders were not filed with the Registrar of Regulations as required by the *Regulations Act*. 2006, c. 2, s. 3.

Regulations

177 (1) The Governor in Council may make regulations

- (a) respecting the issuance of orders pursuant to this Part;
- (b) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 136.

PART XV

APPEALS

Appeal to Minister

178 (1) A person who is aggrieved by a decision or order of an administrator or person delegated authority pursuant to Section 16 may, within 30 days of the decision or order, appeal by notice in writing, stating concisely the reasons for the appeal, to the Minister.

(2) The notice of appeal may be in a form prescribed by the Minister.

(3) The Minister shall notify the appellant, in writing, of the decision within 60 days of receipt of the notice of appeal.

(4) The Minister may dismiss the appeal, allow the appeal or make any decision or order the administrator could have made.

(5) The administrator and the appellant shall take such action as is necessary to implement the decision of the Minister disposing of the appeal.

(6) The initiation of an appeal pursuant to this Section does not suspend the operation of any decision or order appealed from, including the requirement to comply with an order under Part XV, pending the disposition of the appeal. 1994-95, c. 1, s. 137; 2006, c. 30, s. 42; 2011, c. 61, s. 48.

Appeal to Supreme Court

- 179 (1)** Subject to subsection (2), a person aggrieved by
- (a) a regulation;
 - (b) a decision of the Minister pursuant to Section 178;
 - (c) a decision of the Minister respecting the granting or refusal of a certificate or an approval;
 - (d) a decision of the Minister respecting the terms or conditions of a certificate or an approval;
 - (e) a decision of the Minister respecting the amendment, addition or deletion of terms and conditions of a certificate or an approval;
 - (f) a decision of the Minister respecting the cancellation or suspension of a certificate or an approval;
 - (g) a decision of the Minister respecting the cancellation or suspension of an emission allowance or credit as defined in subsection 118(1); or
 - (h) an order,

may, within 30 days of the decision or order, appeal on a question of law or on a question of fact, or on a question of law and fact, to a judge of the Supreme Court, and the decision of that court is final and binding on the Minister and the appellant, and the Minister and the appellant shall take such action as may be necessary to implement the decision.

(2) For greater certainty, a decision of the Minister to approve or reject an undertaking registered under Part IV may not be appealed pursuant to subsection (1).

(3) An appeal pursuant to this Part must be commenced within 30 days of the date of the decision or the date of the order referred to in subsection (1).

(4) The initiation of an appeal pursuant to this Part does not suspend the operation of any act or omission appealed from, including the requirement to comply with an order under Part XV, pending the disposition of the appeal.

(5) The decision of the court under subsection (1) is final and there is no further appeal to the Nova Scotia Court of Appeal. 1994-95, c. 1, s. 138; 2011, c. 61, s. 49; 2017, c. 10, s. 3.

Technical irregularity

180 An appeal in connection with any matter under this Act must be dismissed by the Supreme Court where the sole ground for relief established on the appeal is a defect in form or a technical irregularity. 1994-95, c. 1, s. 139.

Regulations

181 (1) The Governor in Council may make regulations respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 140.

PART XVII**CIVIL REMEDIES****Other civil remedies unaffected**

182 No civil remedy for an act or omission is suspended or affected by reason only that the act or omission is an offence under this Act or gives rise to a civil remedy under this Act, and nothing in this Act is to be construed so as to repeal, remove or reduce any remedy available to any person under any enactment, at common law or under any Act of Parliament or of a provincial legislature. 1994-95, c. 1, s. 141.

Civil cause of action

183 Where a person is convicted of an offence under this Act, the conviction is prima facie evidence of negligence and any person who suffers loss or damage as a result of the conduct that constituted the offence may, in a court of competent jurisdiction, sue for an amount equal to the reasonably foreseeable loss or damage proved to have been suffered as a result of the conduct that constituted the offence. 1994-95, c. 1, s. 142.

Protection from liability

184 Notwithstanding anything contained in this Act, no action for damages may be commenced or maintained and no cause of action lies against

- (a) an employee, as defined in the *Civil Service Act*, who is
 - (i) under the direction of the Minister,
 - (ii) acting under the direction of an employee referred to in subclause (i), or
 - (iii) acting pursuant to a delegation pursuant to Part II;
- (b) an agent of the Government, including an emergency responder;
- (c) an employee or agent of a Government agency, a municipality or the Government of Canada, any department or agency of that Government, or any person if there has been a delegation pursuant to Part II;
- (d) an employee or agent of a Government agency or a municipality, or any person if there has been a transfer of administration pursuant to Part II;
- (e) a municipality, or a board or commission if there has been a delegation or transfer of administration pursuant to Part II; or

(f) any person who has been retained or employed by, and any person who serves on any board or advisory committee or as a Corps member under this Act,

if the action arises out of any act or omission of that person that occurs while that person is carrying out duties or exercising powers pursuant to this Act in good faith and, without restricting the generality of the foregoing, no person referred to in this Section is liable for damage caused by a system of inspection or the manner in which inspections are to be performed or the frequency, infrequency or absence of inspections. 1994-95, c. 1, s. 143; 2006, c. 30, s. 43.

Recovery of costs by Government

185 The Government may recover in debt either in an action or as prescribed in this Act or the regulations against any person who is convicted of an offence or upon whom is imposed an administrative penalty under this Act the costs and expenses incurred by the Government

- (a) in responding to any matter related to the offence; and
- (b) in carrying out or causing to be carried out any preventive or remedial action made necessary by the act or omission that constituted the offence. 1994-95, c. 1, s. 144; 2017, c. 10, s. 4.

Recovery of administrative penalty

186 An administrative penalty due and payable under this Act or the regulations is a debt due to the Government and may be recovered by the Government in an action in debt or as prescribed in this Act or the regulations. 2017, c. 10, s. 5.

PART XVIII

TRANSBOUNDARY POLLUTION

Interpretation of Part

187 In this Part,

“person” means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government in its private or public capacity, governmental subdivision or agency, or any other legal entity;

“reciprocating jurisdiction” means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America or a province of Canada that has enacted this Part or provides substantially equivalent access to its courts and administrative agencies. 1994-95, c. 1, s. 145.

Access to Nova Scotia courts

188 An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by pollution originating, or that may originate, in the Province may be brought in the Province. 1994-95, c. 1, s. 146.

Pollution originating in Nova Scotia

189 A person who suffers or is threatened with injury to the person or the person’s property in a reciprocating jurisdiction caused by pollution originating, or

that may originate, in the Province has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in the Province, as if the injury or threatened injury occurred in the Province. 1994-95, c. 1, s. 147.

Applicable law

190 The law to be applied in an action or proceeding brought pursuant to this Part, including what constitutes “pollution”, is the law of the Province excluding choice of law rules. 1994-95, c. 1, s. 148.

Rights not superior

191 This Part does not accord a person injured or threatened with injury in a reciprocating jurisdiction any rights superior to those that the person would have if injured or threatened with injury in the Province. 1994-95, c. 1, s. 149.

Preservation of existing rights

192 The right provided in this Part is in addition to and not in derogation of any other rights. 1994-95, c. 1, s. 150.

Act binds Crown

193 This Part binds the Crown in right of the Province only to the extent that the Crown would be bound if the person were injured or threatened with injury in the Province. 1994-95, c. 1, s. 151.

Reciprocating jurisdiction

194 Notwithstanding the definition of “reciprocating jurisdiction”, the Governor in Council may, by regulation, declare a jurisdiction to be a reciprocating jurisdiction for the purpose of this Part. 1994-95, c. 1, s. 152.

Uniformity of law

195 This Part is to be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this Part among jurisdictions enacting it. 1994-95, c. 1, s. 153.

Agreements

196 In addition to every power vested in the Minister, the Minister may, subject to the approval of the Governor in Council, enter into agreements with

- (a) the government of a reciprocating jurisdiction;
- (b) any person,

for the purpose of establishing committees or coordinating or implementing programs relating to transboundary pollution and may consult with and advise any such government or person with respect to policies and programs relating to transboundary pollution. 1994-95, c. 1, s. 154.

Regulations

197 (1) The Governor in Council may make regulations respecting any matter necessary or advisable to carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 155.

PART XIX

ENVIRONMENTAL INDUSTRIES, INNOVATIONS AND TECHNOLOGIES

Lead agency

198 (1) The Department is designated the lead agency of Government to promote the development and use of sustainable environmental industries, innovations and technologies.

(2) To fulfill the mandate prescribed in subsection (1), the Minister may

(a) assist in the development and implementation of policies and programs to support pollution prevention, environmental management systems, best management practices and the use and commercialization of sustainable environmental innovations, technologies and services;

(b) promote the growth of the environmental sector in local and global markets;

(c) coordinate interdepartmental activities to achieve the mandate prescribed in subsection (1);

(d) harmonize strategies, programs and policies with other governments;

(e) enter into co-operative agreements;

(f) promote and host forums, trade shows and marketing workshops;

(g) assist in the delivery of government support to environmental industry in a direct, accessible, service-oriented and cost-effective manner;

(h) promote such other activities as may be necessary to support pollution prevention, environmental management systems, best management practices and environmental industries, innovations and technologies.

(3) For greater certainty, this Section prevails over every other enactment. 1994-95, c. 1, s. 156; 2006, c. 30, s. 44.

PART XX

PENALTIES AND PROSECUTIONS

Limitation period

199 A prosecution for an offence under this Act may not be commenced more than two years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of an inspector, an administrator or the Minister, whichever occurs first. 1994-95, c. 1, s. 157.

Offences

200 A person who

- (a) knowingly provides false or misleading information pursuant to a requirement under this Act to provide information;
- (b) provides false or misleading information pursuant to a requirement under this Act to provide information;
- (c) does not provide information as required pursuant to this Act;
- (d) hinders or obstructs an inspector or administrator who is exercising powers or carrying out duties, or attempting to do so, pursuant to this Act;
- (e) knowingly contravenes a term or condition of an approval, an environmental assessment approval, a temporary approval, a certificate of variance or a certificate of qualification;
- (f) contravenes a term or condition of an approval, an environmental assessment approval, a temporary approval, a certificate of variance or a certificate of qualification;
- (g) knowingly contravenes an order;
- (h) knowingly contravenes a directive;
- (i) contravenes an order;
- (j) contravenes a directive;
- (k) contravenes subsection 51(1), 64(1), 66(1), 73(1), 74(1) or 121(1);
- (l) contravenes subsection 138(2) or 139(4);
- (m) contravenes Section 31, subsection 51(2), Section 56, 61 or 62, subsection 64(2) or 66(2), Section 67, subsection 73(2) or 74(2), Section 75, 77, 81, 82, 85, 89 or 173 or a regulation made pursuant to subsection 112(8);
- (n) otherwise contravenes this Act or the regulations,

is guilty of an offence. 1994-95, c. 1, s. 158; 2006, c. 30, s. 45; 2011, c. 61, s. 50; 2017, c. 10, s. 6; 2022, c. 46, s. 4.

Penalty

201 (1) A person who commits an offence referred to in clause 200(a), (e), (g), (h) or (k) is liable on summary conviction to a fine of not less than \$1,000 and not more than \$1,000,000 or to imprisonment for not more than two years, or to both a fine and imprisonment.

(2) A person who commits an offence referred to in Section 95, 155 or 165 or clause 200(b), (c), (d), (f), (i), (j) or (m) is liable on summary conviction to a fine of not more than \$1,000,000.

(3) A person who commits an offence referred to in clause 200(n) is liable on summary conviction to a fine of not more than \$500,000. 2017, c. 10, s. 7.

Section 105 offence

202 (1) In this Section, “business” means

(a) a person authorized or entitled to carry on a trade, occupation, profession, service or venture with a view to a profit, including a partnership and a limited partnership; or

(b) a corporation.

(2) A business that commits an offence referred to in Section 105 is liable to a fine of not more than \$100,000 or the fine prescribed in the regulations.

(3) Notwithstanding the definition of “person” in Section 3, a person, other than a business, who commits an offence referred to in Section 105 is liable to a fine of not more than \$10,000 or the fine prescribed by the regulations. 2006, c. 30, s. 47.

Due diligence defence

203 Unless otherwise provided in this Act, no person shall be convicted of an offence under this Act if the person establishes that the person

(a) exercised all due diligence to prevent the commission of the offence; or

(b) reasonably and honestly believed in the existence of facts that, if true, would render the conduct of that person innocent. 1994-95, c. 1, s. 160.

Additional fine

204 Where a person is convicted of an offence under this Act and the court is satisfied that, as a result of the commission of the offence, monetary benefits accrued to the offender, the court may order the offender to pay, in addition to a fine under Section 201, a fine in an amount equal to the estimation of the court of the amount of those monetary benefits. 1994-95, c. 1, s. 161.

Continuing offence

205 Where an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed. 1994-95, c. 1, s. 162.

Offences by employees

206 In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 1994-95, c. 1, s. 163.

Liability of officers, directors and agents

207 Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized,

assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted. 1994-95, c. 1, s. 164.

Responsibility of lenders, trustees and secured creditors

208 (1) Notwithstanding anything contained in this Act or any other enactment respecting the protection or rehabilitation of the environment, receivers, receiver managers, trustees, executors or administrators of a person responsible, and their agents and employees, are not responsible for the rehabilitation of a contaminated site under any such provision beyond the value of the assets the persons are administering less the reasonable costs and fees of the administration, in relation to their position as receiver, receiver manager, trustee, executor or administrator of the assets of a person responsible, in respect of any adverse effect that occurred

(a) before the appointment of the receiver, receiver-manager, executor, administrator or trustee; or

(b) after appointment, except where the adverse effect occurred as a result of the failure of the receiver, receiver manager, trustee, executor or administrator to exercise due diligence.

(2) Subsection (1) does not apply to a person who had care, management or control, in whole or in part, of the site at the time the adverse effect occurred or imposed requirements on any person regarding the manner of treatment, disposal or handling of a substance and the control or requirements, in whole or in part, caused the site to become a contaminated site.

(3) Notwithstanding anything contained in this Act or any other enactment, a secured creditor is responsible for rehabilitation at a contaminated site if

(a) the secured creditor at any time exercised care, management or control, in whole or in part, of the site or imposed requirements on any person regarding the manner of treatment, disposal or handling of a substance and the care, management or control or requirements, in whole or in part, caused the site to become a contaminated site; or

(b) subject to subsection (4), the secured creditor becomes the registered owner of the real property at the contaminated site unless an agreement is entered into pursuant to Section 95,

but a secured creditor is not responsible for rehabilitation where it acts primarily to protect its security interest, including, without restricting the generality of the foregoing, where the secured creditor

(c) participates only in purely financial matters related to the site;

(d) has the capacity or ability to influence any operation at the contaminated site in a way that would have the effect of causing or increasing contamination, but does not exercise that capacity or ability in such a way as to cause or increase contamination;

(e) imposes requirements on any person if the requirements do not have a reasonable probability of causing or increasing contamination at the site; or

(f) appoints a person to inspect or investigate a contaminated site to determine future steps or actions that the secured creditor might take.

(4) Notwithstanding clause (3)(b), a secured creditor is not responsible for the rehabilitation of a contaminated site beyond the value of the assets the secured creditor is administering.

(5) Nothing in this Section exempts a secured creditor, receiver, receiver manager, trustee, executor or administrator from any duty to report or make disclosure imposed by a provision of this Act. 1994-95, c. 1, s. 165.

Court orders relating to penalty

209 (1) Where a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order

(a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;

(b) directing the offender to take any action the court considers appropriate to remedy or prevent any adverse effect that results or may result from the act or omission that constituted the offence;

(c) directing the offender to publish, in the prescribed manner and at the cost of the offender, the facts relating to the conviction;

(d) directing the offender to notify any person aggrieved or affected by the conduct of the offender, of the facts relating to the conviction, in the prescribed manner and at the cost of the offender;

(e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this Section;

(f) on application to the court by the Minister within three years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;

(g) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action that was carried out or caused to be carried out by the Government and was made necessary by the act or omission that constituted the offence;

(h) directing the offender to perform community service;

(i) directing the offender to pay to the Minister the costs incurred by the Minister in carrying out the investigation of the offence;

(j) directing the offender to dispose of the litter in a manner and within the time prescribed by the Minister;

(k) directing an offender who has an unfulfilled compliance obligation under Part XIII to fulfill the compliance obligation by

making a payment to the Province or to the Nova Scotia Climate Change Fund of the amount of the compliance obligation, including any additional amounts imposed pursuant to Section 204;

(1) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the good conduct of the offender and for preventing the offender from repeating the offence or committing other offences.

(2) Where a person, having failed to comply with an order made pursuant to Part XV, is convicted of contravening subsection 173(1), the court may, in addition to any other penalty that may be imposed pursuant to this Act, make an order directing the person to comply with the order made pursuant to Part XV.

(3) Where a person contravenes an order made pursuant to clause (1)(c), the Minister may publish the facts in compliance with the order.

(4) Where the court makes an order pursuant to clause (1)(g) or the Minister incurs publication costs pursuant to subsection (3), the costs constitute a debt due to the Government.

(5) An order made pursuant to subsection (1) or (2) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order. 1994-95, c. 1, s. 166; 2006, c. 30, s. 48; 2011, c. 61, s. 52.

Variation of court order

210 (1) Where a court has made an order pursuant to Section 209, the court may, on application by the offender or the Crown, require the offender to appear before it and, after hearing the offender and the Crown, may make an order

(a) changing the original order or the conditions specified in it;

(b) relieving the offender absolutely or partially from compliance with any or all of the order;

(c) reducing the period for which the original order is to remain in effect;

(d) extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

(2) Before making an order pursuant to subsection (1), the court may direct that notice be given to any persons the court considers to be interested and the court may hear any such persons.

(3) Where an application made pursuant to this Section in respect of an offender has been heard by a court, no other application pursuant to this Section may be made with respect to the offender except with leave of the court. 1994-95, c. 1, s. 167.

Compensation for loss or damage to property

211 (1) Where a person is convicted of an offence under this Act, the court may, at the time sentence is imposed and on the application of a person

aggrieved, order the offender to pay to the person an amount not to exceed \$5,000 or such other amount as is prescribed by the regulations by way of satisfaction or compensation for loss or damage to property suffered by that person as a result of the commission of the offence.

(2) A person in whose favour an order is made pursuant to subsection (1) may file the order with the prothonotary or clerk of the court and, on filing, the order may be enforced as if it were a judgment of the court in civil proceedings. 1994-95, c. 1, s. 168; 2006, c. 30, s. 49.

Recovery of costs for emergency measures

212 All costs, expenses or charges incurred in the carrying out of emergency measures including, without limiting the generality of the foregoing, any management or remediation measures, are recoverable by the Minister or a municipality, either by an action in debt or by a method prescribed in this Act or the regulations, against the person responsible for the need to take the emergency measures. 2006, c. 30, s. 50.

Court order regarding hindrance or obstruction

213 Where a person hinders or obstructs an inspector or administrator contrary to clause 200(d), the Minister may apply to the Supreme Court for an order prohibiting that person from so hindering or obstructing, and the court may make any order it considers appropriate. 1994-95, c. 1, s. 170.

Administrative penalty for contravention of Part XII

214 (1) Where the Minister is satisfied on reasonable grounds that a person has contravened Part XII or the regulations made pursuant to that Part, the Minister may order the person to pay an administrative penalty.

(2) The purpose of an administrative penalty is to

(a) ensure compliance with Part XII and the regulations made pursuant to that Part; and

(b) prevent any person from deriving, directly or indirectly, an economic benefit as a result of contravening Part XII or the regulations made pursuant to that Part.

(3) An order to pay an administrative penalty must be served on the person to whom it is addressed in accordance with, and must contain the information prescribed by, the regulations and, upon being served, becomes due and payable.

(4) The amount of an administrative penalty must be determined in accordance with the regulations, but may not exceed \$1,000,000.

(5) Where a person contravenes Part XII or the regulations made pursuant to that Part on more than one day, the person is liable to be ordered to pay an additional administrative penalty for each day on which the person continues the contravention.

(6) An order to pay an administrative penalty applies to the person to whom it is addressed even if

(a) the person took all reasonable steps to prevent the contravention; or

(b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

(7) An order to pay an administrative penalty may be filed with the Supreme Court in accordance with the *Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of the Supreme Court.

(8) The Minister and a person who may be or has been ordered to pay an administrative penalty may enter into an agreement that

(a) identifies the contravention in respect of which the order has been made;

(b) requires the person against whom the order may be or has been made to take measures specified in the agreement within the period specified in the agreement; and

(c) provides that, in accordance with the regulations and the terms of the agreement, the obligation to pay the administrative penalty may be cancelled or the amount of the penalty may be reduced.

(9) A person who

(a) pays an administrative penalty in respect of a contravention of Part XII or the regulations made pursuant to that Part and has remedied the contravention; or

(b) satisfies the terms of a settlement agreement entered into under subsection (8),

may not be convicted of an offence under this Act in respect of the same contravention.

(10) For the purpose of Sections 178 and 179, the only person who is aggrieved by an order to pay an administrative penalty is the person to whom the order is addressed.

(11) Where an administrative penalty is paid to the Government, the amount received must be remitted to the Green Fund. 2017, c. 10, s. 8.

Administrative penalty for contravention of Part XIII

215 (1) Where the Minister is satisfied on reasonable grounds that a person has contravened Part XIII or the regulations made under that Part, the Minister may order the person to pay an administrative penalty.

(2) The purpose of an administrative penalty is to

(a) ensure compliance with Part XIII and the regulations made under that Part; and

(b) prevent any person from deriving, directly or indirectly, an economic benefit as a result of contravening Part XIII or the regulations made under that Part.

(3) An order to pay an administrative penalty must be served on the person to whom it is addressed in accordance with, and must contain the information prescribed by, the regulations and, upon being served, becomes due and payable.

(4) The amount of an administrative penalty must be determined in accordance with the regulations but may not exceed \$1,000,000.

(5) Where a person contravenes Part XIII or the regulations made under that Part on more than one day, the person is liable to be ordered to pay an additional administrative penalty for each day on which the person continues the contravention.

(6) An order to pay an administrative penalty applies to the person to whom it is addressed even if

(a) the person took all reasonable steps to prevent the contravention; or

(b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

(7) An order to pay an administrative penalty may be filed with the Supreme Court in accordance with the *Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of the Supreme Court.

(8) The Minister and a person who may be or has been ordered to pay an administrative penalty may enter into an agreement that

(a) identifies the contravention in respect of which the order has been made;

(b) requires the person against whom the order may be or has been made to take measures specified in the agreement within the period specified in the agreement; and

(c) provides that, in accordance with the regulations and the terms of the agreement, the obligation to pay the administrative penalty may be cancelled or the amount of the penalty may be reduced.

(9) A person who

(a) pays an administrative penalty in respect of a contravention of Part XII or the regulations made pursuant to that Part and has remedied the contravention; or

(b) satisfies the terms of an agreement entered into under subsection (8),

may not be convicted of an offence under this Act in respect of the same contravention.

(10) For the purpose of Sections 178 and 179, the only person who is aggrieved by an order to pay an administrative penalty is the person to whom the order is addressed.

(11) Where an administrative penalty is paid to the Crown in right of the Province, the amount received may be paid to the Nova Scotia Climate Fund established under Part XIII. 2022, c. 46, s. 7.

Regulations

- 216** (1) The Governor in Council may make regulations
- (a) prescribing penalties in respect of offences created under this Act;
 - (b) respecting any matter necessary or advisable for the administration of a system of administrative penalties;
 - (c) respecting agreements entered into in respect of an administrative penalty;
 - (d) respecting the collection of administrative penalties;
 - (e) respecting restitution orders under Section 211;
 - (f) respecting the liability of persons referred to in Section 208;
 - (g) generally, respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

(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*. 1994-95, c. 1, s. 171; 2017, c. 10, s. 9.

PART XXI

DOCUMENTARY EVIDENCE

Documentary evidence

- 217** (1) In any proceeding under this Act,
- (a) a report or other document of an analyst with respect to the results of an analysis purporting to be signed by an analyst;
 - (b) a document purporting to be signed by a person authorized to issue an approval, a certificate of qualification or a certificate of variance stating that on a specified day or during a specified period a person named in the document was or was not the holder of an approval, a certificate of qualification or a certificate of variance;
 - (c) a document setting out with reasonable particularity the conviction and sentence of a person for an offence under this Act purporting to be signed by
 - (i) the person who made the conviction, or
 - (ii) the prothonotary or clerk of the court in which the conviction was made; and
 - (d) a statement purporting to be signed by an administrator setting out the day on which the administrator became aware of the subject-matter of any proceedings,

must be admitted in evidence as prima facie proof of the contents of the document, certificate, report or statement, without proof of the signature or official character of the person signing the certificate, report or statement.

(2) A notice, approval, order, certificate of variance, certificate of qualification or consent purporting to be signed by the person authorized to issue, make or give it is admissible in evidence without proof of the signature or official character of the person signing it. 1994-95, c. 1, s. 172.

Appointment and certificate of analyst

218 (1) The Minister may appoint as an analyst any person who, in the opinion of the Minister, has the qualifications and experience to be so appointed.

(2) No document of an analyst may be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

(3) The party against whom a document of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination. 1994-95, c. 1, s. 173.

PART XXII

MISCELLANEOUS

Review of Act

219 The Minister shall review this Act within 10 years of October 1, 2012, or sooner, and at least every 10 years thereafter. 2011, c. 61, s. 53.

Permits, approvals, orders etc. issued under former Act

220 Every permit, requirement, licence, approval, order, designation or certificate given, made or issued pursuant to one or more of the following Acts is deemed to have been given, made or issued pursuant to this Act and continues in force until varied, cancelled, suspended or appealed in accordance with this Act:

(a) Chapter 118 of the Revised Statutes, 1989, the former *Dangerous Goods and Hazardous-wastes Management Act*;

(b) Chapter 128 of the Revised Statutes, 1989, the former *Derelict Vehicles Removal Act*;

(c) Chapter 149 of the Revised Statutes, 1989, the former *Environmental Assessment Act*;

(d) Chapter 150 of the Revised Statutes, 1989, the former *Environmental Protection Act*;

(e) Chapter 9 of the Acts of 1990, the former *Environmental Trust Act*;

(f) Chapter 184 of the Revised Statutes, 1989, the former *Gasoline and Fuel Oil Licensing Act*;

- (g) Chapter 8 of the Acts of 1989, the former *Litter Abatement Act*;
 - (h) Chapter 331 of the Revised Statutes, 1989, the former *Ozone Layer Protection Act*;
 - (i) Chapter 341 of the Revised Statutes, 1989, the former *Pest Control Products (Nova Scotia) Act*;
 - (j) Chapter 12 of the Acts of 1989, the former *Recycling Act*;
 - (k) Chapter 410 of the Revised Statutes, 1989, the former *Salvage Yard Licensing Act*;
 - (l) Chapter 431 of the Revised Statutes, 1989, the former *Smelting and Refining Encouragement Act*;
 - (m) Chapter 15 of the Acts of 1993, the former *Transboundary Pollution Act*;
 - (n) Section 2, subsection 3(1) and Sections 4 to 23 of Chapter 500 of the Revised Statutes, 1989, the *Water Act*, as that Act read immediately prior to January 1, 1995;
 - (o) Chapter 502 of the Revised Statutes, 1989, the former *Well Drilling Act*;
 - (p) Chapter 510 of the Revised Statutes, 1989, the former *Youth Conservation Corps Act*. 1994-95, c. 1, ss. 175, 176.
-

CHAPTER E-25

An Act Respecting Environmental Goals and Climate Change Reduction

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Supervision of Act.....	3
Principles of Act.....	4
Sustainable prosperity long-term objective.....	5
Greenhouse gas emissions reductions targets	6
Climate change response and greenhouse gas emissions reduction goals.....	7
Climate Change Plan for Clean Growth	8
Active transportation goals	9
Land protection goals.....	10
Water and air goals.....	11
Environmental assessment goal	12
Sustainable procurement goal	13
Aquaculture and food goals	14
Circular economy growth goal.....	15
Business, training and education support goals	16
Diversity, equity and inclusion goal.....	17
Sustainable Communities Challenge Fund	18
Premier to meet annually with Round Table.....	19
Sustainable prosperity to be mandated.....	20
Minister to report progress annually	21
Public review by Round Table	22
Regulations.....	23

Short title

1 This Act may be cited as the *Environmental Goals and Climate Change Reduction Act*. 2021, c. 20, s. 1.

Interpretation

2 In this Act,

“circular economy” means an economy in which resources and products are kept in use for as long as possible, with the maximum value being extracted while they are in use and from which, at the end of their service life, other materials and products of value are recovered or regenerated;

“core active transportation network” means a central and connected network of active transportation facilities for walking, biking or rolling to and from key community destinations;

“equity” means the recognition of people’s differences and the attempt to counteract unequal opportunities by considering fairness and justice;

“Etuaptmumk” means, as defined by the Mi’kmaq, two-eyed seeing;

“extended producer responsibility” means an environmental policy approach in which a producer’s responsibility for a product is extended to the post-consumer stage of its life cycle;

“Fund” means the Sustainable Communities Challenge Fund established under Section 18;

“green business” means an enterprise that prioritizes sustainability principles and socially responsible behaviour in its business model and takes into consideration its impact on the well-being of both the natural world and society;

“Minister” means the Minister of Environment and Climate Change;

“Netukulimk” means, as defined by the Mi’kmaq, 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;

“Round Table” means the Round Table established pursuant to the *Environment Act*;

“sustainable development” has the same meaning as in the *Environment Act*;

“sustainable prosperity” means prosperity where economic growth, environmental stewardship and social responsibility are integrated and recognized as being interconnected. 2021, c. 20, s. 2.

Supervision of Act

3 The Minister is responsible for the general supervision and management of this Act and the regulations. 2021, c. 20, s. 3.

Principles of Act

4 This Act is based on the following principles:

- (a) the achievement of sustainable prosperity in the Province must include
 - (i) Netukulimk,
 - (ii) sustainable development,
 - (iii) a circular economy, and
 - (iv) equity;
- (b) the achievement of sustainable prosperity is a shared responsibility among all levels of government, the private sector and all Nova Scotians;
- (c) climate change is recognized as a global emergency requiring urgent action; and
- (d) such others as may be prescribed by the regulations. 2021, c. 20, s. 4.

Sustainable prosperity long-term objective

5 (1) The long-term objective of the Government is to achieve sustainable prosperity.

(2) To achieve its objective of sustainable prosperity, the Government shall

(a) establish, adopt, support and enable goals that foster an integrated approach to environmental sustainability and economic well-being;

(b) raise awareness of the importance of sustainable prosperity and the climate change emergency and the elements that contribute to them;

(c) encourage the growth of the clean economy and work to support all Nova Scotians in benefiting from its growth;

(d) support the well-being and quality of life of all Nova Scotians;

(e) create conditions necessary for making progress towards sustainable prosperity, including regulation, programs and initiatives that encourage actions and innovation by local government, business, non-government organizations and Nova Scotians; and

(f) work towards continuous improvement in measures of social, environmental and economic indicators of prosperity. 2021, c. 20, s. 5.

Greenhouse gas emissions reductions targets

6 The Government's targets for greenhouse gas emissions reductions are

(a) by 2030, to be at least 53% below the levels that were emitted in 2005; and

(b) by 2050, to be net zero, by balancing greenhouse gas emissions with greenhouse gas removals and other offsetting measures. 2021, c. 20, s. 6.

Climate change response and greenhouse gas emissions reduction goals

7 The Government's goals with respect to climate change mitigation and adaptation and the reduction of greenhouse gas emissions are

(a) to complete and release a Province-wide climate change risk assessment by December 31, 2022, an update by December 31, 2025, and an update every five years thereafter;

(b) to support, strengthen and set targets for energy efficiency programming while prioritizing equitable access and benefits for low income and marginalized Nova Scotians;

(c) to work with municipalities, First Nations and African Nova Scotian communities in the Province to take immediate and long-term action on their climate change priorities;

(d) to build climate change adaptive capacity and resilience by requiring climate adaptation planning across every Government department;

- (e) to adopt the 2020 National Energy Code for Buildings within 18 months of it being published by the Government of Canada;
- (f) to require any new build or major retrofit in government buildings, including schools and hospitals, that enters the planning stage after 2022, to be net-zero energy performance and climate resilient;
- (g) to encourage landlords who currently lease office space to Government to transition existing office space to meet net-zero energy performance;
- (h) to prioritize leased office accommodations in buildings that are climate resilient and meet net-zero energy performance starting in 2030;
- (i) to decrease greenhouse gas emissions across Government-owned buildings by 75% by the year 2035;
- (j) to develop and implement a zero-emission vehicle mandate that ensures, at a minimum, that 30% of new vehicle sales of all light duty and personal vehicles in the Province will be zero-emission vehicles by 2030;
- (k) to develop and implement supporting initiatives for the goal in clause (j);
- (l) to have 80% of electricity in the Province supplied by renewable energy by 2030; and
- (m) to phase out coal-fired electricity generation in the Province by the year 2030. 2021, c. 20, s. 7.

Climate Change Plan for Clean Growth

8 (1) The Government shall create a strategic plan, prior to December 31, 2022, to be known as the “Climate Change Plan for Clean Growth” that addresses

- (a) achieving the greenhouse gas emission targets set out in Section 6;
- (b) adapting to the impacts of climate change and building a climate resilient Province;
- (c) accelerating the integration of sustainable and innovative technologies and approaches; and
- (d) clean inclusive growth.

(2) The Government shall release annual progress reports on the plan outlined under subsection (1) and review and renew the plan within five years of its release. 2021, c. 20, s. 8.

Active transportation goals

9 The Government’s goals with respect to active transportation are

- (a) to establish a Provincial Active Transportation strategy to increase active transportation options by 2023; and
- (b) to complete core active transportation networks that are accessible for all ages and all abilities in 65% of the Province’s communities by 2030. 2021, c. 20, s. 9.

Land protection goals

- 10** The Government's goals with respect to the protection of land are
- (a) to conserve at least 20% of the total land and water mass of the Province by 2030 as protected areas and other effective area-based conservation measures, including Indigenous Protected and Conserved Areas, in a manner consistent with national reporting criteria;
 - (b) to support the goal in clause (a) with a collaborative protected areas strategy to be released by December 31, 2023;
 - (c) to implement by 2023 an ecological forestry approach for Crown lands, consistent with the recommendations in "An Independent Review of Forest Practices in Nova Scotia" prepared by William Lahey in 2018, through the triad model of forest management that prioritizes the sustainability of ecosystems and biodiversity in the Province; and
 - (d) to identify by 2023 the percentage allocation of Crown land dedicated to each pillar of the triad model of forest management referred to in clause (c). 2021, c. 20, s. 10.

Water and air goals

- 11** The Government's goals with respect to water and air are
- (a) to develop provincial water quality objectives to guide activities that affect water quality by 2026;
 - (b) to address and mitigate barriers Nova Scotians face to testing and treatment of rural wells by 2026;
 - (c) to manage the Province's air zones consistent with the Canadian Ambient Air Quality Standards; and
 - (d) to review and update the Province's air emission targets and ambient air quality standards by 2025 and conduct reviews and updates every five years or sooner if the Minister so directs. 2021, c. 20, s. 11.

Environmental assessment goal

- 12** The Government's goal with respect to environmental assessments is to modernize the environmental assessment process by 2024 taking into consideration
- (a) cumulative impacts;
 - (b) diversity, equity and inclusion;
 - (c) independent review;
 - (d) Netukulimk; and
 - (e) climate change. 2021, c. 20, s. 12.

Sustainable procurement goal

- 13** The Government's goal with respect to sustainable procurement is to demonstrate leadership in sustainable procurement by increasing innovation, sustainability, diversity and inclusion in government procurement and considering community benefits attached to procurements. 2021, c. 20, s. 13.

Aquaculture and food goals

- 14** The Government's goals with respect to aquaculture and food are
- (a) to support low-impact sustainable aquaculture through a licensing process that weighs environmental considerations and includes provincial regulation for potential environmental impacts, animal welfare and fish health; and
 - (b) to develop a Provincial food strategy for enhanced awareness of, improved access to and increased production of local food to achieve 20% consumption of local food by 2030. 2021, c. 20, s. 14.

Circular economy growth goal

- 15** The Government's goal to encourage the growth of the circular economy includes
- (a) expanding extended producer responsibility and reducing the use of single-use plastics;
 - (b) reducing solid waste disposal rates to no more than 300 kilograms per person per year by 2030; and
 - (c) developing a plan, including specific actions and interim targets, by 2023 to meet the solid waste goal in clause (b). 2021, c. 20, s. 15.

Business, training and education support goals

- 16** The Government's goals to support business, training and education are
- (a) to actively encourage innovative, sustainable and green businesses to establish or relocate to the Province and create an environment for innovative, sustainable and green business start-ups;
 - (b) to work with small businesses across the Province to get their input on ways to reduce emissions, including through rebates, targeted investments and other supports;
 - (c) to work collaboratively with businesses, the Nova Scotia Community College and the labour sector to modernize apprenticeship programs to ensure the Province has the tradespeople needed to meet the demands of the clean economy;
 - (d) to support youth to engage in the clean economy through sustainability-based youth employment leadership programs in the Province; and
 - (e) to promote and support climate change education and sustainability through the knowledge and teachings of Netukulimk and environmental stewardship with ongoing curricula renewal, the development of inclusive and accessible resources and professional learning that incorporates diversity and honours Etuaptmuk. 2021, c. 20, s. 16.

Diversity, equity and inclusion goal

- 17** The Government's goal with respect to diversity, equity and inclusion is to initiate in 2022 ongoing work with racialized and marginalized communities to create a sustained funding opportunity for climate change action and support for community-based solutions and policy engagement, and to create a panel to address

environmental racism by the end of 2022 with recommendations for redress coming to the Province by the end of 2023. 2021, c. 20, s. 17.

Sustainable Communities Challenge Fund

18 (1) The Sustainable Communities Challenge Fund is established.

(2) The money in the Fund must be managed and used in accordance with the regulations to create competitive opportunities that encourage communities in their climate change mitigation and adaptation efforts. 2021, c. 20, s. 18.

Premier to meet annually with Round Table

19 The Premier shall meet with the Round Table annually to discuss progress on sustainable prosperity and may include at the meeting any member of the Executive Council the Premier considers appropriate. 2021, c. 20, s. 19.

Sustainable prosperity to be mandated

20 The Premier shall ensure that sustainable prosperity is included in the mandate of every Government department. 2021, c. 20, s. 20.

Minister to report progress annually

21 (1) The Minister, in consultation with such members of the Executive Council as the Minister considers appropriate, shall report annually to the House of Assembly on the progress made towards the long-term objective of sustainable prosperity, including progress towards achievement of sustainable prosperity goals and initiatives established pursuant to this Act.

(2) In preparing the annual report referred to in subsection (1), the Minister may seek advice from the Round Table.

(3) The Minister shall table the annual report referred to in subsection (1) in the House of Assembly on or before July 31st of the year in which it was completed or, where the House is not then sitting, file it with the Clerk of the House. 2021, c. 20, s. 21.

Public review by Round Table

22 The Minister shall request the Round Table to carry out a public review of this Act and the regulations

(a) no later than November 5, 2026; and

(b) at any other time the Minister considers appropriate. 2021, c. 20, s. 22.

Regulations

23 (1) The Governor in Council may make regulations

(a) setting additional goals to achieve sustainable prosperity consistent with the principles and focus areas established pursuant to this Act;

(b) establishing further principles to achieve sustainable prosperity;

- (c) respecting initiatives to achieve sustainable prosperity consistent with the principles established pursuant to this Act;
- (d) respecting the acquisition of money for the Fund;
- (e) respecting the management and use of money in the Fund;
- (f) governing reporting and record-keeping requirements for any purpose related to this Act;
- (g) respecting the information and content required for the climate change risk assessment referred to in clause 7(a);
- (h) defining any word or expression used but not defined in this Act;
- (i) further defining any word or expression defined in this Act;
- (j) respecting any matter that the Governor in Council considers necessary or advisable to carry out effectively 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*. 2021, c. 20, s. 23.

CHAPTER E-26

An Act to Provide a Tax Credit for Investments in Small Businesses and Labour-sponsored Venture-capital Corporations

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
PART I	
Equity Tax Credit	
Registration	3
Criteria for eligibility	4
Exclusion from eligible investment	5
Revocation of certificate	6
Prohibited use of funds	7
Tax-credit certificate	8
Disposal of share that received additional tax credit	9
Conditions for issuance of tax-credit certificate	10
Payment to Minister where no entitlement and repayment.....	11
Joint and several liability for repayment.....	12
Community Economic-development Corporations	
Registration	13
Criteria for eligibility	14
Application of Sections 5 to 12.....	15
Provincial guarantee.....	16
PART II	
Labour-sponsored Venture-capital Corporations	
Interpretation of Part	17
Registration	18
Application of Sections 5 and 12	19
Sanctions by Minister respecting certificate	20
Tax-credit certificate	21
Payment to Minister where no entitlement and repayment.....	22
Notice and rules	23
Amalgamation deemed to have complied.....	24
Amalgamation deemed not to be disposal of shares	25
PART III	
General	
Register	26
Filing of returns with Minister.....	27
Maintenance and location of records	28
Examination of affairs.....	29
Investigations	30
Deemed refusal, projections and debts due Crown.....	31

Extension of time	32
Offences and penalty	33
Review of tax credit	34
Regulations	35

Short title

- 1 This Act may be cited as the *Equity Tax Credit Act*. 1993, c. 3, s. 1.

Interpretation

- 2 In this Act,

“active business” means a business carried on in Canada, other than a specified investment business or a personal services business as defined in the *Income Tax Act* (Canada) or a specified investment business employing directly or indirectly with an affiliated corporation five or more people;

“affiliate”, where used to indicate the relationship between companies, means any company where

(a) one company is the subsidiary of the other or both are subsidiaries of the same company;

(b) each company is controlled by the same person, the same group of persons or one or more members of an associated group of persons;

(c) each company was controlled, directly or indirectly in any manner whatever, by a person and the person who so controlled one of the companies was related to the person who so controlled the other, and either of these persons owned, in respect of each company, not less than 25% of the issued shares of any class, other than a specified class, of the capital stock thereof;

(d) one of the companies was controlled, directly or indirectly in any manner whatever, by a person and that person was related to each member of a group of persons that so controlled the other company, and that person owned, in respect of the other company, not less than 25% of the issued shares of any class, other than a specified class, of the capital stock thereof; or

(e) each of the companies was controlled, directly or indirectly in any manner whatever, by a related group and each of the members of one of the related groups was related to all of the members of the other related group, and one or more persons who were members of both related groups, either alone or together, owned, in respect of each company, not less than 25% of the issued shares of any class, other than a specified class, of the capital stock thereof;

“association” means an association as defined in the *Co-operative Associations Act*;

“community economic-development corporation” means a corporation or association that meets the criteria prescribed by the regulations and that is registered by the Minister pursuant to Section 13;

“community economic-development plan” means a community economic-development plan as defined by the regulations and containing the information prescribed by the regulations;

“corporation” means a taxable corporation incorporated pursuant to the laws of the Province, another province of Canada or Canada that has its head office located in the Province;

“eligible business” means

(a) a community economic-development corporation that has been registered by the Minister pursuant to this Act; or

(b) any other corporation or association that has been registered by the Minister pursuant to this Act before January 1, 2020;

“eligible investment” means

(a) in the case of a corporation, fully paid, newly issued voting common shares of the corporation, issued on or before February 28, 2022, that are non-redeemable and non-retractable, are non-convertible, are not restricted in profit sharing or participation upon dissolution and are not eligible for a tax credit allowed pursuant to the *Income Tax Act* (Canada) or a deduction from income pursuant to that Act other than a deduction pursuant to subsection 146(5) of that Act,

(b) in the case of a community economic-development corporation, fully paid, newly issued voting common shares of the corporation, issued on or before March 1, 2032, that are non-redeemable and non-retractable, are non-convertible, are not restricted in profit sharing or participation upon dissolution and are not eligible for a tax credit allowed pursuant to the *Income Tax Act* (Canada) or a deduction from income pursuant to that Act other than a deduction pursuant to subsection 146(5) of that Act,

(c) in the case of an association, a share issued, on or before February 28, 2022, that, if it were the only share owned by the member, would entitle a member to vote in the affairs of the co-operative, and that is not eligible for a tax credit allowed pursuant to the *Income Tax Act* (Canada) or a deduction from income pursuant to that Act other than a deduction pursuant to subsection 146(5) of that Act,

but does not include a replacement share;

“eligible investor” means an individual who is a resident of the Province and who is at least 19 years of age;

“Minister” means the Minister of Finance and Treasury Board or a person designated by the Minister to perform certain duties assigned to the Minister pursuant to this Act;

“replacement share” means a share issued as part of a specified issue where the purchaser has, at any time between September 30, 1993, and March 2, 2032, disposed of a share of any class of the eligible business;

“specified issue” means

(a) in the case of an association, the issue of shares, as defined in clause (c) of the definition of “eligible investment”, to a

member of the association, or individual who will be a member of the association immediately after the issue, at any time between the date of registration and the date of expiration of the certificate of registration;

(b) in the case of a corporation that will issue shares only to its employees, all or substantially all of whom deal with the corporation at arms length, the issue of shares, as defined in clause (a) of the definition of “eligible investment”, to that employee at any time between the date of registration and the date of expiration of the certificate of registration;

(c) in the case of a community economic-development corporation, the issue of shares, as defined in clause (b) of the definition of “eligible investment”, to an eligible investor at any time between the date of registration and the date of expiration of the certificate of registration; and

(d) in any other case, the issue of shares, as defined in clause (a) of the definition of “eligible investment”, to the number of eligible investors, prescribed by the regulations, specified in the application for registration of the corporation to an eligible investor at any time between the date of registration and the date of expiration of the certificate of registration. 1993, c. 3, s. 2; 1995, c. 2, s. 12; 1997, c. 3, s. 2; 2000, c. 4, s. 8; 2001, c. 3, s. 5; 2003, c. 4, s. 3; 2005, c. 6, s. 3; 2006, c. 2, s. 4; 2009, c. 5, s. 4; 2011, c. 62, s. 1; 2019, c. 4, s. 22; 2021, c. 6, s. 3.

PART I

EQUITY TAX CREDIT

Registration

3 (1) A corporation or association that intends to make a specified issue of shares and that meets the criteria set out in Section 4 may apply for registration pursuant to this Act by delivering to the Minister, in a form acceptable to the Minister, an application including

(a) the financial statements of the corporation or association for the preceding taxation year;

(b) a copy of the constitution of the corporation or association;

(c) except in the case of an association, a corporation issuing only to employees or a corporation making a public offering, a list of investors that includes the investor’s name, social insurance number, occupation and, where applicable, the relationship to any of the current shareholders of the corporation;

(d) a statement signed by an authorized officer of the corporation that the information contained in the application is true and correct;

(e) except in the case of an association, or a corporation issuing only to employees, a statement from each investor that the information contained in the application with respect to that investor is true and correct and that their investment in the eligible business complies with the spirit and intent of this Act and the regulations;

- (f) any information prescribed by the regulations;
- (g) such other information that the Minister may require in order to determine compliance with this Act and the regulations.

(2) The Minister shall register a corporation or association, with conditions that the Minister considers appropriate, on being satisfied that

- (a) the corporation or association meets the criteria set out in Section 4;
- (b) the specified issue complies with the spirit and intent of this Act;
- (c) the specified issue complies with the provisions of the *Securities Act* or such part of that Act as may be prescribed; and
- (d) any other prescribed conditions for the registration are met.

(3) Where the Minister registers a corporation or association, the Minister shall issue a certificate of registration.

(4) The certificate of registration constitutes approval, as at the date of registration, for the corporation or association to raise the amount of equity capital referred to in the application. 1993, c. 3, s. 3; 1995, c. 2, s. 13.

Criteria for eligibility

4 The criteria referred to in Section 3 for eligibility of a corporation or association for registration are

- (a) in the case of a corporation, that the corporation has authorized capital consisting of at least one class of voting equity shares;
- (b) that at least 25% of salaries and wages are paid in the Province;
- (c) that the business entity or affiliated corporations or associations have fewer than 500 employees;
- (d) that the corporation or association has assets calculated in the prescribed manner of less than \$25,000,000, including assets of its affiliated companies or associations;
- (e) that the corporation or association has revenues of less than \$25,000,000, including revenues of its affiliated companies or associations;
- (f) that all or substantially all of the fair market value of the property of the corporation or association is attributable to property used in an active business or shares of a corporation or association that would, if it made application pursuant to this Act, be an eligible business;
- (g) in the case of an association, that the association undertakes or carries on business or operations in any activity prescribed by the regulations;
- (h) that the corporation or association is not a business incorporated for the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor;

- (i) that none of the officers and directors of the corporation or association are officers or directors of any other corporation or association that is currently not in compliance with this Act or the regulations. 2003, c. 4, s. 4.

Exclusion from eligible investment

5 Notwithstanding the definition of “eligible investment” in Section 2, an eligible investment does not include a share that, in the opinion of the Minister, is or will be issued as a result of a transaction or event or a series of transactions or events the main purpose of which is to claim the tax credit pursuant to this Act. 1993, c. 3, s. 5.

Revocation of certificate

6 (1) The Minister may, at any time after a certificate of registration has been issued, revoke the certificate if, in the opinion of the Minister, the eligible business has not complied with any provision of this Act and the regulations, or the spirit and intent of this Act and the regulations, or has caused any of the following transactions or events to occur:

- (a) the eligible business has issued shares of the same or substantially the same class as the shares issued as part of the specified issue, at any time after September 30, 1993, and before March 2, 2032, to an individual for an unreasonably low cost per right to vote such that the eligible investor is unable to exercise any real influence in the management of the corporation;

- (b) the eligible business has misrepresented any information to the Minister either knowingly or through circumstances amounting to gross negligence;

- (c) the eligible business has used the proceeds raised by the specified issue for any use prohibited by Section 7;

- (d) the eligible business relocates out of the Province unless it would otherwise continue to qualify for registration;

- (e) the eligible business sells assets whose original book value of purchase when deducted from the total book value of the assets of the eligible business impinges on the capital raised under this Act;

- (f) any other transaction or event prescribed by the regulations.

(2) Where the Minister revokes a certificate of registration at any time after a specified issue has occurred, the eligible business shall pay to the Minister an amount equal to the aggregate of the amounts of tax credits issued in respect of the specified issue.

(3) Where the Minister has revoked a certificate of registration before the specified issue has occurred, the Minister shall not issue the tax-credit certificates referred to in Section 8.

(4) Upon meeting all requirements of the Minister and the Nova Scotia Securities Commission, a community economic-development corporation

may surrender its certificate of registration. 1993, c. 3, s. 6; 1997, c. 3, s. 3; 2000, c. 4, s. 9; 2001, c. 3, s. 6; 2003, c. 4, s. 5; 2006, c. 2, s. 5; 2009, c. 5, s. 5.; 2011, c. 62, s. 2; 2021, c. 6, s. 4.

Prohibited use of funds

7 An eligible business or its affiliates shall not use the funds raised by a specified issue to which tax credits have been or are entitled to be claimed pursuant to Section 56 of the *Income Tax Act*

- (a) for lending, except under prescribed circumstances;
- (b) for acquiring securities, other than eligible investments in a corporation or Association that meets the criteria set out in Section 4;
- (c) for making payments with respect to the payment of dividends to or the repayment of shareholder debt to a director, officer or shareholder of the eligible business or an associate of the director, officer or shareholder of the eligible business;
- (d) for purchasing services or assets provided by the Crown in right of the Province or an agency or a corporation of the Crown, if
 - (i) those services or assets are to be used in all or in part in a business or activity that is the same or similar to the activity previously carried on by the Crown in right of the Province or the agency or corporation of the Crown, and
 - (ii) the corporation has received, either directly or indirectly, any financial assistance from any government, municipality or public authority with respect to the acquisition of those services or assets;
- (e) as part of a transaction or a series of transactions directly or indirectly involving
 - (i) the redemption or purchase of previously issued shares of the eligible business or an affiliate of the eligible business,
 - (ii) the retirement of any part of a liability of a shareholder of the eligible business or one of its affiliates,
 - (iii) the payment of dividends, or
 - (iv) the funding of all or part of the purchase by the eligible business of all or substantially all of the assets of an existing proprietorship, partnership, joint venture, trust or company, except a proprietorship, partnership, joint venture, trust or company that is in receivership or in bankruptcy if an eligible investor or group of investors did not own at any time more than 10% of the voting shares of the proprietorship, partnership, joint venture, trust or company that is in receivership or in bankruptcy;
- (f) for the funding of all or part of the purchase by the eligible business of any services or assets at a price that is greater than the fair market value of the services or assets purchased; or
- (g) for other prescribed purposes. 1993, c. 3, s. 7; 1995, c. 2, s. 15; 2000, c. 4, s. 10; 2003, c. 4, s. 6.

Tax-credit certificate

8 (1) Where an eligible business has made a specified issue, the eligible business shall apply to the Minister within the time specified by the regulations in a form acceptable to the Minister for a tax-credit certificate entitling each of the eligible investors to a tax credit pursuant to Section 56 of the *Income Tax Act* equal to 35% of the amount received by the eligible business, in that calendar year or within 60 days of the end of the calendar year, for shares issued to those eligible investors before March 2, 2032, as part of the specified issue by the eligible business.

(2) Where an eligible investor has received a tax-credit certificate from an eligible business that is a community economic-development corporation for shares from a specified issue for which a tax-credit certificate was issued, and the eligible investor has not disposed of the shares for five years from the date of the specified issue of shares, the eligible business shall apply to the Minister within the time specified by the regulations in a form acceptable to the Minister for a tax-credit certificate entitling the eligible investor to an additional tax credit pursuant to Section 56 of the *Income Tax Act* equal to 20% of the amount originally received by the eligible business from the eligible investor for the shares of the specified issue if the market value of the community economic-development corporation fund at the time of the application is greater than 65% of the original book value of invested capital raised at the time of the issue of shares to the eligible investor from the specified issue and the community economic-development corporation has raised additional capital through other specified issues registered pursuant to Section 13 for which a tax credit has been issued.

(3) Where an eligible investor has received a tax-credit certificate from an eligible business that is a community economic-development corporation for shares from a specified issue for which a tax-credit certificate was issued, and the eligible investor has not disposed of the shares for 10 years from the date of the specified issue of shares, the eligible business shall apply to the Minister within the time specified by the regulations in a form acceptable to the Minister for a tax-credit certificate entitling the eligible investor to an additional tax credit pursuant to Section 56 of the *Income Tax Act* equal to 10% of the amount originally received by the eligible business from the eligible investor for the shares of the specified issue if the market value of the community economic-development corporation fund at the time of the application is greater than 50% of the original book value of invested capital raised at the time of the issue of shares to the eligible investor from the specified issue and the community economic-development corporation has raised additional capital through other specified issues registered pursuant to Section 13 for which a tax credit has been issued.

(4) Subsection (5) and Section 10, except clause 10(c), apply to subsections (2) and (3).

(5) Subject to Section 10, the Minister shall issue a tax-credit certificate in the amount referred to in subsection (1) to the eligible investors, unless the Minister considers that the eligible business or its directors, officers or shareholders are conducting its business or affairs in a manner that is contrary to the spirit and intent of this Act and the regulations. 1993, c. 3, s. 8; 1995, c. 2, s. 16; 2000, c. 4, s. 11; 2006, c. 2, s. 6; 2009, c. 5, s. 6; 2011, c. 62, s. 3; 2021, c. 6, s. 5.

Disposal of share that received additional tax credit

9 (1) A person who disposes of a share for which an additional tax credit is allowed under subsection 8(2), within 10 years from the date of purchase shall repay to the Minister

(a) the amount equal to the additional tax credit received under subsection 8(2), including interest thereon where prescribed by the regulations; or

(b) a lesser amount determined pursuant to the regulations in prescribed circumstances.

(2) A person who disposes of a share for which an additional tax credit is allowed under subsection 8(3), within 15 years from the date of purchase, shall repay to the Minister

(a) the amount equal to the additional tax credit received under subsection 8(3), including interest thereon where prescribed by the regulations; or

(b) a lesser amount determined pursuant to the regulations in prescribed circumstances. 1993, c. 3, s. 8; 2006, c. 2, s. 6.

Conditions for issuance of tax-credit certificate

10 The Minister shall not issue a tax-credit certificate pursuant to subsection 8(5) unless the Minister is satisfied that

(a) the eligible business and its eligible investors are complying with this Act and the regulations;

(b) other than where prescribed, the shares do not constitute a type of security that entitles the holder, in respect of the acquisition of those shares,

(i) to claim a tax credit pursuant to the *Income Tax Act* (Nova Scotia) or the *Income Tax Act* (Canada), other than pursuant to Section 56 of the *Income Tax Act* (Nova Scotia), against income tax payable,

(ii) to claim a deduction from income pursuant to the *Income Tax Act* (Nova Scotia) or the *Income Tax Act* (Canada), other than pursuant to subsection 146(5) of the *Income Tax Act* (Canada), or

(iii) to receive any other financial assistance from any government, municipality or public authority;

(c) no tax credit has previously been allowed for those shares pursuant to the *Income Tax Act* (Nova Scotia) or the *Income Tax Act* (Canada);

(d) in the case of a corporation issued a certificate of eligibility where that corporation made application based on its intention to issue shares only to its employees, the investor on behalf of whom application for the tax-credit certificate is made is an employee of the corporation;

(e) the aggregate of all entitlements in respect of the eligible investor for all tax-credit certificates applied for in the year does not exceed the amount, if any, prescribed by the regulations;

(f) the aggregate of all tax credits issued pursuant to this Part for the year does not exceed the amount prescribed by the regulations; and

(g) any other prescribed conditions have been met. 1993, c. 3, s. 8; 1995, c. 2, s. 16; 1996, c. 5, s. 4; 2000, c. 4, s. 11.

Payment to Minister where no entitlement and repayment

11 (1) Where an individual has received, directly or indirectly, the benefit of a tax credit in respect of which the person is not entitled, the amount of the benefit is payable forthwith by that person to the Minister.

(2) A person who disposes of a share

(a) that was purchased before July 1, 2006, within four years from the date of purchase; or

(b) that was purchased after June 30, 2006, within five years from the date of registration under subsection 3(3) by the corporation for the specified issue,

shall repay to the Minister

(c) an amount equal to the tax credits received in respect of these shares, including interest thereon where prescribed by the regulations; or

(d) a lesser amount determined pursuant to the regulations in prescribed circumstances.

(3) Where an eligible business has repurchased shares in a transaction not permitted by this Act or the regulations, the eligible business shall withhold the amount of the credit and remit it along with details of the transaction to the Minister.

(4) Where an eligible business has repurchased shares in a transaction not permitted by this Act or the regulations in the event of a conversion of a registered retirement savings plan to a registered retirement investment fund or annuity, the eligible business shall withhold a monthly prorated amount of the credit and remit it to the Minister. 1993, c. 3, s. 9; 2003, c. 4, s. 7; 2006, c. 2, s. 7.

Joint and several liability for repayment

12 Where a director or an officer of a corporation, a member of a group that controls the corporation or a shareholder that controls the corporation permits or acquiesces to a transaction or an event or a series of transactions or events that the person knew or ought to have known at that time would cause the certificate of registration to be revoked, that person is jointly and severally liable for the repayment pursuant to subsection 11(2). 1993, c. 3, s. 10.

COMMUNITY ECONOMIC-DEVELOPMENT CORPORATIONS

Registration

13 (1) A community economic-development corporation that intends to make a specified issue of shares and that meets the criteria set out in Section 14

may apply for registration pursuant to this Act by delivering to the Minister, in a form acceptable to the Minister, an application that includes

- (a) the financial statements of the corporation for the preceding taxation year;
- (b) a copy of the constitution of the corporation;
- (c) a copy of the community economic-development plan;
- (d) any information prescribed by the regulations; and
- (e) such other information that the Minister may require in order to determine compliance with this Act and the regulations.

(2) The Minister shall register the community economic-development corporation, with conditions that the Minister considers appropriate, on being satisfied that

- (a) the corporation meets the criteria set out in Section 14;
- (b) the specified issue complies with the spirit and intent of this Act and the regulations;
- (c) the constitution of the corporation provides that no individual is a specified shareholder of the corporation as that term is defined by section 248 of the *Income Tax Act* (Canada) and as if the reference to 10% in that definition were read as a reference to 20%;
- (d) the specified issue complies with the provisions of the *Securities Act* or such part of that Act that may be prescribed; and
- (e) any other prescribed conditions for the registration are met.

(3) Where the Minister registers a community economic-development corporation, the Minister shall issue a certificate of registration.

(4) The certificate of registration constitutes approval, as at the date of registration, for the community economic-development corporation to raise the amount of equity capital referred to in the application. 1993, c. 3, s. 11; 1996, c. 5, s. 5.

Criteria for eligibility

14 The criteria referred to in Section 13 for eligibility of a community economic-development corporation for registration are

- (a) that the corporation or association is incorporated pursuant to the laws of the Province;
- (b) in the case of a corporation, that the corporation has authorized capital consisting of at least one class of voting equity shares;
- (c) that at least 25% of wages and salaries are paid in the Province;
- (d) that the corporation or association has assets or revenues of less than \$25,000,000, including assets and revenues of its affiliated corporations or associations;

(e) in the case of a corporation, that all or substantially all of the fair market value of the property of the corporation is attributable to property used in an active business or shares of a corporation if all or substantially all of the fair market value of the property of that corporation is attributable to property used in an active business or that the corporation has a constitution that restricts the corporation to making specified investments in eligible local business entities in accordance with its community economic-development plan;

(f) in the case of an association, that the association carries on business or operations in any activity prescribed by the regulations or has a constitution that restricts the association to investing in eligible investments of an association that carries on business or operations in any activity prescribed by the regulations. 1993, c. 3, s. 12; 1996, c. 5, s. 6; 2003, c. 4, s. 8.

Application of Sections 5 to 12

15 Sections 5 to 12 apply with necessary changes to a community economic-development corporation issued a certificate of registration by the Minister pursuant to this Act. 1993, c. 3, s. 13.

Provincial guarantee

16 (1) Twenty per cent of the amount invested in eligible investments of a community economic-development corporation must be guaranteed by the Province if the following conditions are met:

(a) annual reports as required under Section 27 are filed in a timely fashion;

(b) the corporation was registered for the specified issue before July 1, 2006;

(c) a tax-credit certificate was issued under Section 8 for the specified issue;

(d) the investment requirements of the regulations are complied with; and

(e) the community economic-development corporation is in compliance with this Act and the regulations.

(2) The Governor in Council may make regulations

(a) prescribing the method of guaranteeing eligible investments;

(b) prescribing eligible geographic areas of the Province in which a guarantee may be given, including the terms and conditions pursuant to which the Minister may exempt from or include areas of the Province in a prescribed eligible geographic area; and

(c) determining the duration of any guarantee given.

(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*. 1996, c. 5, s. 7; 2000, c. 4, s. 12; 2003, c. 4, s. 9; 2006, c. 2, s. 8.

PART II

LABOUR-SPONSORED
VENTURE-CAPITAL CORPORATIONS**Interpretation of Part**

17 In this Part, “labour-sponsored venture-capital corporation” means a corporation registered pursuant to subsection 204.81(1) of the *Income Tax Act* (Canada) or a corporation that has been registered by the Minister pursuant to this Act. 1993, c. 3, s. 14.

Registration

18 (1) A labour-sponsored venture-capital corporation that intends to make an issue of eligible shares to an eligible investor on or before February 28, 2022, and that meets the criteria prescribed by the regulations may apply for registration pursuant to this Act by delivering to the Minister, in a form acceptable to the Minister, an application containing the information prescribed by the regulations.

(2) The Minister shall register a labour-sponsored venture-capital corporation, with conditions that the Minister considers appropriate, on being satisfied that

- (a) the corporation meets the criteria prescribed by the regulations;
- (b) the issue of eligible shares complies or will comply with the spirit and intent of this Act; and
- (c) any other prescribed conditions for registration are met.

(3) Where the Minister registers a labour-sponsored venture-capital corporation, the Minister shall issue a certificate of registration.

(4) The certificate of registration constitutes approval as at the date of registration, for the labour-sponsored venture-capital corporation to raise the amount of equity capital referred to in the application. 1993, c. 3, s. 15; 2001, c. 3, s. 7; 2003, c. 4, s. 10; 2004, c. 3, s. 22; 2009, c. 5, s. 7; 2011, c. 62, s. 4.

Application of Sections 5 and 12

19 Sections 5 and 12 apply with necessary changes to a labour-sponsored venture-capital corporation issued a certificate of registration by the Minister pursuant to this Act. 1993, c. 3, s. 16; 1996, c. 5, s. 8.

Sanctions by Minister respecting certificate

20 (1) The Minister may, at any time after a certificate of registration has been issued,

- (a) monetarily penalize a labour-sponsored venture-capital corporation;
- (b) charge a refundable penalty to a labour-sponsored venture-capital corporation;

(c) restrict the sales of a labour-sponsored venture-capital corporation for such time and on such conditions as the Minister determines; or

(d) revoke the certificate of registration of a labour-sponsored venture-capital corporation,

if, in the opinion of the Minister, the registered labour-sponsored venture-capital corporation has not complied with this Act or the regulations or the spirit and intent of this Act and the regulations, or has caused any transaction or event prescribed by the regulations to occur.

(2) The Governor in Council may, by regulation, prescribe the method of calculating the penalties that may be imposed pursuant to clause (1)(a) or (b).

(3) Where the Minister revokes a certificate pursuant to subsection (1), the Minister may impose such penalty as may be prescribed. 1993, c. 3, s. 17; 2005, c. 6, s. 4; 2006, c. 2, s. 9.

Tax-credit certificate

21 (1) Where a registered labour-sponsored venture-capital corporation has made an issue of eligible shares to an eligible investor

(a) on or before December 31, 2004, the labour-sponsored venture-capital corporation may apply to the Minister for a tax-credit certificate entitling each of the eligible investors to a tax credit pursuant to Section 59 of the *Income Tax Act* equal to 15% of the amount received by the labour-sponsored venture-capital corporation in that calendar year for shares issued to those eligible investors as part of the issue of shares by the labour-sponsored venture-capital corporation; or

(b) on or after January 1, 2005, the labour-sponsored venture-capital corporation may apply to the Minister for a tax-credit certificate entitling each of the eligible investors to a tax credit pursuant to Section 59 of the *Income Tax Act* equal to 20% of the amount received by the labour-sponsored venture-capital corporation, in that calendar year or within 60 days of the end of the calendar year, for shares issued to those eligible investors before March 1, 2022, as part of the issue of shares by the labour-sponsored venture-capital corporation.

(2) Subject to subsection (3), the Minister may issue a tax-credit certificate in the amount referred to in subsection (1) to the eligible investors, unless the Minister considers that the labour-sponsored venture-capital corporation or its directors, officers or shareholders are conducting its business or affairs in a manner that is contrary to the spirit and intent of this Act and the regulations.

(3) The Minister shall not issue a tax-credit certificate pursuant to subsection (2) unless the Minister is satisfied that

(a) the labour-sponsored venture-capital corporation and its eligible investors are complying with this Act and the regulations;

(b) other than where prescribed, the eligible shares do not constitute the type of security that entitles the holder, in respect of the acquisition of those shares,

(i) to claim a tax credit pursuant to the *Income Tax Act* (Nova Scotia) or the *Income Tax Act* (Canada), other than pursuant to Section 59 of the *Income Tax Act* (Nova Scotia) or subsection 127.4(2) of the *Income Tax Act* (Canada), against income tax payable,

(ii) to claim a deduction from income pursuant to the *Income Tax Act* (Nova Scotia) or the *Income Tax Act* (Canada) other than a deduction pursuant to subsection 146(5) of the *Income Tax Act* (Canada), or

(iii) to receive any other financial assistance from any government, municipality or public authority;

(c) no tax credit has previously been allowed for those shares pursuant to the *Income Tax Act* (Nova Scotia) or the *Income Tax Act* (Canada);

(d) the aggregate of all tax credits pursuant to this Act for the year does not exceed the amount, if any, prescribed by the regulations; and

(e) any other prescribed conditions have been met.

(4) For the purpose of clause (3)(d), the labour-sponsored venture-capital corporation shall notify the Minister immediately upon raising the amount of capital that would cause the amount of tax credits issued, pursuant to subsection (2), to equal the amount, if any, prescribed by the regulations. 1993, c. 3, s. 18; 1996, c. 5, s. 9; 2000, c. 4, s. 13; 2001, c. 3, s. 8; 2003, c. 4, s. 11; 2004, c. 3, s. 23; 2005, c. 6, s. 5; 2009, c. 5, s. 8; 2011, c. 62, s. 5.

Payment to Minister where no entitlement and repayment

22 (1) Where an individual has received, directly or indirectly, the benefit of a tax credit in respect of which the person is not entitled, the amount of the benefit is payable forthwith by that person to the Minister.

(2) A person who disposes of a share in respect of which a tax credit has been allowed under this Part within eight years from the date of purchase shall repay to the Minister

(a) an amount equal to the tax credits received in respect of those shares, including interest thereon where prescribed by the regulations; or

(b) a lesser amount determined pursuant to the regulations in prescribed circumstances.

(3) A person who disposes of a share in respect of which a tax credit has been allowed after eight years from the date of purchase may not receive a tax credit on a subsequent purchase of substantially the same shares. 1996, c. 5, s. 10; 2003, c. 4, s. 12; 2006, c. 2, s. 10.

Notice and rules

23 (1) A labour-sponsored venture-capital corporation shall notify the Minister in writing if it proposes to

- (a) amalgamate with another labour-sponsored venture-capital corporation;
- (b) enter into an arrangement for the purchase of substantially all of the assets of another labour-sponsored venture-capital corporation; or
- (c) enter into an arrangement for the sale to another labour-sponsored venture-capital corporation of substantially all of its assets.

(2) The notification must be given at least 30 days before the proposed amalgamation, purchase or sale and must be accompanied by such information and documents as prescribed by the regulations.

(3) The following rules apply for the purpose of this Act on an amalgamation of a labour-sponsored venture-capital corporation with another labour-sponsored venture-capital corporation:

- 1. The amalgamated corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation.
- 2. The amalgamated corporation is deemed to have been registered under this Part on the earliest date on which any of the predecessor corporations was registered under this Part.
- 3. The amalgamated corporation is deemed to have issued the eligible shares issued by a predecessor corporation for the purpose of this Act, in the amount of equity capital received by the predecessor corporation on the issue of those shares.
- 4. Where a predecessor corporation was authorized to issue eligible shares, the amalgamated corporation is deemed to have received the Minister's approval to issue substantially similar shares at the time of the amalgamation.
- 5. Each of the new shares issued by the amalgamated corporation on the amalgamation in replacement of shares that were issued by a predecessor corporation is deemed to have been issued at the time that the predecessor corporation issued the replaced shares.
- 6. The amalgamated corporation is deemed to have made all the investments made by the predecessor corporations,
 - (a) on the same date as the predecessor corporations made the investments; and
 - (b) at the same historic cost used by the predecessor corporations. 2006, c. 2, s. 11.

Amalgamation deemed to have complied

24 An amalgamation of a labour-sponsored venture-capital corporation with another labour-sponsored venture-capital corporation before May 9, 2006, is

deemed to have complied with Section 23 if the effective date of the amalgamation was prior to January 1, 2006. 2006, c. 2, s. 11.

Amalgamation deemed not to be disposal of shares

25 Subject to Sections 23 and 24, an amalgamation of a labour-sponsored venture-capital corporation with another labour-sponsored venture-capital corporation is deemed not to be a disposal of shares for the purpose of subsection 22(2). 2006, c. 2, s. 11.

PART III

GENERAL

Register

26 The Minister shall maintain a register containing the information prescribed by the regulations and the register must be open for public inspection during normal business hours at places in the Province determined by the Minister. 1993, c. 3, s. 19.

Filing of returns with Minister

27 Within 180 days after the end of each of the fiscal years commencing after the end of the fiscal year of registration pursuant to this Act,

(a) a labour-sponsored venture-capital corporation shall file annually and for eight years after its final sale of shares in the Province;

(b) a community economic-development corporation shall file annually and for five years after the issue of tax certificates to individuals under this Act; and

(c) any other entity registered pursuant to this Act shall file as requested by the Minister,

a return with the Minister setting out the information prescribed by the regulations. 2003, c. 4, s. 13; 2007, c. 9, s. 7.

Maintenance and location of records

28 (1) A corporation, association or labour-sponsored venture-capital corporation that is registered pursuant to this Act shall maintain records in such form and containing such information as the Minister considers necessary to determine that this Act and the regulations are being complied with.

(2) The corporation, association or labour-sponsored venture-capital corporation shall keep the records at its records office, or at such other place in the Province that is approved by the Minister. 1993, c. 3, s. 21.

Examination of affairs

29 (1) The Minister, or a person designated by the Minister, may, during normal business hours, make an examination of the affairs of

(a) a corporation, association or labour-sponsored venture-capital corporation that is registered pursuant to this Act;

(b) a person who is or was a shareholder of the corporation, association or labour-sponsored venture-capital corporation; or

(c) an eligible business,

for the purpose of determining compliance with this Act and the regulations.

(2) The Minister or person making the examination pursuant to this Section is entitled, for the purpose of determining compliance with this Act and the regulations, to examine the records and securities of a corporation, association or labour-sponsored venture-capital corporation referred to in subsection (1), and make copies of those records and securities. 1993, c. 3, s. 22.

Investigations

30 (1) The Minister, by order, may appoint a person to make whatever investigation the Minister considers appropriate for the administration of this Act and, in the order, shall determine the scope of the investigation.

(2) On the application of the Minister or the investigator appointed pursuant to subsection (1), and on being satisfied by information on oath that it is necessary and in the public interest for any purpose relating to an investigation pursuant to subsection (1), the Supreme Court of Nova Scotia may make an order authorizing the investigator

(a) to enter into the premises or on the land of a person at any reasonable time for the purpose of carrying out an inspection or examination;

(b) to require the production of any records, securities or things and to inspect or examine them; and

(c) on giving a receipt, to remove any records, securities or things inspected or examined pursuant to clause (b) for further inspection or examination.

(3) An application for an order pursuant to subsection (2) must be made in the prescribed manner.

(4) An application for an order pursuant to subsection (2) may be

(a) made *ex parte*; and

(b) heard in camera,

unless the Supreme Court otherwise directs.

(5) Inspection or examination pursuant to subsection (2) must be completed as soon as practicable and the records, securities or things must be promptly returned to the person who produced them.

(6) No person shall withhold, destroy, conceal or refuse to give any information or produce any record, security or thing reasonably required pursuant to this Section by the investigator. 1993, c. 3, s. 23.

Deemed refusal, projections and debts due Crown

31 (1) Where the Minister does not register a corporation, association or labour-sponsored venture-capital corporation or where the Minister does not approve additional equity capital, issue a tax-credit certificate or authorize a payment pursuant to this Act, for which application is made, within 90 days after receipt of the application, the Minister is deemed to have refused it.

(2) A calculation or determination pursuant to this Act or the regulations may be based on projections that the Minister considers to be appropriate.

(3) An amount required to be paid to the Minister pursuant to this Act is a debt due to the Crown in right of the Province. 1993, c. 3, s. 24.

Extension of time

32 The Minister may extend, with or without conditions, the date of expiration of the certificate of registration of a specified issue or the time limits for meeting the investment requirements of the regulations and may grant an extension notwithstanding that the time limit to be extended has expired. 2005, c. 6, s. 6.

Offences and penalty

33 (1) Every person who

(a) makes or assists in making a statement in any document or information required to be filed or furnished pursuant to this Act or the regulations to the Minister or to a person conducting an examination, inquiry or investigation pursuant to Section 29 that, at the time and in the light of the circumstances under which the statement is made, is false or misleading with respect to a material fact or that omits to state a material fact, the omission of which makes that statement false or misleading;

(b) willfully withholds, destroys or conceals a record or security referred to in subsection 29(2);

(c) impedes the investigator from entering premises pursuant to clause 30(2)(a);

(d) authorizes, permits or acquiesces in respect of a share purchase, transfer or redemption that is contrary to this Act or the regulations;

(e) contravenes Section 28 or subsection 30(5); or

(f) fails to comply with Section 27,

is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for not more than one year, or to both fine and imprisonment.

(2) Where a corporation, association or labour-sponsored venture-capital corporation registered pursuant to this Act is guilty of an offence pursuant to subsection (1),

(a) the corporation, association or labour-sponsored venture-capital corporation registered pursuant to this Act is liable on summary conviction to a fine of not more than \$20,000; and

(b) every director or officer of the corporation, association or labour-sponsored venture-capital corporation registered pursuant to this Act who authorized, permitted or acquiesced in the offence is guilty of an offence and is liable on summary conviction to the penalties provided for the offence whether or not the corporation, association or labour-sponsored venture-capital corporation has been prosecuted or convicted.

(3) A person is not guilty of an offence pursuant to this Section in relation to a statement made if the person did not know that the statement was false or misleading and, in the exercise of reasonable diligence, could not have known that the statement was false or misleading. 1993, c. 3, s. 26.

Review of tax credit

34 (1) The Minister shall conduct or cause to be conducted a review of the tax credit established by this Act on or after December 31, 2030, and prepare a written report of the results of the review no later than December 31, 2031.

(2) The Minister shall table the report referred to in subsection (1) in the Assembly if the Assembly is then sitting or, where the Assembly is not then sitting, file the report with the Clerk of the Assembly. 2021, c. 6, s. 6.

Regulations

- 35 (1) The Governor in Council may make regulations
- (a) prescribing forms for the purpose of this Act;
 - (b) governing any matter that may be prescribed pursuant to this Act;
 - (c) requiring any person to supply information or returns respecting any matter required in assessing compliance with this Act;
 - (d) establishing periods of time to be taken into account in calculations or determinations pursuant to this Act or the regulations, and varying periods set by this Act;
 - (e) prescribing the method of calculating penalties for the purpose of subsection 20(1);
 - (f) prescribing penalties, in addition to any penalty provided for under Section 33, for failure to comply with this Act or the regulations;
 - (g) defining any word or expression used but not defined in this Act;
 - (h) to carry out effectively the purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1993, c. 3, s. 27; 2006, c. 2, s. 12; 2019, c. 4, s. 23.

CHAPTER E-27

An Act for Escheating Lands Forfeited to the Crown

Table of Contents

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

	Section
Short title.....	1
Proceedings for Forfeiture	
Proceeding to revest in Crown.....	2
Filing of information.....	3
Notice of filed information	4
Time for appearance.....	5
Proceedings on Defence or Default	
Defence	6
Trial of action.....	7
Costs.....	8
Proceeding under clause 2(b).....	9
Default judgment.....	10
Order	11
Penalty on tenant of land.....	12
Several parcels of land in same county.....	13
Forfeiture where several lots in one grant.....	14
Opening Up Judgment	
Regrant after default judgment	15
Opening up judgment.....	16
Opening up judgment with leave	17
Failure to oppose application for leave	18
Where application opposed.....	19
General Provisions	
Protection of and if revesting proceeding	20
Granting of revested land.....	21
Revesting order prior to 1890	22
Rules of procedure	23
Regulations.....	24
Schedule	

Short title

1 This Act may be cited as the *Escheats Act*. R.S., c. 151, s. 1.

PROCEEDINGS FOR FORFEITURE

Proceeding to revest in Crown

2 The Governor in Council may direct the Attorney General to take proceedings to revest in the Crown

(a) any lands comprised in any grant, or any part thereof, that have become forfeited to the Crown for non-fulfillment of the condition in the grant;

(b) any or all lands of persons dying intestate and leaving no heirs or persons entitled to the said lands under the laws of the Province. R.S., c. 151, s. 2.

Filing of information

3 (1) The Attorney General may thereupon file in the office of the prothonotary of the Supreme Court of Nova Scotia an information, which may be in the form prescribed by the regulations, or to the like effect.

(2) Where the lands are sought to be revested pursuant to clause (2)(b), there must be filed with the information a certificate of the registrar of deeds for the registration district in which the lands lie setting forth all the encumbrances registered against the lands, and all documents or instruments of record affecting or purporting to affect the title to the lands or any interests in or concerning the same. R.S., c. 151, s. 3.

Notice of filed information

4 (1) A notice of the information so filed, with a brief description of the land therein mentioned, and specifying the date for appearance and pleading, must be published at least twice in the Royal Gazette and in one or more newspapers published in the Province, and must, for at least 30 days, be posted upon or near the door of the court house, and in five other conspicuous places in the county in which the lands lie.

(2) Where any person is residing on the land, or any part thereof, that person must be personally served with a copy of the notice, or the same must be left at that person's place of abode with some person apparently above the age of 16 years, and if no person is residing on the land, or any part thereof, a copy of the notice must be posted up in some conspicuous place on the land.

(3) A copy of the notice must be served upon each and every person appearing upon the certificate of the registrar of deeds as an encumbrancer or as entitled to any interest in the lands, by delivering such notice to the person personally or by leaving the same at the person's place of abode with some person apparently above the age of 16 years, or if such service cannot be so effected, in such other manner as the Court or judge may direct.

(4) Where the real property is registered pursuant to the *Land Registration Act*, a copy of the notice must be served upon each and every person appearing on the register of the parcel as holding any interest in the parcel, by delivering the notice to the person personally or by leaving the same at the person's place of abode with some person apparently above the age of 16 years, or if such service cannot be so effected, in such other manner as the Court or a judge may direct.

(5) The notice must be posted and served by the sheriff of the county who shall receive the fees mentioned in the *Costs and Fees Act* for this service. R.S., c. 151, s. 4; 2001, c. 6, s. 104.

Time for appearance

5 A time must be specified in such notice for appearance and pleading to the information, which time may not be less than 30 days from the date

- (a) of the first appearance of the notice in the Royal Gazette;
- (b) of the posting of the notices;
- (c) of such personal service; or
- (d) of the leaving of the notice at the place of abode,

whichever date is last. R.S., c. 151, s. 5.

PROCEEDINGS ON DEFENCE OR DEFAULT**Defence**

6 (1) Any person who has the right to traverse the information so filed may enter and serve an appearance and statement of defence thereto at any time within the time specified, or any such additional time as is allowed by the Attorney General, or the Court or a judge.

(2) The statement of defence traversing the information must be confined to a simple denial of the liability to forfeiture under the terms of the grant or of this Act, or of both, and no other defence is allowed except by leave of a judge save that any person appearing on the certificate of the registrar of deeds, in cases where such certificate is required to be filed, as an encumbrancer, may in that person's defence plead the right to be reimbursed out of the said lands to the amount of such registered encumbrance. R.S., c. 151, s. 6.

Trial of action

7 Where such appearance and statement of defence are entered and served, the action must be tried in the Supreme Court of Nova Scotia, in the same way as an ordinary action. R.S., c. 151, s. 7.

Costs

8 (1) Where the action is tried and the defence fails, judgment must be given revesting the lands, or part thereof, in the Crown, and the defendant may be ordered to pay the costs, to be taxed.

(2) Where the Attorney General discontinues the action, or where judgment is given for the defendant, with costs, the defendant may tax the defendant's costs, which costs are paid out of the General Revenue Fund. R.S., c. 151, s. 8.

Proceeding under clause 2(b)

9 (1) Where lands are sought to be revested pursuant to clause 2(b), and an appearance and statement of defence have been entered and served within the time specified by any person whose name appears on the certificate of the registrar of deeds, as an encumbrancer, claiming an interest in the lands sought to be revested as such encumbrancer, the Court or judge may proceed to try and determine the question of the rights of such person as such encumbrancer, and if it is made to appear to the Court or judge by satisfactory evidence that such person is entitled to a charge upon the lands in question, the Court or judge may order that the lands in question be sold

at public auction by the sheriff of the county in which the lands lie, upon such terms and conditions as to advertisement as to the Court or judge may seem fit.

(2) Where lands are sold pursuant to subsection (1), the procedure to be followed is the same as that provided under the rules of the Supreme Court of Nova Scotia in foreclosure proceedings so far as the same are applicable, save that no encumbrancer who, after service as hereinbefore provided, has failed to enter and serve an appearance and statement of defence within the time specified, is entitled to notice or to share in the distribution of the proceeds of such sale, save by leave of the Attorney General for the time being of the Province.

(3) Where lands are sold pursuant to subsection (1), the proceeds thereof must be paid into Court, and the Court or judge may order that, the costs of the proceedings had and of the sale being first taxed and paid thereout, the proceeds be distributed among such encumbrancers as have appeared to the information to the extent of their respective claims and according to their respective priorities, and that the surplus then remaining, if any, be declared forfeited to the Crown and be paid into the General Revenue Fund.

(4) Where no appearance and statement of defence are entered and served within the time specified, the Attorney General may apply to the Court for judgment.

(5) In Halifax such application may be made to the Nova Scotia Court of Appeal, or to a judge sitting in Court or in chambers.

(6) Where the land is situated in any county other than Halifax, such application may be made to a judge of the Supreme Court of Nova Scotia sitting for the trial of causes in the county or to a judge in chambers at Halifax. R.S., c. 151, s. 9.

Default judgment

10 Judgment must be given revesting such land in the Crown if it is established by affidavit to the satisfaction of the Court or judge that

- (a) the information has been duly filed with the prothonotary;
- (b) notices have been published and posted up and, in cases in which personal service is required, served as directed in this Act;
- (c) no appearance or statement of defence has been entered or served. R.S., c. 151, s. 10.

Order

11 (1) The order for judgment may be in the form prescribed by the regulations, or to the like effect.

(2) The original order must be filed with the papers in the cause in the prothonotary's office, and the prothonotary shall furnish certified copies of such order to the Minister of Natural Resources and Renewables, to be filed in the department, and to the registrar of deeds for the registration district in which the lands lie, to be registered by the registrar.

(3) Where the real property is registered pursuant to the *Land Registration Act*, the prothonotary shall furnish a certified copy of the original order to the Minister to be filed in the department and to the land registration office for the district in which the lands lie for recording in the register of each parcel affected by the order. R.S., c. 151, s. 11; 2001, c. 6, s. 104.

Penalty on tenant of land

12 Where a tenant residing on land sought to be revested, and receiving notice of the proceedings, fails to give information of the notice to the tenant's landlord, if such landlord is within the Province, or to the landlord's known solicitor, or agent, if the landlord is absent therefrom, the tenant shall forfeit a sum not exceeding \$400, to be recovered by such landlord. R.S., c. 151, s. 12.

Several parcels of land in same county

13 Several parcels of land within the same county may be included in the same information, but the traverses and, unless otherwise agreed, the trials, must be separate. R.S., c. 151, s. 13.

Forfeiture where several lots in one grant

14 Where one grant includes several lots of land, or where, under one grant, separate allotments are subsequently assigned to grantees, or their assigns, the liability to forfeiture of each lot depends upon the performance of the conditions with respect to that particular lot. R.S., c. 151, s. 14.

OPENING UP JUDGMENT

Regrant after default judgment

15 No land, for the revesting of which a judgment has passed *ex parte* and without defence, may be granted to any person before the expiration of one year from the date of the order for revesting, except to the original owner of such land or the owner's heirs or assigns. R.S., c. 151, s. 15.

Opening up judgment

16 During such year, any person claiming a right or interest in such land, or any part thereof, may enter an appearance and statement of defence traversing the information, and such appearance, and a copy of the defence, must be served upon the Attorney General, and thereupon such judgment must be opened up, and the action must be tried as if it had originally been defended, save that no person whose name appears on the certificate of the registrar of deeds in cases where such certificate is required to be filed as an encumbrancer, and who has been duly served as hereinbefore provided and who has failed to enter and serve an appearance and defence, is at liberty to come in and defend after judgment has passed. R.S., c. 151, s. 16.

Opening up judgment with leave

17 (1) Any person claiming an interest in any land revested in the Crown by judgment in default of appearance and defence may, at any time within three years from the date of the judgment and notwithstanding the land has been granted by the Crown to third persons, apply to a judge of the Supreme Court of Nova Scotia for leave to enter an appearance and defence, and to have the action

tried, save that no person whose name appears on the certificate of the registrar of deeds in cases where such certificate is required to be filed as an encumbrancer, and who has been duly served as hereinbefore provided and who has failed to enter and serve an appearance and defence, is at liberty to come in and defend after judgment has passed.

(2) Where the applicant satisfies the judge by affidavit that the applicant was not aware, before the judgment passed, of the proceedings to revest such land, and that there has been no unnecessary delay in making the application, and that the applicant has a good and meritorious defence to the information, and that the interests of justice require that such judgment be opened up, the judge may grant a summons, calling upon the Attorney General to appear and show cause why the judgment should not be opened up, and the applicant have leave to appear and traverse the information and a copy of the summons must be served upon the Attorney General, and if the land has been granted to any other person, a copy of the summons must be served upon that person, and that person has the right to be heard on the application. R.S., c. 151, s. 17.

Failure to oppose application for leave

18 Where, on the return day of the summons, no one appears to oppose it, an order passes according to the tenor of the summons, and the applicant shall then file and serve the applicant's appearance and defence within 10 days, and the action may thereupon be tried as if it had originally been defended. R.S., c. 151, s. 18.

Where application opposed

19 Where, on the return day of the summons, the application is opposed, affidavits may be read in answer to those used by the applicant and, after hearing the parties, the judge may order the judgment to be opened up, or refuse to do so, and the judgment of the judge is final. R.S., c. 151, s. 19.

GENERAL PROVISIONS

Protection of land if revesting proceeding

20 Upon the filing of an information to revest any land, such land is deemed to be vested in the Crown for all purposes connected with the protection of such land from trespasses, and for the punishment of any person trespassing thereon, and for the recovery of any timber or other property taken therefrom, and all proceedings with respect to any matter in this Section referred to shall and may be taken in the name of the Crown. R.S., c. 151, s. 20.

Granting of revested land

21 (1) Subject to Section 15, the Governor in Council may grant any land that has revested in the Crown pursuant to this Act, or any part thereof or interest therein, to

- (a) a person who, in the opinion of the Governor in Council, had a legal or moral claim upon the person to whom the land belonged immediately prior to revesting in the Crown or a just or natural right or claim to succeed to the land, or any part thereof or interest therein;

(b) carry into effect any disposition thereof that the Governor in Council believes the person to whom the land belonged immediately prior to it reverting in the Crown may have intended;

(c) reward a person making discovery of the property to the Crown.

(2) Any such grant may be made without actual entry or taking possession of the property or inquisition being first made, and, if possession of the property is withheld, the person to whom the grant is made may institute proceedings for the recovery thereof in any court of competent jurisdiction.

(3) In each year in which the Governor in Council grants land pursuant to this Section, the Attorney General shall table in the House of Assembly a report setting forth the particulars of such grant. R.S., c. 151, s. 21.

Reverting order prior to 1890

22 All orders made before April 15, 1890, for reverting land in the Crown, are legal and valid, and such orders absolutely vested the land mentioned therein in the Crown, and no title to any land so reverted and afterwards granted to other persons may be called in question in any court in this Province on any ground of want of form, irregularity or invalidity in the order for reverting, or in any proceedings in respect thereto. R.S., c. 151, s. 22.

Rules of procedure

23 The judges of the Supreme Court of Nova Scotia may make rules regulating the procedure under this Act. R.S., c. 151, s. 23.

Regulations

24 (1) The Governor in Council may make regulations prescribing forms for the purpose of this Act.

(2) The forms contained in the Schedule to Chapter 151 of the Revised Statutes, 1989, are deemed to be prescribed pursuant to subsection (1) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Section.

(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*.

CHAPTER E-28

An Act to Ensure the Provision of Essential Health and Community Services

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Application of Act.....	3
Supervision of Act.....	4
Essential Health or Community Services Agreements	
Requirement to negotiate and include certain content.....	5
Beginning negotiations	6
Continuing negotiations	7
Complaint with respect to negotiations.....	8
Failure of negotiations	9
Agreement binding.....	10
Amendment of agreement.....	11
Termination of agreement	12
Requirement to file agreement.....	13
Settlement of Disputes	
Notice and referral to Board.....	14
Application to Board.....	15
No lockout or strike while order in effect.....	16
Arbitration.....	17
Arbitration board.....	18
One-person board.....	19
Powers and duties of board	20
Application of Sections 54 and 55 of Trade Union Act and Arbitration Act	21
Collective agreement concluded.....	22
Prohibitions, Offences and Penalties	
Prohibitions when no agreement in effect.....	23
Prohibitions when agreement in effect.....	24
Further prohibitions.....	25
Effect of Act on work stoppages.....	26
Offences and penalties	27
General	
Application of Labour Board Act and Trade Union Act.....	28
Effect upon filing of decision or order.....	29
Regulations.....	30
Application of Essential Home-support Services (2014) Act.....	31

WHEREAS the employers and the bargaining unit employees to which this Act applies are providing essential health and community services to Nova Scotians;

AND WHEREAS there is a need to ensure that essential health and community services continue to be provided in the event of a lockout or strike:

Short title

1 This Act may be cited as the *Essential Health and Community Services Act*. 2014, c. 2, s. 1.

Interpretation

- 2 (1)** In this Act,
- “bargaining agent” means a bargaining agent referred to in clause 3(1)(c);
 - “bargaining unit” means a unit referred to in clause 3(1)(b);
 - “Board” means the Labour Board established by the *Labour Board Act*;
 - “employee” means an employee referred to in clause 3(1)(b);
 - “employer” means an employer referred to in clause 3(1)(a);
 - “essential health or community service” means a health or community service, duty or function that is necessary to enable an employer to prevent or limit
 - (a) loss of life;
 - (b) serious harm or damage to or deterioration of the mental or physical health of one or more persons; or
 - (c) serious harm or damage to or deterioration of property required for the performance of an essential health or community service in relation to clause (a) or (b);
 - “essential health or community services agreement” means an essential health or community services agreement made pursuant to this Act;
 - “essential health or community services employee” means an employee who, during a lockout or strike, is required to work under an essential health or community services agreement;
 - “Minister” means the Minister of Labour, Skills and Immigration.

(2) Except as otherwise provided in this Act, words and expressions used in this Act have the same meaning as in Part I of the *Trade Union Act*.

(3) Where there is a conflict between this Act or the regulations and any other Act or regulation or any collective agreement, arbitral or other award or decision, obligation, right, claim, agreement or arrangement of any kind, this Act and the regulations prevail. 2014, c. 2, s. 2.

Application of Act

- 3 (1)** Subject to Section 31, this Act applies to

(a) any employer who employs employees in a bargaining unit to provide health or community services, including, without limiting the generality of the foregoing,

(i) health services as defined in the *Health Authorities Act*,

(ii) ambulance services and emergency health services, as defined in the *Emergency Health Services Act*,

(iii) services provided by a communications centre as defined in the *Emergency Health Services Act*,

(iv) services provided in a home for special care as defined in regulations made pursuant to the *Homes for Special Care Act*,

(v) services provided under the mandate of the Department of Health and Wellness or the Department of Community Services to support a person in the person's place of residence, including, without limiting the generality of the foregoing,

(A) home-support services to assist a person with the person's activities of daily living and instrumental activities of daily living,

(B) nursing services, and

(C) palliative care services,

(vi) services provided in a child-caring facility as defined in the *Children and Family Services Act*, and

(vii) services provided by the Mi'kmaw Family and Children's Services of Nova Scotia, an agency as defined in the *Children and Family Services Act*,

and its successors;

(b) the bargaining unit employees of an employer referred to in clause (a); and

(c) the bargaining agent of the employees referred to in clause (b) and its successors.

(2) This Act binds the Crown in right of the Province. 2014, c. 2, s. 3.

Supervision of Act

4 The Minister has the general supervision and management of this Act. 2014, c. 2, s. 4.

ESSENTIAL HEALTH OR COMMUNITY SERVICES AGREEMENTS

Requirement to negotiate and include certain content

5 (1) Each employer and each bargaining agent for employees of that employer shall enter into an essential health or community services agreement.

(2) In order to enable an employer to continue to provide essential health or community services in the event of a lockout or strike, an essential health or community services agreement must

(a) identify the work functions that constitute essential health or community services;

(b) identify the classifications of employees, and the number of employees in each classification, who are required at any one time to perform essential health or community services during a lockout or strike;

(c) provide for a method by which employees competent to perform essential health or community services will be assigned to perform those services during a lockout or strike;

(d) in order to allow the employer to respond to an anticipated increase in the need for essential health or community services during a lockout or strike, set out a procedure for identifying and assigning additional employees within the classifications identified pursuant to clause (b) who are required at any one time to perform the work functions identified pursuant to clause (a), including the immediate assignment of the additional employees;

(e) where the employer uses the procedure in clause (d), require the employer to immediately serve notice on the bargaining agent setting out the additional number of employees in each classification required to perform the work functions as a result of the anticipated increase;

(f) in order to allow the employer to respond to an emergency during a lockout or strike, set out a procedure for

(i) identifying additional work functions as essential health or community services,

(ii) identifying additional classifications of employees, and the number of employees in each classification, who are required to perform additional work functions identified as essential health or community services, in an emergency, and

(iii) assigning these additional employees, including the immediate assignment of the additional employees; and

(g) where the employer uses the procedure in clause (f), require the employer to immediately serve notice on the bargaining agent setting out the additional work functions identified as essential health or community services and the additional classifications of employees, and the number of employees in each classification, who are required to perform those work functions in an emergency. 2014, c. 2, s. 5.

Beginning negotiations

6 (1) Each employer and each bargaining agent who is a party to a collective agreement and does not have an essential health or community services agreement shall enter into negotiations for an essential health or community services agreement six months before the expiry of the collective agreement.

(2) When the parties are required to begin negotiations in accordance with subsection (1), either the employer or the bargaining agent may, by written notice to the other, require the other to begin negotiations for an essential health or community services agreement and thereupon they shall begin negotiations without delay.

(3) Notwithstanding subsection (2), within 21 days after notice is given pursuant to subsection (2), or within such further time as the employer and bargaining agent agree upon, the employer and bargaining agent shall meet or cause authorized representatives to meet on their behalf and begin negotiations with one another.

(4) Upon giving or receiving notice pursuant to subsection (2), the employer shall, without delay, provide the bargaining agent with the employer's proposed plan for maintaining essential health or community services in the event of a lockout or strike. 2014, c. 2, s. 6.

Continuing negotiations

7 (1) Each employer and each bargaining agent for employees of that employer shall endeavour to reach an essential health or community services agreement through negotiations.

(2) The employer or the bargaining agent may request the Minister to appoint, and the Minister, upon such request, may appoint, a conciliation officer or mediation officer to assist them with their negotiations.

(3) For greater certainty, the involvement of a conciliation officer or mediation officer appointed pursuant to subsection (2) does not replace any obligation on the employer or the bargaining agent pursuant to the *Trade Union Act* to confer with a conciliation officer for the purpose of concluding and entering into a collective agreement in accordance with that Act. 2014, c. 2, s. 7.

Complaint with respect to negotiations

8 (1) An employer or a bargaining agent may make a complaint in writing to the Board that the other has failed to comply with subsection 6(2), (3) or (4) or 7(1), and the Board shall inquire into the complaint and may dismiss the complaint or make an order requiring either of them to do anything that, in the opinion of the Board, is necessary to secure compliance.

(2) A complaint made to the Board pursuant to subsection (1) must be resolved by the Board within three business days after the complaint is received by the Board. 2014, c. 2, s. 8.

Failure of negotiations

9 (1) Where an employer and a bargaining agent are unable to conclude an essential health or community services agreement, the employer or the bargaining agent may apply in writing to the Board to settle the provisions of such an agreement and the Board shall, as soon as is practicable, serve notice on both of them of receipt of such application.

(2) Upon receiving the notice served pursuant to subsection (1), the employer and the bargaining agent shall each, without delay, give the Board a

statement setting out the matters they have agreed upon, if any, and the matters upon which they cannot agree, with respect to an essential health or community services agreement.

(3) The Board may hold an oral hearing before making a decision pursuant to this Section, but is not required to do so.

(4) The Board shall hear the matter as a panel consisting of the Chair of the Board or a vice-chair of the Board as a sole adjudicator.

(5) Within 30 days after receiving an application pursuant to subsection (1), or within such further time as the employer and bargaining agent agree upon, the Board shall make an award settling the provisions of an essential health or community services agreement between the employer and the bargaining agent.

(6) In settling the provisions of an essential health or community services agreement pursuant to this Section, the Board shall accept, without amendment, any provisions agreed upon by the employer and the bargaining agent.

(7) On application by the employer or the bargaining agent, the Board may modify any determination, decision, order or direction made by the Board pursuant to this Section as the Board considers appropriate in the circumstances. 2014, c. 2, s. 9.

Agreement binding

10 An essential health or community services agreement between an employer and a bargaining agent for the employer's employees is binding upon

- (a) the employer;
- (b) every employee of the employer who is represented by the bargaining agent; and
- (c) the bargaining agent,

whether the terms of the agreement were settled by agreement or by the Board. 2014, c. 2, s. 10.

Amendment of agreement

11 (1) The parties to an essential health or community services agreement may amend the agreement in writing.

(2) A party to an essential health or community services agreement may apply to the Board to amend the agreement.

(3) Upon receipt of an application pursuant to this Section, the Board may amend the essential health or community services agreement in writing and may make any other decision it considers appropriate in the circumstances. 2014, c. 2, s. 11.

Termination of agreement

12 (1) Recognizing that an essential health or community services agreement may need to be updated from time to time, either party to an essential health or community services agreement may terminate it on written notice to the

other party effective the day the notice is given, which notice must be given to the other party

- (a) at least 12 months before the collective agreement between the parties expires; or
- (b) within 30 days after entering into a collective agreement, if that agreement has a term of less than 13 months.

(2) When an essential health or community services agreement is terminated, subsections 6(2), (3) and (4) and 7(1) and (2) and Section 9 apply, with necessary changes, to the negotiations for a new essential health or community services agreement. 2014, c. 2, s. 12.

Requirement to file agreement

13 An employer shall file with the Minister a copy of any essential health or community services agreement to which it is a party. 2014, c. 2, s. 13.

SETTLEMENT OF DISPUTES

Notice and referral to Board

14 (1) Either party to an essential health or community services agreement may notify the other in writing that it disputes

- (a) the manner in which the other party is interpreting, applying or implementing the agreement; or
- (b) any action taken by the other party under the terms of the agreement.

(2) Where the parties are unable to resolve a dispute referred to in subsection (1), either party may apply to the Board to resolve the dispute, by written notice to the other party and to the Board.

(3) Where a dispute is referred to the Board pursuant to subsection (2), the Board shall settle the dispute within three business days after the notice is received by the Board. 2014, c. 2, s. 14.

Application to Board

15 (1) Where a party to an essential health or community services agreement with respect to a bargaining unit considers that the level of activity that is required to be continued under the agreement has the effect of depriving the employees in the bargaining unit of a meaningful right to strike or depriving the employer of a meaningful right to lock out the employees, the party may apply to the Board, by written notice to the other party and to the Board, to request that the Board direct the parties to a binding method of resolving the issues in dispute between the parties.

(2) In deciding, in an application made pursuant to subsection (1), whether the employees in the bargaining unit are deprived of a meaningful right to strike or the employer is deprived of a meaningful right to lock out the employees, the Board

(a) shall consider the number of employees identified in the essential health or community services agreement whose services the employer has used to provide the essential health or community services and, subject to the regulations, any other relevant factor; and

(b) may consider the classifications of employees and the work functions identified in the agreement.

(3) The Board may hold an oral hearing before making a decision pursuant to this Section, but is not required to do so.

(4) The Board shall hear the application as a panel consisting of the Chair of the Board or a vice-chair of the Board as a sole adjudicator and, subject to subsection (7), shall make a decision within 30 days after receiving the application.

(5) Where, upon considering the application, the Board is satisfied that the level of activity that is required to be continued under an essential health or community services agreement has the effect of depriving the employees in the bargaining unit of a meaningful right to strike or depriving the employer of a meaningful right to lock out the employees, the Board may

(a) amend the essential health or community services agreement;

(b) direct the parties to continue negotiations for a collective agreement;

(c) direct the parties to confer with a conciliation officer or mediation officer who shall endeavour to conclude a collective agreement;

(d) order that all matters remaining in dispute between the parties with respect to concluding a collective agreement be referred to an arbitration board for final and binding interest arbitration; or

(e) give any other directions the Board considers appropriate.

(6) The Board shall not order arbitration pursuant to clause (5)(d) before the day on which it would be lawful for the employer to unilaterally increase or decrease rates of wages or alter any other term or condition of employment of the employees pursuant to clause 42(b) of the *Trade Union Act*.

(7) Where, while an application is pending pursuant to this Section, the parties agree on all matters that remain in dispute between them and make a collective agreement, the Board shall dismiss the application without deciding it. 2014, c. 2, s. 15.

No lockout or strike while order in effect

16 (1) This Section applies if the Board makes an order with respect to a bargaining unit for final and binding interest arbitration pursuant to clause 15(5)(d).

(2) While such an order is in effect, none of the employees in the bargaining unit shall strike and the employer shall not lock out any of the employees in the bargaining unit.

(3) Where the Board makes the order while any employees in the bargaining unit are on strike, those employees shall cease the strike.

(4) Where the Board makes the order while the employer is locking out any employees in the bargaining unit, the employer shall cease locking out those employees.

(5) Unless the employer and the bargaining agent agree otherwise, upon the making of the order, the rates of wages and all other terms and conditions of employment that were in effect immediately before it became lawful for the employer to unilaterally alter those rates, terms and conditions of employment pursuant to clause 42(b) of the *Trade Union Act* apply with respect to all employees in the bargaining unit until a collective agreement is in force. 2014, c. 2, s. 16.

Arbitration

17 (1) Where the Board makes an order with respect to a bargaining unit for final and binding interest arbitration pursuant to clause 15(5)(d), the arbitration shall proceed by way of an arbitration board composed of three persons, unless the parties to the arbitration agree to submit to an arbitration board composed of one person.

(2) The Minister shall select the method of arbitration and shall advise the arbitration board of the method.

(3) The method of arbitration must be mediation-arbitration unless the Minister is of the opinion that another method, including arbitration or final offer selection, is more appropriate. 2014, c. 2, s. 17.

Arbitration board

18 (1) Subject to Section 19, the employer and the bargaining agent shall each, within seven days after the Board makes an order pursuant to clause 15(5)(d), give to the other party the name of a person to act as its appointed member on the arbitration board and the two members so selected shall, within seven days after the day on which the second of them is appointed, appoint a third person to be a member and the chair of the board.

(2) Where a party to the arbitration fails to appoint a member to the arbitration board, the Minister, upon receiving the application of the other party, shall, within seven days, appoint a person to act on the board as the appointed member of the party who has failed to appoint a member.

(3) Where the two members appointed to the arbitration board fail or neglect to make the appointment of the third member and chair as required by subsection (1), either party may apply to the Minister for the appointment of a person to act as the third member and chair of the board.

(4) Upon receiving an application pursuant to subsection (3), the Minister shall, within seven days, appoint a person as the third member and chair of the arbitration board.

(5) Where a member appointed to an arbitration board pursuant to this Section ceases to act by reason of resignation, death or otherwise before the arbitration board has completed its work, the party for whom the person was the appointed member shall, within 10 days of the member ceasing to act, appoint a replacement and notify in writing the other party of the name and address of the replacement, and where the party fails to so appoint a replacement, the Minister shall appoint as a replacement such person as the Minister considers suitable and, where the parties to the arbitration agree, the arbitration board shall continue to function as if the replacement member were a member of the arbitration board from the beginning.

(6) Where the chair of an arbitration board is unable to enter on or to carry on the chair's duties so as to enable the arbitration board to render a decision within a reasonable time after its establishment, the Minister shall appoint a person to act as chair of the arbitration board in the chair's place and the arbitration shall begin *de novo*.

(7) No person is eligible to be appointed as a member of the arbitration board or shall act as a member of the arbitration board if the person

(a) has a direct pecuniary interest in a matter before the arbitration board; or

(b) is acting or has, within a period of six months immediately before the date on which the dispute is submitted to the arbitration board, acted as a lawyer or agent of any of the parties to the arbitration.

(8) The employer shall pay the fees and expenses of the member appointed to the arbitration board by or on behalf of the employer, the bargaining agent shall pay the fees and expenses of the member appointed to the board by or on behalf of the bargaining unit and the employer and the bargaining agent shall each pay one half of the fees and expenses of the chair of the board. 2014, c. 2, s. 18.

One-person board

19 (1) Where an employer and a bargaining agent agree that an arbitration board is to be composed of one person, they shall, within 10 days after the Board makes an order pursuant to clause 15(5)(d), attempt to agree on a person satisfactory to both to be the board and, where agreement is reached, that person is appointed as the board.

(2) Where the employer and the bargaining agent are unable to agree on a person to be the arbitration board, subsections 18(3) and (4) apply with necessary changes.

(3) Subsections 18(6) and (7) apply to an arbitration board that is to be composed of one person.

(4) The employer and the bargaining agent shall each pay one half of the fees and expenses of an arbitration board appointed pursuant to this Section. 2014, c. 2, s. 19.

Powers and duties of board

20 (1) An arbitration board shall inquire into and decide on the matters that are in dispute and any other matters that appear to the board to be necessary to be decided in order to conclude a collective agreement between the parties, but in so doing the board may not decide any matters that come within the jurisdiction of the Board.

(2) In making a decision, the arbitration board shall consider

(a) the terms and conditions of employment negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the bargaining unit;

(b) the employer's ability to pay, in light of the fiscal situation of the Government of the Province;

(c) the employer's ability to attract and retain qualified employees; and

(d) such other matters as the board considers fair and reasonable in the circumstances.

(3) Nothing in subsection (2) limits the powers of the arbitration board.

(4) The arbitration board remains seized of and may deal with all matters in dispute between the parties until a collective agreement is in effect between them.

(5) The arbitration board shall determine the procedure for the arbitration but shall permit the parties to present evidence and make submissions.

(6) The arbitration board shall begin the arbitration proceedings within 30 days after being appointed.

(7) The arbitration board shall make a decision

(a) within 90 days after being appointed; or

(b) where the parties agree to an extended time before or after those 90 days have passed, within that time.

(8) The decision of a majority of the members of the arbitration board is the decision of the board. 2014, c. 2, s. 20.

Application of Sections 54 and 55 of Trade Union Act and Arbitration Act

21 (1) Sections 54 and 55 of the *Trade Union Act* apply with necessary changes to an arbitration board and the proceedings and decisions of the board pursuant to this Act.

(2) The *Arbitration Act* does not apply to arbitration proceedings pursuant to this Act. 2014, c. 2, s. 21.

Collective agreement concluded

22 (1) Where, during a proceeding before an arbitration board, the parties agree on all matters that were in dispute and they put that agreement in writing and execute it,

- (a) that executed agreement constitutes a collective agreement; and
- (b) the arbitration proceeding is terminated.

(2) Where, during a proceeding before an arbitration board, the parties agree on some but not all of the matters in dispute, they shall notify the board of the items agreed upon and the board shall decide only upon the remaining matters and any other matters that appear to the board to be necessary to conclude a collective agreement.

(3) The date of the arbitration board's decision pursuant to subsection (2) is deemed to be the day the collective agreement is entered into. 2014, c. 2, s. 22.

PROHIBITIONS, OFFENCES AND PENALTIES

Prohibitions when no agreement in effect

23 While there is no essential health or community services agreement in effect between an employer and the bargaining agent for the employees of that employer,

- (a) the employer shall not authorize, declare or cause a lockout of any of the employees represented by the bargaining agent;
- (b) the bargaining agent shall not authorize, declare or cause a strike by any of the employees represented by the bargaining agent against the employer; and
- (c) no employee represented by the bargaining agent shall participate in a strike against the employer. 2014, c. 2, s. 23.

Prohibitions when agreement in effect

24 While an essential health or community services agreement is in effect,

- (a) the employer shall not authorize, declare or cause a lockout of any employee who is an essential health or community services employee and required to work under the agreement;
- (b) the bargaining agent shall not authorize, declare or cause a strike of any employee who is an essential health or community services employee and required to work under the agreement; and
- (c) no employee who is an essential health or community employee and required to work under the agreement shall participate in a strike against the employer. 2014, c. 2, s. 24.

Further prohibitions

25 No person or organization shall

(a) do anything to prevent or impede an employee's compliance with Section 23 or 24 or aid or abet an employee to not comply with Section 23 or 24; or

(b) fail to do anything for the purpose of preventing or impeding an employee's compliance with Section 23 or 24 or for the purpose of aiding or abetting an employee to not comply with Section 23 or 24. 2014, c. 2, s. 25.

Effect of Act on work stoppages

26 Notwithstanding subsection 69(1) of the *Trade Union Act*, where a conciliation officer files a report pursuant to subsection 45(1) of the *Trade Union Act*, the 14-day period provided for in subsection 69(1) of the *Trade Union Act* may not begin until such time as the parties have entered into an essential health or community services agreement. 2014, c. 2, s. 26.

Offences and penalties

27 A person who contravenes this Act is guilty of an offence and is liable on summary conviction,

(a) in the case of an offence committed by an employer or a bargaining agent, or by a person acting on behalf of an employer or a bargaining agent, to a fine of not more than \$100,000 and, in the case of a continuing offence, to a further fine of \$10,000 for each day on which the offence continues; and

(b) in the case of an offence committed by any person other than one described in clause (a), to a fine of not more than \$1,000 and, in the case of a continuing offence, to a further fine of \$200 for each day on which the offence continues. 2014, c. 2, s. 27.

GENERAL**Application of Labour Board Act and Trade Union Act**

28 The provisions of the *Labour Board Act* and the *Trade Union Act* respecting the composition, powers, duties and decisions of the Board apply with necessary changes to the resolution of a complaint made pursuant to subsection 8(1), the settlement of the provisions of an essential health or community services agreement pursuant to Section 9, the decision of the Board pursuant to subsection 11(3) and the settlement of a dispute pursuant to Section 14 or 15. 2014, c. 2, s. 28.

Effect upon filing of decision or order

29 (1) Any person or organization affected by any decision or order of the Board made pursuant to this Act may file a copy of that decision or order, certified by the Board, excluding the reasons, in the Supreme Court of Nova Scotia.

(2) On the filing of a certified copy of a decision or order of the Board in the Supreme Court of Nova Scotia pursuant to subsection (1), the decision or order must be registered in the Court and, upon registration, has the same force and effect, and all proceedings may be taken thereon, as if the decision or order were a judgment obtained in the Court. 2014, c. 2, s. 29.

Regulations

- 30** (1) The Governor in Council may make regulations
- (a) determining factors that are relevant or not relevant for the purpose of subsection 15(2);
 - (b) respecting the establishment and operation of an arbitration board referred to in this Act;
 - (c) defining any word or expression used but not defined in this Act;
 - (d) further defining any word or expression defined in this Act;
 - (e) respecting any matter 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*. 2014, c. 2, s. 30.

Application of Essential Home-support Services (2014) Act

31 An essential home-support services agreement entered into by an employer and a bargaining agent pursuant to the *Essential Home-support Services (2014) Act* is an essential health or community services agreement pursuant to this Act. 2014, c. 2, s. 31.

CHAPTER E-29

An Act Respecting Actions by and against Executors and Administrators

Table of Contents

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

	Section
Short title.....	1
Action by or against estate.....	2
Recovery by legatee.....	3
Residuary legatee.....	4
Naming executor in action.....	5
Liability of executor.....	6

Short title

1 This Act may be cited as the *Estate Actions Act*. R.S., c. 152, s. 1.

Action by or against estate

2 An action by or against an estate pursuant to the *Survival of Actions Act* may be maintained by or against the executors or administrators on behalf of the estate. R.S., c. 152, s. 2.

Recovery by legatee

3 Every legatee may recover the amount and value of the legatee's legacy, annuity or bequest from the administrator with the will annexed, or from the executor, without bringing an action of an equitable nature therefor, either as money had and received, or otherwise. R.S., c. 152, s. 3.

Residuary legatee

4 Any executor, being a residuary legatee, may maintain an action for money had and received, or otherwise, against a co-executor, and may in like manner sue for and recover the executor's rateable part thereof, and any other residuary legatee has the like remedy against an executor. R.S., c. 152, s. 4.

Naming executor in an action

5 Where two or more persons are named executors in a will, and any of them neglects or refuses to act and probate is granted to the other or others of them, it is not necessary to name the executor who has so refused or neglected in any action relating to the estate. R.S., c. 152, s. 5.

Liability of executor

6 No executor or administrator may be held personally liable in any action upon a judgment by reason of such judgment having been obtained by default or on confession, or by reason of not having pleaded in the action wherein such

judgment was obtained, the defences technically called *plene administravit*, *plene administravit praeter* or other defence of like kind or upon a *fieri facias* issued upon a judgment so obtained against an executor, or administrator, or in any action or suit wherein such defences were not pleaded. R.S., c. 152, s. 6.

CHAPTER E-30

An Act Respecting Witnesses and Evidence

Table of Contents

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

	Section
Short title.....	1
Interpretation	
Interpretation.....	2
Statutes	
Evidence of statute.....	3
Public Documents	
Proof of Imperial public document.....	4
Evidence of federal public document.....	5
Evidence of provincial public document.....	6
Evidence of order of Governor General.....	7
Evidence of order of Lieutenant Governor.....	8
Proof of consent to prosecute.....	9
Proof of acts of state.....	10
Judicial notice of proclamation or order in council.....	11
Official Documents	
Copies in Canada Gazette or Royal Gazette.....	12
If original record admissible evidence.....	13
Certificate of Treasury Board.....	14
Copy of entry in government book.....	15
Copy of document admissible by public nature.....	16
Armed forces death certificate.....	17
Documents in Courts	
Copy of document filed in court.....	18
Copy of judgment order.....	19
Judicial proceeding of any country.....	20
Bank entry.....	21
Photographic records.....	22
Business records.....	23
Electronic Records	
Interpretation of Sections 24 to 31.....	24
Effect on common law or statutory rule.....	25
Burden of proof.....	26
Best evidence rule.....	27
Integrity of electronic records system.....	28
Determination of admissibility.....	29
Affidavit.....	30
Cross-examination of deponent.....	31

Ships' Titles	
Registers of British ships and vessels	32
Documents Admissible in England	
Document admissible in England or Ireland	33
Townships and Grants	
Plan of township or respecting Crown grant	34
Copy of grant	35
Deeds, Wills and Other Documents	
Copy of deed or document in registry book	36
Records under Land Registration Act	37
Probate	38
Notice of intent to use Sections 36 and 38	39
Personal property documents	40
Deed or document registered in registry	41
Deed or document under Land Registration Act	42
Restriction on subpoena	43
Deed executed out of the Province	44
Copy of notarial act in Quebec	45
Protest of negotiable instrument	46
Notice respecting negotiable instrument	47
Telegraphic message	48
Mode of Proving	
Proof of handwriting or official character	49
Proof of document if attestation not required	50
Comparison of disputed writing	51
Evidence respecting foreign law and marriages	52
Vital statistics	53
Competency of Witnesses	
Competency unaffected by crime or interest	54
Competency and compellability at trial	55
Where action in consequence of adultery	56
Evidence of no sexual intercourse	57
Where person charged in criminal proceeding	58
Communications between spouses	59
No presumption of compulsion	60
Attendance of Witnesses	
Subpoena	61
Witness fees	62
Testimony of Supreme Court judge	63
Warrant for arrest of witness	64
Examination of Witnesses	
Restrictions if examining own witness	65
Previous inconsistent statement	66
Examination as to previous written statement	67
Criminal record	68
Self-incrimination	69
Administering Oaths and Affirmations	
Solemn affirmation	70
Evidence of child of tender years	71
Who may administer oath or affirmation	72

c. E-30 **evidence** **3**

Solemn declarations	73
Administration of oath or affidavit in Nova Scotia	74
Oaths, Affidavits, Etc., Abroad	
Administration of oath outside Province	75
Declarations and Acknowledgements in His Majesty's Dominions	
Declaration in conformity with 5 and 6 Wm. IV, c. 62	76
Where proved in British domains	77
Commissions Issued Abroad and Evidence for Foreign Tribunals	
Commission for obtaining testimony	78

Short title

- 1** This Act may be cited as the *Evidence Act*. R.S., c. 154, s. 1.

INTERPRETATION

Interpretation

- 2** In this Act,
- “commissioner” includes a commissioner appointed for taking affidavits, and also a commissioner and any other person specially authorized under this Act, the *Judicature Act* or the rules of the Supreme Court of Nova Scotia to take examinations, depositions, affirmations or answers;
- “court” includes any person having by law or consent of parties authority to receive evidence;
- “criminal proceeding” includes any prosecution for an offence under any statute of the Province;
- “witness” includes parties to an action when entitled or compellable to be examined. R.S., c. 154, s. 2.

STATUTES

Evidence of statute

3 (1) Evidence of any statute of the Imperial Parliament, of the Parliament of Canada, of the Province or of any province of Canada may be given in any court by the production of a copy of such statute, purporting to be published by the King's Printer or by the government printer for Great Britain or Canada or for such province, whether published in print or electronic form.

(2) In addition to the method provided in subsection (1), evidence of any statute of the Province may be given in any court or for any purpose by the production of a copy of such statute certified by the Clerk of the Assembly or the Legislative Counsel, whether the statute is in the form of a bill or of an engrossed bill.

(3) In addition to the methods provided in subsections (1) and (2), evidence of any statute of the Province may be given in any court or for any purpose by the production of a copy of such statute purporting to be published by authority of the Speaker of the Assembly, whether published in print or electronic form.

(4) Notwithstanding any other provision in this Act, judicial notice must be taken of all Acts of the Parliament of Canada, of the Province or of any province of Canada, whether enacted before or after the passing of the *Constitution Act, 1867*. R.S., c. 154, s. 3; 1999 (2nd Sess.), c. 8, s. 5.

PUBLIC DOCUMENTS

Proof of Imperial public document

4 Imperial proclamations, orders in council, treaties, orders, warrants, licences, certificates, rules or regulations, or other Imperial official records, acts or documents, may be proved

(a) in the same manner as the same are from time to time provable in any court in England;

(b) by the production of a copy of the Canada Gazette or a volume of the Acts of the Parliament of Canada purporting to contain a copy of the same, or a notice thereof; or

(c) by the production of a copy thereof, purporting to be printed by the King's Printer for Canada or for the Province. R.S., c. 154, s. 4.

Evidence of federal public document

5 Evidence of any proclamation, order, regulation or appointment made or issued by the Governor General, by the Governor General in Council or by or under the authority of any minister or head of any department of the Government of Canada may be given in any court of justice in the Province, and in all or any legal proceedings of any kind in the Province,

(a) by the production of a copy of the Canada Gazette or of a volume of the Acts of the Parliament of Canada, purporting to contain a copy of such proclamation, order, regulation or appointment, or a notice thereof;

(b) by the production, in case of any proclamation, order, regulation or appointment, of a copy thereof purporting to be printed by the King's Printer for Canada; or

(c) by the production, in case of any proclamation, order, regulation or appointment made or issued by the Governor General or by the Governor General in Council, of a copy or extract purporting to be a true copy thereof by the Clerk or assistant or acting Clerk of the King's Privy Council for Canada, and, in the case of any order, regulation or appointment made or issued by or under the authority of any minister or head of a department, by the production of a copy thereof, or extract therefrom, purporting to be certified as true by such minister, or by the minister's deputy or acting deputy, or by the secretary or acting secretary, of the department over which the minister presides. R.S., c. 154, s. 5.

Evidence of provincial public document

6 (1) Evidence of any proclamation, order, regulation or appointment made or issued by the Lieutenant Governor, by the Governor in Council of the Province, by the lieutenant governor or governor in council of any of the provinces of Canada or by or under the authority of any members of the executive council, being the head of any department of the government of such province, may be given in any court of justice in the Province, and in all or any legal proceedings of any kind in the Province,

(a) by the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the King's Printer of the Province or by the government printer for the province;

(b) by the production of a copy of the official Gazette for the province, purporting to contain a copy of such proclamation, order, regulation or appointment, or a notice thereof; or

(c) by the production of a copy or extract of such proclamation, order, regulation or appointment, certified to be a true copy by the Clerk or assistant or acting Clerk of the Executive Council or by the head of any department of any such provincial government, or by the head's deputy or acting deputy, as the case may be.

(2) For greater certainty, any regulation or consolidated regulation or copy of a regulation or consolidated regulation purporting to be published in accordance with the *Regulations Act* must be received in evidence without further proof to its contents. R.S., c. 154, s. 6; 2022, c. 54, s. 24.

Evidence of order of Governor General

7 Any order in writing, signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General, must be received in evidence as the order of the Governor General. R.S., c. 154, s. 7.

Evidence of order of Lieutenant Governor

8 Any order in writing, signed by the Provincial Secretary of the Province, and purporting to be written by command of the Lieutenant Governor, must be received in evidence as the order of the Lieutenant Governor. R.S., c. 154, s. 8.

Proof of consent to prosecute

9 A certificate purporting to be signed by the head of a department of the Government that the head has consented to the commencement of a prosecution or proceeding under any Act of the Legislature is prima facie proof of such consent and such certificate must be received in evidence without proof of the handwriting or official position of the person purporting to sign the same. R.S., c. 154, s. 9.

Proof of acts of state

10 Proclamations, treaties and other acts of state of any foreign state or of any British colony may be proved by the production of a copy purporting to be sealed with the seal of the foreign state, or British colony, to which the original document belongs. R.S., c. 154, s. 10.

Judicial notice of proclamation or order in council

11 Notwithstanding anything in this Act, every proclamation and every order made or issued by the Governor General or the Governor General in Council or by the Lieutenant Governor or the Lieutenant Governor in Council, and every publication thereof in the Canada Gazette and in the Royal Gazette, must be judicially noticed by all courts, judges, justices of the peace and others. R.S., c. 154, s. 11.

OFFICIAL DOCUMENTS**Copies in Canada Gazette or Royal Gazette**

12 All copies of official and other notices, advertisements and documents printed in the Canada Gazette or in the Royal Gazette are prima facie evidence of the originals and of the contents thereof. R.S., c. 154, s. 12.

If original record admissible evidence

13 In every case in which the original record could be received in evidence,

(a) a copy of any grant, map, plan, report, letter or official or public document, belonging to or deposited in any department of the Government of Canada, of the Province or of any province of Canada, purporting to be certified under the hand of any officer or person in whose custody such grant, map, plan, report, letter or official or public document is placed; and

(b) a copy of a document, bylaw, rule, regulation or proceeding, or of any entry in any register, or other book of any municipal or other corporation created by charter or statute of Canada, of the Province or of any province of Canada, purporting to be certified under the seal of the corporation and the hand of the presiding officer, clerk or secretary thereof,

must be received in evidence in any court without proof of the seal of the corporation, of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof, but no subpoena, no summons and no other process may be issued or sued out requiring any person having the custody of any of the public documents set out in clause (a) to bring or produce before any court, judge or officer any of such public documents or records except upon an order of the court, judge or officer having jurisdiction in the cause or matter with respect to which such public documents or records are required to be brought or produced. R.S., c. 154, s. 13.

Certificate of Treasury Board

14 Every certificate granted by the Treasury Board under the *Bank Act* (Canada) must, on proof of the signature subscribed thereto, be received as evidence of the contents of such certificate, and that the same was granted by such Treasury Board. R.S., c. 154, s. 14.

Copy of entry in government book

15 A copy of any entry in any book kept in any department of the Government of Canada or of the Province must be received as evidence in any court of such entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such depart-

ment, that the entry was made in the usual and ordinary course of business of such department and that such copy is a true copy thereof. R.S., c. 154, s. 15.

Copy of document admissible by public nature

16 Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other statute exists that renders its contents provable by means of a copy, a copy thereof or extract therefrom must be received in evidence in any court, if it is proved that it is a copy or extract purporting to be certified to be true by the officer to whose custody the original has been entrusted. R.S., c. 154, s. 16.

Armed forces death certificate

17 The production of a certificate in writing purporting to be signed by a person described thereon as an officer of the Canadian Armed Forces authorized so to sign, in the case of a member of the Forces, stating that a person named in the certificate was a member of the Forces and that the person has been officially reported as dead, or presumed to be dead, is sufficient proof of the death of such person and of all the facts in connection therewith stated in such certificate for any purpose to which the authority of the Legislature extends. R.S., c. 154, s. 18.

DOCUMENTS IN COURTS

Copy of document filed in court

18 A copy of any document, writing or proceeding, filed in any court in the Province, must be received as evidence to the same extent as the original, if it is certified under the seal of the court or under the hand of the proper officer. R.S., c. 154, s. 19.

Copy of judgment order

19 A copy of any order for judgment, or of the entry of the judgment in the docket of judgments, certified under the hand of the proper officer is sufficient proof of the judgment in any court without the production of any record or other proceeding in the action. R.S., c. 154, s. 19.

Judicial proceeding of any country

20 Evidence of any proceeding or record whatsoever of, in or before any court in the United Kingdom or the Supreme or Federal Courts of Canada, or any court, or before any justice of the peace, or any coroner, in any province of Canada, or any court in any British colony or possession, or any court of record of the United States of America, or of any state of the United States of America, or of any other foreign country, may be given in any action or proceeding by a certified copy thereof, purporting to be under the seal of such court, or under the hand or seal of such justice or coroner, as the case may be, without any proof of the authenticity of such seal, or of the signature of such justice or coroner, or other proof whatever, and where any such court, justice or coroner has no seal, or so certifies, then by a copy purporting to be certified under the signature of a judge or presiding magistrate of such court, or of such justice or coroner, without any proof of the authenticity of such signature, or other proof whatsoever. R.S., c. 154, s. 20.

Bank entry

- 21** (1) In this Section,
- “bank” means any bank to which the *Bank Act* (Canada) applies and includes any branch, agency or office of any such banks;
- “court” means the court, judge, arbitrator or person before whom a legal proceeding is held or taken;
- “legal proceeding” means any civil or criminal proceeding or inquiry in which evidence is or may be given and includes an arbitration.

(2) Subject to this Section, a copy of any entry in any book or record kept in any bank must in all legal proceedings be received as prima facie evidence of such entry and of the matters, transactions and accounts therein recorded.

(3) A copy of an entry in such book or record may not be received in evidence under this Section unless it is first proved that the book or record was, at the time of the making of the entry, one of the ordinary books or records of the bank, and that the entry was made in the usual and ordinary course of business, and that the book or record is in the custody or control of the bank and that such copy is a true copy thereof and such proof may be given by the manager or accountant of the bank and may be given orally or by affidavit, sworn before any commissioner or other person authorized to take affidavits.

(4) A bank or officer of a bank may not, in any legal proceeding to which the bank is not a party, be compellable to produce any book or record the contents of which can be proved under this Section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of a court or judge made for special cause.

(5) On the application of any party to a legal proceeding, the court may order that such party be at liberty to inspect and take copies of any entries in the books or records of a bank for the purpose of any such proceeding and the person whose account is to be inspected must be notified of the application at least two clear days before the hearing thereof and, where it is shown to the satisfaction of the court that such person cannot be notified personally, such notice may be given by addressing the same to the bank.

(6) The costs of any application to a court under or for the purpose of this Section, and the costs of anything done or to be done under an order of a court made under or for the purpose of this Section, are in the discretion of the court, which may order the same or any part thereof to be paid to any party by the bank if the same have been occasioned by any default or delay on the part of the bank, and any such order against a bank may be enforced as if the bank was a party to the proceeding.

(7) Holidays are excluded from the computation of time under this Section. R.S., c. 154, s. 21.

Photographic records

- 22** (1) In this Section,
- “person” includes

(a) the Government of Canada, any province of Canada and any department, commission, board or branch of any such government;

(b) a corporation; and

(c) the heirs, executors, administrators or other legal representatives of a person;

“photographic film” includes any photographic plate, micro-photographic film and photostatic negative and “photograph” has a corresponding meaning.

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by any person

(a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and

(b) is destroyed by or in the presence of the person or of one or more of the person’s employees or delivered to another person in the ordinary course of business or lost,

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

(3) Proof of compliance with the conditions prescribed by this Section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public and, unless the court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit. R.S., c. 154, s. 22; 2002, c. 17, s. 1.

Business records

23 (1) In this Section,

“business” includes every kind of business, profession, occupation, calling, operation of institutions, and any and every kind of regular organized activity, whether carried on for profit or not;

“record” includes any information that is recorded or stored by means of any device.

(2) Any writing or record made of any act, transaction, occurrence or event is admissible as evidence of such act, transaction, occurrence or event if made in the usual ordinary course of any business and if it was in the usual and ordinary course of such business to make such writing or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter.

(3) Evidence to the effect that the records of a business do not contain any record of an alleged act, condition or event is competent to prove the non-occurrence of the act or event or the non-existence of the condition in that business if the judge finds that it was the regular course of that business to make such records of all such acts, conditions or events at the time or within reasonable time thereafter and to retain them.

(4) The circumstances of the keeping of any records, including the lack of personal knowledge of the witness testifying as to such records, may be shown to affect the weight of any evidence tendered pursuant to this Section, but such circumstances do not affect its admissibility.

(5) Nothing in this Section affects the admissibility of any evidence that would be admissible apart from this Section or makes admissible any writing or record that is privileged. R.S., c. 154, s. 23.

ELECTRONIC RECORDS

Interpretation of Sections 24 to 31

24 In this Section and Sections 25 to 31,

“data” means representations, in any form, of information or concepts;

“electronic record” means data that is recorded or stored on any medium in or by a computer system or other similar device and that can be read or perceived by a person or a computer system or other similar device and includes a display, printout or other output of that data, other than a printout referred to in subsection 27(2);

“electronic records system” includes the computer system or other similar device by or in which data is recorded or stored, and any procedures related to the recording and storage of electronic records. 2002, c. 17, s. 2.

Effect on common law or statutory rule

25 (1) Sections 26 to 31 do not modify any common law or statutory rule relating to the admissibility of records, except the rules relating to authentication and best evidence.

(2) A court may have regard to evidence adduced under Sections 26 to 31 in applying any common law or statutory rule relating to the admissibility of records. 2002, c. 17, s. 2.

Burden of proof

26 The person seeking to introduce an electronic record in any legal proceeding has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic record is what the person claims it to be. 2002, c. 17, s. 2.

Best evidence rule

27 (1) Subject to subsection (2), in any legal proceeding where the best evidence rule is applicable in respect of an electronic record, the rule is satisfied on proof of the integrity of the electronic records system in or by which the data was recorded or stored.

(2) In any legal proceeding, an electronic record in the form of a printout that has been manifestly or consistently acted on, relied upon or used as the record of the information recorded or stored on the printout is the record for the purpose of the best evidence rule. 2002, c. 17, s. 2.

Integrity of electronic records system

28 In the absence of evidence to the contrary, the integrity of the electronic records system in which an electronic record is recorded or stored is presumed in any legal proceeding

(a) by evidence that supports a finding that at all material times the computer system or other similar device was operating properly or, where it was not, the fact of its not operating properly did not affect the integrity of the electronic record, and there are no other reasonable grounds to doubt the integrity of the electronic records system;

(b) if it is established that the electronic record was recorded or stored by a party to the proceedings who is adverse in interest to the party seeking to introduce it; or

(c) if it is established that the electronic record was recorded or stored in the usual and ordinary course of business by a person who is not a party to the proceedings and who did not record or store it under the control of the party seeking to introduce the record. 2002, c. 17, s. 2.

Determination of admissibility

29 For the purpose of determining under any rule of law whether an electronic record is admissible, evidence may be presented in any legal proceeding in respect of any standard, procedure, usage or practice on how electronic records are to be recorded or stored, having regard to the type of business or endeavour that used, recorded or stored the electronic record and the nature and purpose of the electronic record. 2002, c. 17, s. 2.

Affidavit

30 The matters referred to in subsection 27(2) and Sections 28 and 29 may be established by an affidavit given to the best of the deponent's knowledge or belief. 2002, c. 17, s. 2.

Cross-examination of deponent

31 (1) A deponent of an affidavit referred to in Section 30 that has been introduced in evidence may be cross-examined as of right by a party to the proceedings who is adverse in interest to the party who has introduced the affidavit or has caused the affidavit to be introduced.

(2) Any party to the proceedings may, with leave of the court, cross-examine a person referred to in clause 28(c). 2002, c. 17, s. 2.

SHIPS' TITLES**Registers of British ships and vessels**

32 (1) Every register of, or declaration made in respect to, any British ship, in pursuance of any of the Acts relating to the registry of British ships, may be proved in any court, either by the production of the original, or by a copy thereof, purporting to be certified under the hand of the person having the custody of the original.

(2) Every register, or copy of a register, and every certificate of registry granted under any of the Acts relating to the registry of British vessels, and

purporting to be signed as required by law, must be received in evidence in any court as presumptive proof of all the matters contained or recited in such register, when the register, or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in, or indorsed upon, such certificate of registry when such certificate is produced. R.S., c. 154, s. 24.

DOCUMENTS ADMISSIBLE IN ENGLAND

Document admissible in England or Ireland

33 Every document that is admissible in evidence of any particular in any court of justice in England or Ireland, without proof of the seal, stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, must be received in evidence to the same extent, and for the same purposes, in any court without proof of the seal, stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same. R.S., c. 154, s. 25.

TOWNSHIPS AND GRANTS

Plan of township or respecting Crown grant

34 (1) The plan of any township, or the plan of partition, allotment or location of any Crown grant of land in the Province, may be proved in any court by the production

(a) of a copy of any such plan, certified by the Minister of Natural Resources and Renewables to be a copy of the original plan, or of the duplicate original plan, or the certified copy of the plan on file in the Minister's department; or

(b) of a copy of any such plan on file in the registry of deeds for the registration district in which such township or land granted is, in whole or part, situated, provided such copy is certified by such Minister to be a true copy of the original plan, or of such duplicate or certified copy, on file in the Minister's department.

(2) Every such plan on file in such registry that bears the certificate of the Prothonotary, or of any of the former prothonotaries at Halifax, to the effect that such plan is an original plan returned to the office of the Prothonotary at Halifax, is prima facie evidence that the same is the original plan so returned.

(3) Every such plan or copy must be received in evidence without proof of the report or other proceedings taken in respect to the partition, location or allotment of such township or grant.

(4) The report, allotment or other document in respect to any township, or in respect to the partition, allotment or location of any grant of land, may be proved in any court by the production of a copy, certified by the Minister of Natural Resources and Renewables to be a true copy of the original document on file in the Minister's department.

(5) Where there is comprised in any such plan or document more than one lot of the original lots, it is sufficient to produce in evidence an extract, representing or having reference to the lot in question, certified to be a true extract,

if the party intending to produce the same has, 10 days before the trial, given to the party against whom it is intended to be produced notice of such intention. R.S., c. 154, s. 26.

Copy of grant

35 (1) A copy of any duplicate original of a grant from the Crown deposited in the Department of Natural Resources and Renewables, certified by the Minister of Natural Resources and Renewables, or a copy of any grant from the books of registry for any registration district in which the land granted is situated, certified under the hand of the registrar of deeds, must be received in evidence in any court to the same extent as the original grant.

(2) Where any such duplicate original contains a reference to any plan, and there is on file in such department a plan corresponding to the description in, or meeting the requirements of, the duplicate original, such plan is deemed to be the plan referred to in such duplicate original, notwithstanding it is not annexed to such a duplicate original. R.S., c. 154, s. 27.

DEEDS, WILLS AND OTHER DOCUMENTS

Copy of deed or document in registry book

36 A copy of any deed, or any document from the books of registry, certified under the hand of the registrar of deeds, or proved to be a true copy taken therefrom, must be taken as evidence in the place of the original, if it is made to appear to the court, by the affidavit of the party, the party's agent or solicitor, that such original is not in the possession or under the control of the party and that the party has been unable to procure the same. R.S., c. 154, s. 28.

Records under Land Registration Act

37 For properties registered pursuant to the *Land Registration Act*, all records and copies of records that are required by law to be kept or held by a registrar or the Registrar General, and accurate reproductions of such records or copies, are in any court admissible in evidence as proof of the contents therein if certified as correct by the registrar or Registrar General. 2001, c. 6, s. 105.

Probate

38 (1) The probate of a will, or a copy thereof, certified under the hand of the registrar of probate, or proved to be a true copy of the original will, when such will has been recorded, must be received as evidence of the original will, but the court may, upon due cause shown upon affidavit, order the original will to be produced in evidence, or may direct such other proof of the original will as under the circumstances appears necessary or reasonable for testing the authenticity of the alleged original will and its unaltered condition, and the correctness of the prepared copy.

(2) This Section applies to wills and the probate, and copies of wills proved elsewhere than in this Province if the original wills have been deposited, and the probate and copies granted in courts having jurisdiction over the proof of wills and administration of intestate estates, or the custody of wills. R.S., c. 154, s. 30.

Notice of intent to use Sections 36 and 38

39 A party intending to make use of Sections 36 and 38 shall give notice, in writing, of such intention to the opposite party, at least 10 days before the trial, with a schedule of the deeds, documents or wills so intended to be given in evidence, and the books wherein the same are registered, but the judge may dispense with such notice if the judge is satisfied that no injustice has been done by the want thereof. R.S., c. 154, s. 31.

Personal property documents

40 A copy of any writing filed or registered pursuant to the *Personal Property Security Act* may be proved in any court by the production of a copy thereof, certified under the hand of the person in whose office the writing is filed. 1995-96, c. 13, s. 79.

Deed or document registered in registry

41 (1) The registration of any deed or document registered in the registry of deeds may be proved in any court by the production of the certificate of registry, signed by the registrar, indorsed on such deed or document, or upon any such certified copy of such deed or document.

(2) No subpoena, no summons and no other process may be issued or sued out requiring a registrar of deeds to bring or produce before any court, judge or officer any books of registry or any other records pertaining to the office of registrar of deeds except upon an order of the court, judge or officer having jurisdiction in the cause or matter in respect of which the books of registry or records are required to be brought or produced. R.S., c. 154, s. 33.

Deed or document under Land Registration Act

42 The registration or recording of any deed or document pursuant to the *Land Registration Act* may be proved in any court by the production of the certificate of registration or recording, as the case may be, signed by the registrar, endorsed on such deed or document, or upon any such certified copy of such deed or document. 2001, c. 6, s. 105.

Restriction on subpoena

43 For properties registered pursuant to the *Land Registration Act*, no subpoena, no summons and no other process may be issued or sued out requiring a registrar or the Registrar General to bring or produce before any court, judge or officer any records pertaining to the office of registrar or Registrar General, except upon an order of the court, judge or officer having jurisdiction in the cause or matter in respect of which the records are required to be brought or produced. 2001, c. 6, s. 105.

Deed executed out of the Province

44 A deed executed out of the Province, as well in foreign countries as in the British dominions, must be received in evidence in any court if there is endorsed on the deed such a certificate of its execution as is required by the *Registry of Deeds Act* for the registration of such deed. R.S., c. 154, s. 34.

Copy of notarial act in Quebec

45 (1) A copy of a notarial act, or instrument in writing, made in Quebec before a notary, filed, enrolled or enregistered by such notary, and certified by a notary or prothonotary to be a true copy of the original thereby certified to be in the notary's possession, as such notary or prothonotary, must be received in evidence in any court in the place of the original and has the same force and effect as the original would have if produced and proved.

(2) A party intending to make use of this Section shall, where the instrument proposed to be proved is a will or deed, give notice in writing of such intention to the opposite party at least 10 days before the trial, specifying the will or deed and the name and address of the notary, but the judge may dispense with such notice if the judge is satisfied that no injustice has been done by the want thereof. R.S., c. 154, s. 35.

Protest of negotiable instrument

46 The production in any court of any protest, wherever made, under the hand or seal of one or more notaries public, of a bill of exchange or promissory note, is prima facie evidence of the making of such protest and of the statements therein contained. R.S., c. 154, s. 36.

Notice respecting negotiable instrument

47 Any note, memorandum or certificate at any time made by a notary, or firm of notaries, in Canada, in the handwriting of such notary, or a member of such firm, signed by such notary or firm at the foot of or embodied in any protest, or in a regular register of official acts kept by such notary or firm, is prima facie evidence in the Province of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered at the time and in the manner stated in such note, certificate or memorandum. R.S., c. 154, s. 37.

Telegraphic message

48 (1) In any action or other proceeding where a party intends to prove the sending and contents of a telegraphic message, the party may give notice to the opposite party, at least 10 days before the trial or other proceeding, that the party intends, at such trial or proceeding, to give in evidence as proof of the contents of the telegraphic message alleged to have been sent, the message received by the party from the telegraph office, and such message, so received, must be received as evidence in any court, provided the party so receiving the same proves that it was received at the telegraph office of the place to which it purports to be addressed.

(2) The judge may dispense with such notice if the judge is satisfied that no injustice has been done by the want thereof. R.S., c. 154, s. 38.

MODE OF PROVING**Proof of handwriting or official character**

49 No proof is required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, regulation, appointment, book, grant, map, plan, will, deed or other document, and any such copy or extract may be in print or in writing, or partly in print and partly in writing. R.S., c. 154, s. 39.

Proof of document if attestation not required

50 It is not necessary to prove, by the attesting witness, any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto. R.S., c. 154, s. 40.

Comparison of disputed writing

51 Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine must be permitted to be made by witnesses, and such writing, and the evidence of witnesses respecting the same, may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute. R.S., c. 154, s. 41.

Evidence respecting foreign law and marriages

52 (1) Where, for the purpose of disposing of any action or other matter that is being tried by a judge with a jury in any court in the Province, it is necessary to ascertain the law of any other country that is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law must, instead of being submitted to the jury, be decided by the judge alone.

(2) Where in any cause or matter in any court in the Province it is necessary to prove a foreign marriage and the fact of the solemnization of such foreign marriage is proved, there is a prima facie presumption that such foreign marriage was duly solemnized in accordance with the foreign law. R.S., c. 154, s. 42.

Vital statistics

53 A court may receive as evidence of the facts stated in it, a document purporting to be either the original or a certified copy of a certificate, entry or record of a birth, death or marriage alleged to have taken place anywhere outside the Province. R.S., c. 154, s. 43.

COMPETENCY OF WITNESSES**Competency unaffected by crime or interest**

54 No person is an incompetent witness by reason of incapacity from crime or from interest. R.S., c. 154, s. 44.

Competency and compellability at trial

55 On the trial of any action, matter or proceeding in any court, the parties thereto, and the persons in whose behalf any such action, matter or proceeding is brought or instituted, or opposed, or defended, and the spouses of such parties and persons, are, except as hereinafter provided, competent and compellable to give evidence, according to the practice of the court, on behalf of either or any of the parties to the action, matter or proceeding, but in any action or proceeding in any court, by or against the heirs, executors, administrators or assigns of a deceased person, an opposite or interested party to the action may not obtain a verdict, judgment, award or decision therein on the opposite or interested party's own testimony, or that of that party's spouse, or of both of them, with respect to any dealing, transaction or agreement with the deceased, or with respect to any act, statement, acknowledgement or admission of the deceased, unless such testimony is corroborated by other material evidence. R.S., c. 154, s. 45.

Where action in consequence of adultery

56 The parties to an action or proceeding instituted in consequence of adultery, and their spouses, are competent, but not compellable to give evidence, but a spouse where competent only under this Act, may not be asked or bound to answer any question tending to show that the spouse has been guilty of adultery, unless the spouse has already given evidence in the same action or proceeding in disproof of the spouse's alleged adultery or unless permission to ask such question is given by the presiding judge. R.S., c. 154, s. 46.

Evidence of no sexual intercourse

57 A spouse may, in an action, give evidence that the spouse did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. R.S., c. 154, s. 47.

Where person charged in criminal proceeding

58 Nothing in this Act contained renders any person who, in any criminal proceeding, is charged with the commission of any offence, or the spouse of such person compellable to give evidence for the prosecution. R.S., c. 154, s. 48.

Communications between spouses

59 No person is compellable to disclose any communication made to that person by that person's spouse during the marriage. R.S., c. 154, s. 49.

No presumption of compulsion

60 No presumption may be made that a married woman committing an offence does so under compulsion because she commits it in the presence of her husband. R.S., c. 154, s. 50.

ATTENDANCE OF WITNESSES**Subpoena**

61 Where a witness in any action resides more than five miles from the place at which the trial is to take place, a justice of the peace may issue a subpoena for such person to attend at such trial, and the same may be in the form of a justice's subpoena, or to the like effect, and such subpoena has the same force and effect as if it had been issued out of the court in which the action is pending. R.S., c. 154, s. 51.

Witness fees

62 No person is obliged to attend or give evidence in any action, before any court, unless the person is tendered the legal fees for such attendance and necessary travel. R.S., c. 154, s. 52.

Testimony of Supreme Court judge

63 The testimony of a judge of the Supreme Court of Nova Scotia may be taken *de bene esse* and may be used on the trial of an action if the judge is, owing to official business, unable to attend such trial. R.S., c. 154, s. 53.

Warrant for arrest of witness

64 Where it is made to appear to a court or judge or other person authorized to hear evidence that

(a) a witness has been duly served with a subpoena or order requiring the witness to attend and give evidence before such court, judge or other person so authorized;

(b) the witness's fees for travel and attendance were paid or tendered to the witness;

(c) such witness refuses or neglects to attend to give evidence as required by such subpoena or order; and

(d) the witness's evidence is material,

such court, judge or other person so authorized may, in addition to any power that it or the judge or other person possesses for the punishment of such witness as for a contempt of court, issue a warrant in the like form as is used in the Supreme Court of Nova Scotia directed to any sheriff, constable or other proper officer for the immediate arrest of such witness to be brought before such court, judge or other person so authorized for the purpose of giving evidence in the cause or matter. R.S., c. 154, s. 54.

EXAMINATION OF WITNESSES**Restrictions if examining own witness**

65 A party producing a witness is not allowed to impeach the witness's credit by general evidence of bad character but the party may, in case the witness, in the opinion of the judge, proves adverse, contradict the witness by other evidence, or, by leave of the judge, prove that the witness has made at other times a statement inconsistent with the witness's present testimony, but before such last mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and the witness must be asked whether or not the witness made such statement. R.S., c. 154, s. 55.

Previous inconsistent statement

66 Where a witness, upon cross-examination as to a former statement made by the witness relative to the subject-matter of a cause, and inconsistent with the witness's present testimony, does not distinctly admit that the witness made such statement, proof may be given that the witness did in fact make it, but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and the witness must be asked whether or not the witness made such statement. R.S., c. 154, s. 56.

Examination as to previous written statement

67 (1) A witness may be cross-examined as to previous statements made by the witness in writing, or reduced into writing, relative to the subject-matter of the cause, without such writing being shown to the witness, but, where it is intended to contradict such witness by the writing, the witness's attention must, before such contradictory proof can be given, be called to those parts of the writing that are to be used for the purpose of so contradicting the witness.

(2) It is competent for the judge, at any time during the trial, to require the production of the writing for the judge's inspection, and the judge may thereupon make such use of it for the purpose of the trial as the judge thinks fit. R.S., c. 154, s. 57.

Criminal record

68 (1) A witness in any cause may be questioned as to whether the witness has been convicted of any crime, and upon being so questioned, where the witness either denies the fact or refuses to answer, the opposite party may prove such conviction.

(2) A certificate, containing the substance and effect only, omitting the formal part, of the indictment and conviction for the offence, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court in which the witness was convicted, or by the deputy of such clerk or officer, is, upon proof of the identity of the person, sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the same.

(3) For such certificate a fee of one dollar and no more must be paid. R.S., c. 154, s. 58.

Self-incrimination

69 (1) A witness may not be excused from answering any question or producing any document upon the ground that the answer or the document may tend to criminate the witness or any other person, or may tend to establish the witness's liability to a civil proceeding at the instance of the Crown, or of any person or to a prosecution under any Act of the Legislature.

(2) Where, with respect to any question, a witness objects to answer upon any of the grounds set out in subsection (1), and where, but for this Section or any Act of Canada, the witness would have been excused from answering the question, then, although the witness is by reason of this Section or by reason of any Act of Canada compelled to answer, the answer so given may not be used or receivable in evidence against the witness in any civil proceeding or in any proceeding under any Act of the Legislature. R.S., c. 154, s. 59.

ADMINISTERING OATHS AND AFFIRMATIONS

Solemn affirmation

70 (1) Every person is permitted to make a solemn affirmation instead of taking an oath, in all places and for all purposes where an oath is or will be required by law, which affirmation is of the same force and effect as if the person had taken the oath.

(2) Every such affirmation must be as follows:

I, A.B., do solemnly, sincerely, and truly declare and affirm (*and then proceed with the words of the oath prescribed by law, omitting any words of imprecation, or calling to witness*)

R.S., c. 154, s. 62.

Evidence of child of tender years

71 (1) In any legal proceeding where a child of tender years is offered as a witness and the child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath or solemn affirmation, the evidence of the child may be received though not given upon oath or solemn affirmation if, in the opinion of the judge, justice or other presiding officer, as the case may be, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

(2) No case may be decided upon such evidence unless it is corroborated by some other material evidence. R.S., c. 154, s. 63.

Who may administer oath or affirmation

72 Every court, judge, justice, officer, commissioner, arbitrator or other person now or hereafter having, by law or by consent of parties, authority to hear, receive and examine evidence, may administer an oath to any witness legally called before such court, judge, justice, officer, commissioner, arbitrator or other person respectively and administer an affirmation to any witness who is exempted from taking an oath. R.S., c. 154, s. 64.

Solemn declarations

73 (1) A person authorized by law to administer an oath or take an affidavit may receive the solemn declaration of any person in attestation of the execution of any writing, deed or instrument, or of the truth of any fact, or of any account rendered in writing.

(2) A solemn declaration made under this Section may be in the form prescribed by the *Canada Evidence Act* or in the following form:

I, *A.B.*, do solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at this of, 20

R.S., c. 154, s. 65.

Administration of oath or affidavit in Nova Scotia

74 (1) An oath, affidavit, affirmation or declaration for use in the Province may be administered, sworn, affirmed or made within the Province before

- (a) a judge of any court;
- (b) a prothonotary of the Supreme Court of Nova Scotia;
- (c) a barrister of the Supreme Court of Nova Scotia;
- (d) a notary public for the Province;
- (e) a commissioner appointed under Section 5 of the *Notaries and Commissioners Act*;
- (f) any person authorized to take the oath, affidavit, affirmation or declaration by the enactment under which it is authorized or directed to be taken, or by any other enactment,

and the person before whom an affidavit, affirmation or declaration is sworn, affirmed or made shall designate the person's office below the person's signature to the jurat on the affidavit, affirmation or declaration.

(2) A document purporting to have the signature of any person referred to in subsection (1) subscribed on it in testimony of an oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before the person, or for any other purpose authorized by this Act, must be admitted in evidence without proof of the person's signature or of the person's official character. R.S., c. 154, s. 66.

OATHS, AFFIDAVITS, ETC., ABROAD

Administration of oath outside Province

75 (1) Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of the Province before

- (a) a commissioner authorized by the laws of the Province to take affidavits in and for any of the courts of the Province;
- (b) a commissioner authorized to administer oaths in the Supreme Court of Judicature in England or Ireland;
- (c) a judge of the Supreme Court of Judicature in England or Ireland;
- (d) a judge of the Court of Session or the Justiciary Court in Scotland;
- (e) a judge of any of the county courts of Great Britain or Ireland;
- (f) a judge of any court of record or of supreme jurisdiction in any colony or possession belonging to the Crown of Great Britain, or any dependency thereof or in any foreign country;
- (g) the mayor or chief magistrate of any city, borough or town corporate, in Great Britain or Ireland or in any colony of the Crown, or in any foreign country, and certified under the common seal of such city, borough or town corporate;
- (h) where made in the British possessions of India, any magistrate or collector certified to be such under the hand of the governor of any such possession;
- (i) where made in Quebec, a judge or prothonotary of the Superior Court, or clerk of the circuit court, a practising lawyer or avocat or a notary;
- (j) an officer of any of the Crown's diplomatic or consular services exercising the officer's functions in any country other than Canada, including an ambassador, envoy, minister, charge d'affaires, counsellor, secretary, attaché, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;
- (k) an officer of the Canadian diplomatic, consular or representative services exercising the officer's functions in any country

other than Canada, including, in addition to the diplomatic and consular officers mentioned in clause (j), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary;

(l) a Canadian Government Trade Commissioner or an Assistant Canadian Government Trade Commissioner exercising the Commissioner's or Assistant Commissioner's functions in any country other than Canada;

(m) a notary public, and certified under the hand and official seal of the notary public wherever made;

(n) where made in a province of Canada, a person authorized by the laws of that province to take affidavits in and for any of the courts of that province; or

(o) an officer holding a commission in the Canadian Armed Forces and being on active service in Canada or abroad,

are, for the purpose of, and in or concerning any cause, matter or thing depending or to be had in any court in the Province, as valid and effective, and are of like force and effect to all intents and purposes as if such oath, affidavit, affirmation or declaration had been administered, sworn, affirmed or made in the Province before a commissioner for taking affidavits therein, or other competent authority of the like nature.

(2) Any document purporting to have affixed, impressed or subscribed thereon, or thereto,

(a) the signature of any such commissioner;

(b) the signature of such judge, and a seal of the court of which the judge is a member;

(c) the seal of the corporation, and the signature of such mayor;

(d) the signature of such chief magistrate or governor as aforesaid;

(e) the official seal and signature of such prothonotary or notary public;

(f) the signature of a person mentioned in clause (1)(j), (k) or (l) and the person's seal or the seal or stamp of the person's office or of the office to which the person is attached; or

(g) the signature of any such officer in the Canadian Armed Force,

in testimony of such oath, affidavit, affirmation or declaration, having been administered, sworn, affirmed or made by or before the person, or for any other purpose authorized by this Act, must be admitted in evidence without proof of the person's signature, or the person's signature and the seal or stamp, or of the person's official character. R.S., c. 154, s. 67.

DECLARATIONS AND ACKNOWLEDGEMENTS
IN HIS MAJESTY'S DOMINIONS

Declaration in conformity with 5 and 6 Wm. IV, c. 62

76 Declarations made in conformity with, and that have legal effect and operation in the place where the same are made under and by virtue of, an Act of the Imperial Parliament, passed in the fifth and sixth years of the reign of his late Majesty King William the Fourth, Chapter 62, relating to the abolition of oaths in certain cases, and of any Act in amendment thereof, have the same operation and effect in the Province as if authenticated under oath before the same officers before whom the declaration had been made, and as if these officers had been authorized to administer such oath. R.S., c. 154, s. 68.

Where proved in British domains

77 Acts, deeds, evidence, acknowledgements and declarations, now or hereafter done, made, taken or proved in Great Britain or Ireland, or any of the Crown's possessions, with those forms of proof and authentication that are the legal mode of proof and authentication in those places, have the same force and effect in the Province as if sworn to before the same persons or officers by and before whom the proof and authentication may be made, and as if those persons or officers had power to administer an oath. R.S., c. 154, s. 69.

COMMISSIONS ISSUED ABROAD
AND EVIDENCE FOR FOREIGN TRIBUNALS

Commission for obtaining testimony

78 Where a court or tribunal of competent jurisdiction in any part of the Crown's dominions, or in any foreign country, in some proceeding before it, issues or authorizes a commission or order for obtaining the testimony of some person being within the Province, or the production of papers therein, it is lawful for the Supreme Court of Nova Scotia, or a judge thereof, where satisfied of the authenticity of the commission or order and the propriety of the examination or production, by order to direct the examination of the persons whom it is desired to examine, and the production of papers, when required, in the manner prescribed in the commission or order for examination, or in such other manner, and before such person, and with such notice, as the Court or a judge directs. R.S., c. 154, s. 70.

CHAPTER E-31

An Act Respecting the Executive Council

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Executive Council.....	3
Ministers.....	4
Acting Minister.....	5
Ineligible persons.....	6
Honorary members of Executive Council.....	7
Honorific and initials.....	8
Salary of Premier and minister with portfolio.....	9
Salary and expenses of minister without portfolio.....	10
Expenses of outside member.....	11
Other expenses of member.....	12
Ministerial assistants.....	13
Regulations respecting expenses.....	14
Clerk.....	15

Short title

1 This Act may be cited as the *Executive Council Act*. R.S., c. 155, s. 1.

Interpretation

2 In this Act and in any other enactment, “member of the Executive Council” does not include an honorary member of the Executive Council except where expressly provided. 2007, c. 16, s. 1.

Executive Council

3 The Executive Council is composed of such persons as the Lieutenant Governor from time to time thinks fit. R.S., c. 155, s. 2.

Ministers

4 The Lieutenant Governor may appoint under the Great Seal of the Province, from among such persons as are appointed members of the Executive Council, persons to hold the following offices during pleasure:

- (a) President of the Executive Council;
- (b) Deputy President of the Executive Council;
- (c) Minister of Acadian Affairs and Francophonie;
- (d) Minister of Addictions and Mental Health;
- (e) Minister of Advanced Education;

- (f) Minister of African Nova Scotian Affairs;
- (g) Minister of Agriculture;
- (h) Attorney General and Minister of Justice;
- (i) Minister of Communications Nova Scotia;
- (j) Minister of Communities, Culture, Tourism and Heritage;
- (k) Minister of Community Services;
- (l) Minister of Economic Development;
- (m) Minister of Education and Early Childhood Development;
- (n) Minister of Environment and Climate Change;
- (o) Minister of Equity and Anti-Racism Initiatives;
- (p) Minister of Finance and Treasury Board;
- (q) Minister of Fisheries and Aquaculture;
- (r) Minister of Gaelic Affairs;
- (s) Minister of Health and Wellness;
- (t) Minister of Intergovernmental Affairs;
- (u) Minister of Labour Relations;
- (v) Minister of Labour, Skills and Immigration;
- (w) Minister of L'nu Affairs;
- (x) Minister of Municipal Affairs and Housing;
- (y) Minister of Natural Resources and Renewables;
- (z) Minister of Priorities and Planning;
- (aa) Provincial Secretary;
- (ab) Minister of the Public Service Commission;
- (ac) Minister of Public Works;
- (ad) Minister of Regulatory Affairs and Service Effectiveness;
- (ae) Minister of Seniors and Long Term Care;
- (af) Minister of Service Nova Scotia;
- (ag) Minister of Trade. 2021, c. 29, s. 1.

Acting Minister

5 (1) The Governor in Council may appoint any member of the Executive Council as Acting Minister in the place of any other member while the other member is absent from the Province or is unable for any reason to perform the duties of the member's office and any act done by an acting minister has the same force, validity and effect as if done by the incumbent of the office.

(2) An appointment made pursuant to subsection (1) may be made retroactive to the time when the Acting Minister began to act in the place of the incumbent of the office. R.S., c. 155, s. 4; 2013, c. 37, s. 2.

Ineligible persons

6 (1) In this Section, “municipality”, “village commissioner” and “service commission” have the same meaning as in the *Municipal Government Act*.

(2) Notwithstanding anything contained in this or any other enactment, no person who is a mayor, warden or councillor of a municipality, a village commissioner or a member of the governing board or council of a service commission may be appointed to the Executive Council while serving as a mayor, warden, councillor, village commissioner or member. R.S., c. 155, s. 5.

Honorary members of Executive Council

7 (1) The Lieutenant Governor may appoint under the Great Seal of the Province as honorary members of the Executive Council, members and former members of the House of Assembly.

(2) The Lieutenant Governor shall appoint under the Great Seal of the Province as honorary members of the Executive Council persons who become former members of the Executive Council on or after January 14, 2010, so long as the person has not been convicted of an offence as referred to in subsection (3).

(3) Where a person who is appointed as an honorary member of the Executive Council pursuant to this Section is convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years, that person forthwith ceases to be an honorary member of the Executive Council and is disqualified from being appointed as an honorary member again in the future. 2009, c. 14, s. 2.

Honorific and initials

8 A member of the Executive Council, including an honorary member, may use

(a) the honorific “The Honourable” before the member’s name; and

(b) the initials “E.C.N.S.” after the member’s name to indicate membership in the Executive Council. 2007, c. 16, s. 2.

Salary of Premier and minister with portfolio

9 (1) The member of the Executive Council holding the recognized position of Premier must be paid, in addition to the amounts to which the member is entitled under the *House of Assembly Act*, an annual salary in the amount determined pursuant to Section 44 of that Act.

(2) Every other member of the Executive Council having charge of a department or departments must be paid, in addition to the amounts to which the member is entitled under the *House of Assembly Act*, an annual salary in the amount determined pursuant to Section 44 of that Act.

(3) The salaries under subsections (1) and (2) are payable out of the General Revenue Fund of the Province in monthly instalments, provided that a salary commences as of the first day of the month in which the member takes the office and is discontinued as of the last day of the month in which the member ceases to hold the office in respect of which the salary is paid.

(4) All fees attached to the office of a member of the Executive Council must be paid into the General Revenue Fund. R.S., c. 155, s. 6; 2017, c. 6, s. 2.

Salary and expenses of minister without portfolio

10 (1) Every member of the Executive Council not having charge of a department must be paid, in addition to the amounts that the member is paid under the *House of Assembly Act*, such annual salary as is determined by the Governor in Council, payable out of the General Revenue Fund in monthly instalments, but

(a) such annual salary determined by the Governor in Council must not be less than \$7,500 nor more than the amount determined pursuant to Section 44 of that Act;

(b) the salary commences as of the first day of the month in which the member takes office and is discontinued as of the last day of the month in which the member ceases to hold the office in respect of which the salary is paid; and

(c) is discontinued as of the first day of the month in which the said member is appointed the head of a department.

(2) Every member of the Executive Council not in charge of a department must be paid a sum sufficient to indemnify the member for the member's expenses incurred by reason of the member's duties as a member of the Council.

(3) Where a member of the Executive Council not having charge of a department attends at meetings of the Council on fewer than 36 days on which such meetings are held, there must be deducted from the salary mentioned in subsection (1) \$75 for each day short of 36 on which the member failed to attend.

(4) Where pursuant to Section 5 of the *Public Service Act* an affair or matter is assigned to a member of the Executive Council not in charge of a department, the said member must be paid a supplementary allowance of an amount or at a rate determined by the Governor in Council. R.S., c. 155, s. 7; 2017, c. 6, s. 3.

Expenses of outside member

11 Every member of the Executive Council who is an outside member as defined by the *House of Assembly Act* must be paid out of the General Revenue Fund, in addition to the amounts to which the member is entitled under the *House of Assembly Act*, an amount to reimburse the member for travelling expenses between the former City of Halifax and the member's constituency and for actual expenses for accommodation and other reasonable expenses incurred as a result of being in the former city while a member of the Executive Council. R.S., c. 155, s. 8.

Other expenses of member

12 Every member of the Executive Council must be paid from the General Revenue Fund a sum sufficient to indemnify the member for reasonable expenses incurred for travelling or otherwise in the discharge of the member's official duties. R.S., c. 155, s. 9.

Ministerial assistants

13 The Governor in Council may appoint members of the House of Assembly to be ministerial assistants. 2009, c. 14, s. 3.

Regulations respecting expenses

14 The Governor in Council may make regulations in respect of expenses, including the basis of reimbursement, any representation or incidental expense allowance for the Premier, the form of reimbursement account and the manner of certification and approval for payment. R.S., c. 155, s. 10.

Clerk

15 (1) The Governor in Council may appoint a Clerk of the Executive Council who must be paid such salary as the Governor in Council determines.

(2) The duties and functions of the Clerk of the Executive Council are to

- (a) examine submissions to the Executive Council to ensure conformity with policy and legal requirements;
- (b) prepare draft orders in council;
- (c) register, certify, distribute, index and file orders in council;
- (d) maintain liaison with departments and agencies of the Province in relation to matters of concern to the Executive Council; and
- (e) perform such other duties as may be from time to time prescribed by the Governor in Council.

(3) The Clerk of the Executive Council has the status of a deputy head and the provisions of the *Civil Service Act* relating to a deputy or to a deputy head apply to the Clerk. R.S., c. 155, s. 11.

CHAPTER E-32

An Act Respecting Expropriation

Table of Contents

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

	Section
PART I	
Short Title	
Short title.....	1
Purpose of Act	
Purpose of Act.....	2
Interpretation	
Interpretation of Act.....	3
Service of documents.....	4
Application of Act and conflict with other Acts.....	5
Act binds Crown.....	6
PART II	
Expropriation	
Acquisition and Abandonment of Land	
Expropriation by statutory authority.....	7
Approval by approving authority.....	8
Expropriation by Crown.....	9
Power of Crown to expropriate.....	10
Expropriation document.....	11
Agreement with owner.....	12
Offer to registered owner if no agreement.....	13
Offer to settle.....	14
Service of offer on unknown registered owner.....	15
Offer to other owners.....	16
Payment.....	17
State of title in doubt.....	18
Possession of land after offer served.....	19
Possession resisted.....	20
Abandonment of expropriated land.....	21
Duty of registrar of deeds.....	22
Filing procedure deemed followed.....	23
Certified documents as evidence.....	24
PART III	
Compensation	
Interpretation of Part.....	25
Duty to pay compensation.....	26
Rules to determine land value.....	27
Aggregate of items to be compensated.....	28
Value.....	29
Mortgage prepaid by statutory authority.....	30
Business loss from relocating and loss of goodwill.....	31
Injurious affection and loss of access.....	32

Procedure for claim for injurious affection.....	33
Set-off	34
Not to be considered in land valuation	35
Factors in amount of compensation payable	36
PART IV	
Negotiation	
Compensation not agreed upon	37
PART V	
Nova Scotia Utility and Review Board	
Duty of Board	38
Expert evidence	39
Notice of hearing	40
Costs	41
Interest on outstanding compensation	42
Abatement of rent	43
Payment of compensation under \$1,000.....	44
Appointment of guardian ad litem	45
Undertaking by statutory authority.....	46
PART VI	
Supreme Court of Nova Scotia	
Claim for injurious affection.....	47
Outstanding claim	48
PART VII	
General	
Regulations	49
Alienation of land acquired under Act.....	50
Regulations Act.....	51
PART VIII	
Purchase and Disposal of Land by the Crown in right of the Province	
Application of Part.....	52
Interpretation of Part.....	53
Powers respecting public works	54
Wall removed or ditch built	55
Blasting	56
Compensation by Province for damage	57
Power of minister to acquire land	58
Survey or establishment of boundary	59
Deposit of plan.....	60
Power of representative to contract	61
Compensation payable from General Revenue Fund	62
Property acquired for public purpose	63
Alienation of land acquired by Crown.....	64
PART IX	
Transitional	
Transitional matters	65

PART I

SHORT TITLE

Short title

1 This Act may be cited as the *Expropriation Act*. R.S., c. 156, s. 1.

PURPOSE OF ACT

Purpose of Act

2 (1) It is the intent and purpose of this Act that every person whose land is expropriated shall be reasonably compensated for such expropriation.

(2) Further, it is the intent and purpose of this Act that where a family home is expropriated the position of the owner in regards to compensation shall be such that the person will be substantially in the same position after the expropriation as compared with the person's position before the expropriation.

(3) Recognizing that strict market value is not in all cases a true compensation for a family home that is expropriated since it may not provide equivalent accommodation to the owner of the family home, this Act must be interpreted broadly in respect of the expropriation of a family home so that effect is given to the intent and purpose set forth in subsection (2).

(4) The protection given by subsections (2) and (3) does not extend to any person whose land is a money asset or investment and not a family home. R.S., c. 156, s. 2; 2019, c. 29, s. 1.

INTERPRETATION

Interpretation of Act

3 (1) In this Act,

“appraisal report” is a written report that follows and would meet the requirements and standards adopted by The Appraisal Institute of Canada for such reports;

“Board” means the Nova Scotia Utility and Review Board;

“Court” means the Supreme Court of Nova Scotia;

“expropriating authority” means the Crown in right of the Province and in all other cases any person or body empowered by statute to expropriate land;

“expropriation” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers but does not include a reservation under Section 10 of the *Public Highways Act* or a designation under Section 112 of the *Environment Act*;

“expropriation documents” means those documents required to be deposited in the office of a registrar of deeds pursuant to Section 11;

“family home” means the home that is the home of the owner held by the owner in fee simple or to which the owner holds the

equity of redemption and is used by the owner for a family residence together, with the land immediately appurtenant thereto, not exceeding one and one-half acres, and any immediately appurtenant out-buildings;

“former Act” means Chapter 96 of the Revised Statutes, 1967, the *Expropriation Act*;

“injurious affection” means

(a) where a statutory authority acquires part of the land of an owner,

(i) the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and

(ii) such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute;

(b) where the statutory authority does not acquire part of the land of an owner,

(i) such reduction in the market value of the land of the owner, and

(ii) such personal and business damages, resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,

and for the purpose of clause (a), part of the land of an owner is deemed to have been acquired if the owner from whom land is acquired retains land contiguous to that acquired or retained land of which the use is enhanced by unified ownership with that acquired;

“land” includes any estate, term, easement, right or interest in, to, over or affecting land;

“occupation” means actual physical occupation;

“owner” includes a mortgagee, tenant, registered judgment creditor, a person entitled to a limited estate or interest in land, a representative for an adult under the *Adult Capacity and Decision-making Act* to whom authority in respect of the adult’s real property has been granted, and a guardian, executor, administrator or trustee in whom land is vested;

“prescribed” means prescribed by the regulations made under this Act;

“purchase-money mortgage” means a mortgage given by a purchaser of land to the vendor of the land or the vendor’s nominee as

security for the payment of all or part of the consideration for the sale;

“registered judgment creditor” means a creditor who has obtained a judgment and registered it in accordance with the provisions of the *Registry of Deeds Act* or the *Land Registration Act*;

“registered owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds office, and includes a person shown as a tenant of land on the last revised assessment roll and also includes a person shown as the owner of any registered interest in the parcel register established pursuant to the *Land Registration Act*;

“security holder” means a person who has an interest in land as security for the payment of money, and includes a vendor under an agreement of purchase and sale;

“statutory authority” means the Crown in right of the Province or any person or body empowered by statute to expropriate land or cause injurious affection;

“tenant” includes a lessee or occupant occupying premises under any tenancy whether written, oral or implied.

(2) For the purpose of this Act, “approving authority” means

(a) the Governor in Council in respect of land expropriated by

(i) the Crown in right of the Province,

(ii) the Nova Scotia Power Finance Corporation,

(iii) Maritime Telegraph and Telephone Company Limited,

(iv) the Halifax-Dartmouth Bridge Commission;

(b) the municipal council in respect of land expropriated by a municipality;

(c) the town council in respect of land expropriated by a town;

(d) the village commissioners in respect of land expropriated by a village;

(e) the appropriate regional council in respect of land expropriated by

(i) Halifax Regional Municipality,

(ii) Cape Breton Regional Municipality,

(iii) Region of Queens Municipality,

(iv) West Hants Regional Municipality;

(f) Halifax Regional Municipality in respect of land expropriated by the Halifax Regional Water Commission;

(g) the elected political body to which it is responsible in respect of land expropriated by any corporation, commission or body

not coming within the above clauses, except that in the case of the Crown in right of the Province, the Governor in Council; and

(h) any case not provided for herein, the Attorney General. R.S., c. 156, ss. 3, 8; 1992, c. 11, s. 36; 1995-96, c. 19, s. 1; 2001, c. 6, s. 106; 2006, c. 16, s. 7; 2017, c. 4, s. 80; 2019, c. 29, s. 2.

Service of documents

4 Any document required by this Act to be served may be served personally or by registered mail addressed to the person to be served at the person's last known address, or, where that person or that person's address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service is deemed to be made,

(a) in the case of service by registered mail, on the fifth day after the day of mailing; and

(b) in the case of service by publication, on the date of the third publication. R.S., c. 156, s. 3.

Application of Act and conflict with other Acts

5 (1) Notwithstanding any general or special Act, where land is expropriated or injurious affection is caused by a statutory authority, this Act applies.

(2) The provisions of any general or special Act providing procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection are deemed to refer to this Act and not to the Act in question.

(3) Where there is conflict between a provision of this Act and provisions of any other general or special Act, the provision of this Act prevails. R.S., c. 156, s. 4.

Act binds Crown

6 This Act binds the Crown in right of the Province. R.S., c. 156, s. 5.

PART II

EXPROPRIATION

ACQUISITION AND ABANDONMENT OF LAND

Expropriation by statutory authority

7 Where a statutory authority desires to expropriate land, it must be expropriated in accordance with this Part but only for the purposes authorized by its statute and to the extent set forth therein. R.S., c. 156, s. 6.

Approval by approving authority

8 (1) Notwithstanding Section 7, an expropriating authority may not expropriate land without the approval of the approving authority.

(2) Any expropriation of land without the approval of the approving authority is null and void.

(3) Notwithstanding subsection (2), nothing herein contained prevents an expropriating authority from expropriating anew land forming part of an expropriation that is null and void if the new expropriation is in accord with this Act.

(4) The Governor in Council may make regulations concerning the requirements of approval by the approving authority and the documents necessary to evidence the same. R.S., c. 156, s. 7.

Expropriation by Crown

9 (1) Notwithstanding any special or general Act, where the Crown in right of the Province desires to expropriate land a request must be made to the Governor in Council for approval of the expropriation by the appropriate minister or person requesting the same and, upon approval by the Governor in Council, the Attorney General is the expropriating authority.

(2) The Governor in Council may make regulations setting forth the nature, type and amount of information required to consider a request for expropriation under subsection (1). R.S., c. 156, s. 9.

Power of Crown to expropriate

10 (1) In this Section, “public work” includes highways, roads and bridges, public buildings, and all other works and property, whether or not of the kind hereinbefore mentioned, belonging to the Province, and also all other works and property acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of the Province or for the acquisition, construction, repair, extension, enlargement or improvement of which any public money is appropriated by the Legislature, and every work required for any such purpose but not any work for which money is appropriated as a subsidy only.

(2) The Crown in right of the Province may expropriate land

(a) for any purpose for which a minister or the Governor in Council is authorized under a specific Act or the former Act to expropriate lands;

(b) to implement or carry out or effect an agreement entered into between the Province and the Government of Canada or a regional municipality, town or county or district municipality or any combination thereof if the agreement is financed from public funds;

(c) for any public work;

(d) for any purpose that is a public purpose. R.S., c. 156, s. 10.

Expropriation document

11 (1) Where a statutory authority has authority to expropriate land and it is desired to expropriate the same, the expropriating authority shall deposit at

the office of the registrar of deeds for the registration district in which the land is located a document or documents setting forth

- (a) a description of the land;
- (b) a plan of the land;
- (c) the nature of the interest intended to be expropriated and whether such interest is intended to be subject to any existing interest in the land;
- (d) the statutory purpose for which the land is expropriated; and
- (e) a certificate of approval executed by the approving authority or a true copy thereof.

(2) Upon the documents being deposited at the office of the appropriate registrar of deeds

- (a) the land expropriated becomes and is absolutely vested in the expropriating authority; and
- (b) any other right, estate or interest is as against the expropriating authority, or any person claiming through or under the expropriating authority, thereby lost to the extent that such right, estate or interest is inconsistent with the interest expropriated.

(3) In the case of an omission, misstatement or erroneous description in an expropriation document deposited under this Section, the expropriating authority may deposit in the proper registry of deeds office a document replacing or amending the original document and signed by the expropriating authority, and a document registered under this subsection must be marked to show the nature of the replacement or amendment and has the same force and effect as, and is in substitution for, the original document to the extent that such document is replaced or amended thereby.

(4) In the case of an interest registered pursuant to the *Land Registration Act*, documents must be recorded at the land registration office in the parcel register of the interest being expropriated and the registrar shall establish a new register for the interest expropriated.

(5) Where a document purports to have been signed by an expropriating authority under this Section, it is presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Board.

(6) At any time after the expropriating authority deposits the expropriation documents in accordance with subsection (1), it may in writing request the owner to provide it with all information of which the owner has knowledge relating to any interest in the land expropriated and, where the owner does not provide such information within 30 days after the written request, then the period for serving documents and offering compensation under Sections 13 and 16 is increased by one day for each two days delay on the part of the owner without affecting the provisions contained in Section 13 for entering into possession.

(7) The Governor in Council may make regulations as to the form and the contents of the written request referred to in subsection (6).

(8) Notwithstanding Sections 13, 15 and 16, where the Attorney General is of the opinion that the physical possession or use of any land expropriated by an expropriating authority, including the Attorney General, is immediately required in the public interest, the Attorney General may by order authorize the expropriating authority, including the Attorney General, to take physical possession of the land expropriated or to use the land to the extent specified in the order and as of the date specified in the order. R.S., c. 156, s. 11; 2001, c. 6, s. 106.

Agreement with owner

12 A statutory authority has the authority to make and form an agreement with an owner in respect of any claim of the owner under this Act, including any costs of the owner. R.S., c. 156, s. 12.

Offer to registered owner if no agreement

13 (1) In this Section, “registered owner” means a known registered owner.

(2) Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within 90 days after the deposit of the expropriation document under Section 11 and before taking possession of the land, serve upon the registered owner

- (a) a true copy of the expropriation documents;
- (b) an offer of an amount in full compensation for the registered owner’s interest; and
- (c) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

excepting compensation for business loss for which the determination is postponed under subsection 31(1).

(3) The expropriating authority shall base its offer of compensation made under subsection (2) upon a report appraising the market value of the lands being taken and damages for injurious affection, and shall serve a copy of the appraisal report upon the owner at the time the offer is made.

(4) The expropriating authority may, within the period mentioned in subsection (2) and before taking possession of the land, upon giving at least two days notice to the registered owner, apply to a judge for an order extending any time referred to in subsection (2), and a judge may in the order authorize the statutory authority to take possession of the land before the expiration of the extended time for serving the offer or statement under clause (2)(a) upon such conditions as may be specified in the order.

(5) Where any registered owner is not served with the offer required to be served on the registered owner under subsection (2) within the time limited by subsection (2) or by an order of a judge under subsection (4) or by agreement, the failure does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to such registered owner must be calculated

from the date of the deposit in the registry of deeds of the expropriation document. R.S., c. 156, s. 13.

Offer to settle

14 (1) In addition to the offer referred to in subsection 13(2), an expropriation authority may make an offer to settle as defined in Section 41 and, in making an offer to settle, the expropriating authority may have reference to such additional information as the expropriating authority considers necessary, which may include an amended appraisal report. 1995-96, c. 19, s. 2.

Service of offer on unknown registered owner

15 (1) Where the registered owner is unknown or the registered owner's address is unknown, the expropriating authority shall, within 90 days after the deposit of the expropriation document under Section 11, serve the registered owner by publication as provided for in Section 4 and may take possession of the land immediately upon the third publication of the notice in the newspaper.

(2) For the purpose of subsection (1), only the description of the land and the purpose for which it is expropriated and the name of the expropriating authority need be published. R.S., c. 156, s. 14.

Offer to other owners

16 (1) Where the owner is a person other than those described in Sections 13 and 15 and no agreement as to compensation has been made, the expropriating authority shall, within 180 days after the deposit of the expropriation document under Section 11, make, to each person who is entitled to compensation under this Act in respect of land expropriated to which the expropriation document relates, an offer in writing of compensation in an amount estimated by the expropriating authority to be equal to the compensation to which that person is then entitled in respect of the person's interest therein.

(2) An offer of compensation made to a person under this Section in respect of land expropriated must be based on a written appraisal of the value of such interest, and a copy of the appraisal must be sent to such person at the time of the making of the offer.

(3) Failure to comply with subsection (1) does not invalidate the expropriation but interest upon the unpaid portion of any compensation payable to the owner must be calculated from the date of the deposit in the registry of deeds of the expropriation document. R.S., c. 156, s. 15.

Payment

17 (1) Where an offer of full compensation has been made to a person under this Act and that person accepts the offer, the full amount thereof must forthwith upon acceptance of the offer be paid to that person.

(2) Where the registered owner under Section 13 or the owner under Section 16 does not accept the offer of the amount of full compensation made, then the statutory authority shall immediately pay to the registered owner 75% thereof without prejudice to the right of that person to claim additional compensation in respect of the expropriation.

(3) Where the amount paid pursuant to subsection (2) exceeds the amount of compensation as determined by the Board, the Board shall order the registered owner to pay the excess to the expropriating authority and, upon such order being made, the registered owner shall pay the excess to the expropriating authority. R.S., c. 156, s. 16; 1995-96, c. 19, s. 3.

State of title in doubt

18 (1) Where the expropriating authority, at any time after the registration of the expropriation document at the appropriate office of the registrar of deeds, is in doubt as to the persons who had any right, estate or interest in the land to which the expropriation document relates, or as to the nature or extent thereof, it may apply to the Court to make a determination respecting the state of the title to the land or any part thereof and to order who had a right, estate or interest in the land at that time and the nature and extent thereof.

(2) An application under this Section must in the first instance be *ex parte* and the Court shall fix a time and place for the hearing of the persons concerned and give directions as to

- (a) the persons who are to be served, the notice of the hearing, the contents of the notice and the manner of service thereof;
- (b) the material and information to be submitted by the expropriating authority or any other person; and
- (c) such other matters as the Court considers necessary.

(3) After the hearing the Court shall either judge for the purpose of this Act what persons had any right, estate or interest in the land expropriated and the nature and extent thereof or direct an issue or issues to be tried for the purpose of enabling the Court to make such an adjudication.

(4) An adjudication made by the Court for the purpose of this Act is deemed to be a final judgment of the Court and, subject to variation on appeal, if any, finally determines for all purposes of this Act what persons had any right, estate or interest in the land expropriated and the nature and extent thereof.

(5) An application for appeal under this Section must be made to the Nova Scotia Court of Appeal within 30 days after the filing of the decision. R.S., c. 156, s. 17; 2019, c. 29, s. 3.

Possession of land after offer served

19 (1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with an offer in accordance with Section 13, the expropriating authority, subject to any agreement to the contrary and, where no application is made under subsection 13(4), takes possession of the land on the date specified in the notice.

(2) Subject to subsection 13(4), the date for possession must be at least three months after the date of the serving of the offer required by Section 13. R.S., c. 156, s. 18.

Possession resisted

20 (1) Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled to do so, it may apply *ex parte* to the Court for an order directing the sheriff to put the expropriating authority into possession of the land expropriated.

(2) On proof of the resistance or opposition, the Court may grant the order *ex parte* or it may appoint a time and place for the hearing of the application and in the appointment may direct that it must be served upon such person as it may prescribe and, after a hearing upon proof of the resistance or opposition, may grant the order.

(3) The sheriff shall forthwith execute the order and make a return to the Court of the execution thereof. R.S., c. 156, s. 19.

Abandonment of expropriated land

21 (1) Where, at any time before the compensation has been paid in full in satisfaction of proceedings taken under this Act, land expropriated under this Act, or any part of such land, is found to be unnecessary for the purpose for which the same was expropriated, or where it is found that a more limited estate or interest therein only is required, the expropriating authority may, by writing under proper execution by its duly authorized officers, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the expropriating authority, or that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon

(a) the land declared to be abandoned reverts in the person from whom it was taken or in those entitled to claim under that person; or

(b) in the event of a limited estate or interest therein being retained by the expropriating authority, the land so reverts subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment and the damage, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case, must be taken into account in determining the amount to be paid to any person claiming compensation.

(3) Where the whole of the land taken is abandoned, the person from whom it was taken is entitled to all damages sustained and all costs incurred by the person in consequence of the taking and abandonment, and the amount of the damages must be determined in the manner provided by this Act and, where a reference as to compensation is pending, must be determined on such reference. R.S., c. 156, s. 20.

Duty of registrar of deeds

22 Notwithstanding the *Registry of Deeds Act*, every registrar of deeds shall receive and permanently preserve in the registrar's office such expropriation documents as the expropriating authority causes to be deposited under this Act, and shall endorse thereon the day, hour and minute when the same were received by the

registrar as the time of registration and make such entries in the registrar's records as will make their registration a public record. R.S., c. 156, s. 21.

Filing procedure deemed followed

23 In all cases, when expropriation documents purporting to be signed by the expropriating authority are deposited in the office of the registrar of deeds, the same are deemed to have been so deposited by the direction and authority of the expropriating authority and the formality and procedure relating to the filing of the documents to have been followed. R.S., c. 156, s. 22.

Certified document as evidence

24 A document purporting to be certified by a registrar of deeds to be a true copy of an expropriation document registered under this Act at a time stated in the certificate is, without proof of the official character or signature of the registrar, evidence of the facts stated therein and of the registration of the expropriation document at the time so stated. R.S., c. 156, s. 23.

PART III**COMPENSATION****Interpretation of Part**

25 In this Part, "disturbance" means pecuniary losses actually incurred by an owner by reason of having to vacate the expropriated land. 2019, c. 29, s. 4.

Duty to pay compensation

26 Where land is expropriated, the statutory authority shall pay the owner compensation as is determined in accordance with this Act. R.S., c. 156, s. 24.

Rules to determine land value

27 (1) The rules set forth in this Part must be applied in determining the value of land expropriated.

(2) The value of land expropriated is the value of that land at the time the expropriation documents are deposited at the office of the registrar of deeds. R.S., c. 156, s. 25.

Aggregate of items to be compensated

28 The due compensation payable to the owner for lands expropriated is the aggregate of

- (a) the market value of the land or a family home for a family home determined as hereinafter set forth;
- (b) the reasonable costs, expenses and losses arising out of or incidental to the owner's disturbance determined as hereinafter set forth;
- (c) damages for injurious affection as hereinafter set forth; and
- (d) the value to the owner of any special economic advantage to the owner arising out of or incidental to the owner's actual occupation of the

land, to the extent that no other provision is made therefor in due compensation. R.S., c. 156, s. 26.

Value

29 (1) In this Section and Section 30, “bonus” means the amount by which the amount secured under a mortgage exceeds the amount actually advanced and does not include accrued interest outstanding and unpaid.

(2) Subject to this Section, the value of land expropriated is the market value thereof, that is to say, the amount that would have been paid for the land if, at the time of its taking, it had been sold in the open market by a willing seller to a willing buyer.

(3) Where the owner of land expropriated was in occupation of the land at the time the expropriation document was deposited in the registry of deeds and, as a result of the expropriation, it has been necessary for the owner to give up occupation of the land, the value of the land expropriated is the greater of

(a) the market value thereof determined as set forth in subsection (2); and

(b) the aggregate of

(i) the market value thereof determined on the basis that the use to which the land expropriated was being put at the time of its taking was its highest and best use, and

(ii) the costs, expenses and losses arising out of or incidental to the owner’s disturbance including moving to other premises but, where such cannot practically be estimated or determined, in lieu thereof, a percentage as allowed, not exceeding 15%, of the market value determined as set forth in subclause (i),

plus the value to the owner of any element of special economic advantage to the owner arising out of or incidental to the owner’s occupation of the land, to the extent that no other provision is made by this clause for the inclusion thereof in determining the value of the land expropriated.

(4) Where the land expropriated is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, and the owner intends in good faith to relocate for that purpose, the market value is deemed to be the reasonable cost of equivalent reinstatement.

(5) Where only part of the land of an owner is taken and such part is of a size, shape or nature for which there is no general demand or market, the market value and the injurious affection caused by the taking may be determined by determining the market value of the whole of the owner’s land and deducting therefrom the market value of the owner’s land after the taking.

(6) Notwithstanding subsection (3), where any land expropriated is, at the time the expropriation document was deposited in the registry of deeds, used as a family home by the owner the value of the land expropriated is such value

as will at current costs and prices put the owner in a position to acquire by purchase or construction a home reasonably equivalent to that which was expropriated.

(7) Persons negotiating or determining a case under subsection (6) shall consider the question whether the reasonably equivalent home can be acquired by purchase, or whether it is certainly or probably impracticable in the state of the market to so acquire it, in which latter case it may be necessary for them to award sufficient compensation for its construction in lieu of current market value.

(8) For the purpose of subclause (3)(b)(ii) consideration must be given to the time and circumstances in which an owner was allowed to continue in occupation of the land after the expropriating authority became entitled to take physical possession or make use thereof, and to any assistance given by the expropriating authority to enable such owner to seek and obtain alternative premises.

(9) The expropriating authority shall pay to a tenant occupying land expropriated in respect of disturbance so much of the cost referred to in subclause (3)(b)(ii) as is appropriate having regard to

- (a) the length of the term of the lease and the portion of the term remaining at the time at which the determination is relevant;
- (b) any right or reasonable prospect of renewal of the term that the tenant had; and
- (c) any investment in the land by the tenant and the nature of any business carried on by the tenant thereon.

(10) Security holders must be paid the amount of principal and interest outstanding against the security out of the market value of the land and any damages for injurious affection payable in respect of the land subject to the security in accordance with their priorities, whether or not such principal and interest is due, and subject to subsections (11) and (12).

(11) Where land is subject to a mortgage and the amount payable to the mortgagee under subsection (10) is insufficient to satisfy the mortgage in full,

- (a) where the mortgage is a purchase-money mortgage the mortgage must, to the extent that the mortgage affects title to the land, be deemed to be fully paid, satisfied and discharged for all purposes upon payment of the amount payable to the mortgagee under subsection (10); and
- (b) where the mortgage is not a purchase-money mortgage and includes a bonus,
 - (i) the amount by which the amount payable to the mortgagee under subsection (10) is insufficient to pay the amount remaining unpaid under the mortgage, or
 - (ii) the amount of the bonus,

whichever is the lesser, is, to the extent that the mortgage affects title to the land, deemed to be fully paid and satisfied for all purposes upon payment of the amount payable to the mortgagee under subsection (10).

(12) No amount may be paid in respect of a bonus until all security holders have been paid all amounts payable other than any bonus.

(13) Where land held as security is expropriated in part or is injuriously affected, a security holder is entitled to be paid to the extent possible in accordance with the security holder's priority, out of the market value portion of the compensation and any damages for injurious affection therefor, as the case may be, a sum that is in the same ratio to such portion of the compensation and damages as the balance outstanding on the security at the date of the expropriation or injurious affection is to the market value of the entire land, but the sum so determined must be reduced by the amount of any payments made to the security holder by the owner after the date of expropriation or injurious affection. R.S., c. 156, s. 27; 1995-96, c. 19, s. 4.

Mortgage prepaid by statutory authority

30 Where a statutory authority prepays a mortgage in whole or in part, the statutory authority shall pay

(a) to the mortgagee an amount in respect of the prepayment amounting to

(i) three months interest on the amount of principal prepaid at the rate of six per cent a year or at such other rate as is prescribed by the Governor in Council by regulation, or

(ii) the value of any notice or bonus for prepayment provided for in the mortgage,

whichever is the lesser;

(b) to the mortgagee, where

(i) the prevailing interest rate for an equivalent investment is lower than the rate under the mortgage, and

(ii) there is no provision in the mortgage permitting prepayment at the date of the expropriation,

an amount to compensate for the difference in the interest rates for the period for which the amount of principal prepaid has been advanced, not to exceed five years; and

(c) to the mortgagor, whose interest is expropriated, an amount to compensate for any loss incurred by reason of a difference in the interest rates during the period for which the payment of principal provided for in the mortgage has been advanced, but such difference may not be calculated on a new interest rate any greater than the prevailing interest rate for an equivalent mortgage. R.S., c. 156, s. 28.

Business loss from relocating and loss of goodwill

31 (1) Where a business is located on the land expropriated, the statutory authority shall pay compensation for business loss resulting from the relocation of the business made necessary by the expropriation and, unless the owner and the statutory authority otherwise agree, the business losses shall not be determined until the business has moved and been in operation for 12 months or until a three-year period has elapsed from the date of the expropriation, whichever occurs first.

(2) Where it is not feasible for the owner of a business to relocate, there must be included in the compensation payable an amount for the loss of the business if the compensation for the land taken is based on the existing value of the land.

(3) For the purpose of determining the compensation for loss of goodwill, the value of the goodwill must be determined in accordance with generally accepted accounting principles. R.S., c. 156, s. 29; 1995-96, c. 19, s. 5.

Injurious affection and loss of access

32 (1) A statutory authority shall compensate the owner of land for loss or damage caused by injurious affection.

(2) No compensation is payable for the loss of access to land or egress from land, or both, if the loss is the result of a designation pursuant to the *Public Highways Act* of a highway or land as a controlled access highway and other access to the land or egress from the land, as the case may be, is available as a result of a service or land access road being provided. R.S., c. 156, s. 30; 1995-96, c. 19, s. 6.

Procedure for claim for injurious affection

33 (1) Subject to subsection (2), a claim for compensation for injurious affection must be made by the person suffering the damage or loss in writing with particulars of the claim within one year after the damage was sustained or after it became known to the person, and, where not so made, the right to compensation is forever barred.

(2) Where the person who is injuriously affected is an infant, an incompetent or a person incapable of managing the person's own affairs, the person's claim for compensation, where not made on the person's behalf within the time period stipulated in subsection (1), must be made within one year after the person ceased to be under the disability or, in the case of the person's death while under the disability, within one year after the person's death and, where not so made, the right to compensation is forever barred. R.S., c. 156, s. 31.

Set-off

34 The value of any advantage to the land or remaining land of an owner derived from any work for which land was expropriated or by which land was injuriously affected may be set-off only against the amount of the damages for injurious affection to the owner's land or remaining land. R.S., c. 156, s. 32.

Not to be considered in land valuation

35 In determining the value of land expropriated, no account may be taken of

(a) any anticipated or actual use by the expropriating authority of the land at any time after the depositing of the expropriation document in the registry of deeds;

(b) any value established or claimed to be established by or by reference to any transaction or agreement involving the sale, lease or other disposition of the interest or any part thereof, if such transaction or agree-

ment was entered into after the deposit of the expropriation document in the registry of deeds;

(c) any increase or decrease in the value of the land resulting from the anticipation of expropriation by the expropriating authority or from any knowledge or expectation, prior to the expropriation, of the purpose for which the land was expropriated; or

(d) any increase in the value of the land resulting from its having been put to a use that was contrary to law. R.S., c. 156, s. 33.

Factors in amount of compensation payable

36 The fact of

(a) an abandonment or revesting under this Act of an interest or remainder of an interest in land; or

(b) any undertaking given on behalf of the expropriating authority, or by any other person within the scope of the person's authority, to make any alteration, construct any work or grant or convey any other land or interest therein,

must be taken into account, in connection with all other circumstances of the case, in determining the amount to be paid to any person claiming compensation for land expropriated. R.S., c. 156, s. 34.

PART IV

NEGOTIATION

Compensation not agreed upon

37 (1) Subject to Part VI, where the statutory authority and the owner have not agreed upon the compensation payable under this Act and, in the case of injurious affection, Section 33 has been complied with or, in the case of expropriation, Section 13 has been complied with, or the time for complying therewith has expired,

(a) the statutory authority or the owner may serve notice of negotiation upon the other of them stating that it or the owner, as the case may be, requires the compensation to be negotiated; or

(b) where the statutory authority and the owner have agreed to dispense with negotiation proceedings or are unable to agree to a negotiator within 30 days of service of the notice referred to in clause (a), the statutory authority or the owner may serve notice upon the other of them or upon the Board, to have the compensation determined by the Board.

(2) In any case in which a notice of negotiation is served, the negotiator shall, upon reasonable notice to the statutory authority and the owner, meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the compensation.

(3) Before or during the negotiation proceedings, the negotiator shall inspect the land that has been expropriated or injuriously affected.

(4) Subject to Part VI, where the negotiation proceedings do not result in a settlement of the compensation, the statutory authority or the owner may serve notice upon the other of them and upon the Board stating that it or the owner, as the case may be, requires the compensation to be determined by the Board as though the negotiation proceedings had not taken place. R.S., c. 156, s. 36; 2019, c. 29, s. 5.

PART V

NOVA SCOTIA UTILITY AND REVIEW BOARD

Duty of Board

38 Subject to Part VI, the Board shall determine any compensation where the parties have not agreed on the amount of compensation, and in the absence of agreement, determine any other matter required by this or any other Act to be determined by the Board. R.S., c. 156, s. 47; 1992, c. 11, s. 36; 1995-96, c. 19, s. 8; 2019, c. 29, s. 6.

Expert evidence

39 (1) A party is not entitled to adduce the evidence of an expert witness at the hearing unless the party has filed with the Board and served upon the other party or parties at least 60 days before the hearing begins a copy of the expert's report.

(2) Where a report has been filed with the Board and served on the other party pursuant to subsection (1), the other party may file an expert's report in response at least 30 days before the hearing and is entitled to adduce the evidence in that report.

(3) Subject to subsections (1) and (2), each party is entitled to call two expert witnesses, however the Board may grant leave for additional experts to be called.

(4) The Board may appoint experts to assist it in interpreting evidence of a special or technical nature. R.S., c. 156, s. 50; 1995-96, c. 19, s. 9.

Notice of hearing

40 The Board shall give notice of its hearings to those parties known to the Board who claim any interest or who, in the opinion of the Board, may have an interest in the land that was expropriated and shall accord to those parties a reasonable opportunity to offer evidence at the hearings. R.S., c. 156, s. 51.

Costs

41 (1) In this Section, "offer to settle" means a written offer of an amount in full compensation for land expropriated or for injurious affection caused to an owner, or for both, made by an expropriating authority to the owner at least 14 days prior to the date of a hearing by the Board that is held to determine the amount of the compensation.

(2) Subject to subsection (5), an owner whose interest in land is expropriated or injuriously affected, where part of the land of an owner has been

acquired, is entitled to be paid the reasonable costs necessarily incurred by the owner for the purpose of asserting a claim for compensation.

(3) Subject to subsection (5), where an expropriating authority and an owner agree on the amount of compensation, but do not agree on the amount of costs to be paid, the costs to be paid to the owner must be determined by the Board.

(4) Where the compensation awarded to an owner by the Board is greater than the amount offered in the offer to settle, the expropriating authority shall pay to the owner costs as determined by the Board.

(5) Where the compensation awarded to an owner by the Board is equal to or less than the amount offered in the offer to settle, the owner is entitled to costs, as determined by the Board, to the date of service of the offer to settle but the owner shall bear the owner's own costs that are incurred after that date.

(6) An offer to settle must not be disclosed to the Board before its determination of the compensation payable to the owner.

(7) The costs payable to the owner are

- (a) those costs referred to in subsection (2), (3), (4) or (5);
- or
- (b) where the Governor in Council prescribes a schedule of costs, the amounts prescribed in the schedule and not the costs referred to in clause (a).

(8) In a determination of costs pursuant to subsection (2), (3), (4) or (5), the following must be taken into account:

- (a) the number and complexity of the issues;
- (b) the conduct of any party that tended to shorten or unnecessarily lengthen the duration of the proceeding;
- (c) any step in the proceeding that was improper, vexatious, prolix or unnecessary;
- (d) the reasonableness and relevance of appraisal and other expert reports, including the cost of the reports;
- (e) the skill, labour and responsibility involved;
- (f) the amount of the award or settlement;
- (g) any other matter relevant to the question of costs.

(9) The expropriating authority shall pay interest on an unpaid account for costs payable pursuant to this Section at the rate of six per cent per year or such rate as may be determined by the Governor in Council, from the date the account is served on the expropriating authority by the owner.

(10) Costs awarded pursuant to this Section are payable upon settlement or final adjudication of compensation to the owner. 1995-96, c. 19, s. 10; 2019, c. 29, s. 7.

Interest on outstanding compensation

42 (1) Subject to Sections 13 and 16, the owner of lands expropriated is entitled to be paid interest on the portion of the market value of the owner's interest in the land and on the portion of any allowance for injurious affection to which the owner is entitled, outstanding from time to time, at the rate of six per cent a year calculated from the date the owner ceases to reside on or make productive use of the lands, but in no case is interest to be awarded for any period prior to the date the expropriation documents are deposited in the registry of deeds.

(2) Subject to subsection (3), where the Board is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow the owner interest for the whole or any part of the time for which the owner might otherwise be entitled to interest, or may allow interest at such rate less than six per cent a year as appears reasonable.

(3) The interest to which an owner is entitled under subsection (1) may not be reduced for the reason only that the owner did not accept the offer made by the expropriating authority, notwithstanding that the compensation as finally determined is less than the offer.

(4) Where the Board is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Board may order the expropriating authority to pay to the owner interest under subsection (1) at a rate exceeding six per cent a year but not exceeding 12% a year. R.S., c. 156, s. 53; 2019, c. 29, s. 8.

Abatement of rent

43 (1) Subject to subsection (2), where only part of the interest of a lessee is expropriated, the lessee's obligation to pay rent under the lease must be abated *pro tanto*, as determined by the Board.

(2) Where all the interest of a lessee in land is expropriated or where part of the lessee's interest is expropriated and the expropriation renders the remaining part of the lessee's interest unfit for the purposes of the lease, as determined by the Board, the lease is deemed to be frustrated from the date of the expropriation. R.S., c. 156, s. 54.

Payment of compensation under \$1,000

44 Where the owner who is entitled to convey the land that has been expropriated or injuriously affected and the statutory authority agree as to the compensation or the compensation has been determined and in either case it does not exceed \$1,000, the statutory authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the statutory authority from all liability in respect of the compensation. R.S., c. 156, s. 63.

Appointment of guardian ad litem

45 (1) The Court may, where a representative, trustee, guardian or other person representing any person under a disability or any other persons including issue unborn is unable or unwilling to act on the person's or their behalf or where any such person or persons including issue unborn are not so represented or

where the person or persons entitled to compensation are unknown or missing, after such notice as the Court may direct, appoint a trustee, guardian or other person *ad litem* to act on the person's or their behalf for the purpose of this Act.

(2) The Court in making any appointment under subsection (1) may give such directions as to the disposal, application or investment of any compensation payable under this Act as it considers necessary to secure the interests of all persons having a claim thereto.

(3) Any contract, agreement, release or receipt made or given by any person appointed under subsection (1) and any conveyance or other instrument made or given in pursuance of such contract or agreement is binding for all purposes upon the person by whom, and any person or persons including issue unborn on behalf of whom, such contract, agreement, release or receipt is made or given.

(4) For the purpose of this Section, the Public Trustee is a person eligible for appointment by the Court and may, in the Public Trustee's discretion, of the Public Trustee's own initiative, make application for such appointment. R.S., c. 156, s. 64; 2017, c. 4, s. 81.

Undertaking by statutory authority

46 Where land is expropriated or is injuriously affected by a statutory authority, the statutory authority may, before the compensation is agreed upon or determined, undertake to make alterations or additions or to construct additional work or make a grant of other lands, in which case, the compensation must be determined having regard to such undertaking, and, where the undertaking has not already been carried out, the Board may declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such grant made to the owner. R.S., c. 156, s. 65.

PART VI

SUPREME COURT OF NOVA SCOTIA

Claim for injurious affection

47 (1) Where an owner claims injurious affection within the meaning of clause (b) of the definition of "injurious affection" in Section 3 and the parties have not agreed on the amount of compensation,

(a) no claim may be brought before the Board to determine compensation;

(b) the statutory authority or the owner may initiate proceedings before the Court for an order determining compensation; and

(c) the Court has exclusive jurisdiction to determine all matters relating to the proceedings, including liability, compensation, interest on outstanding compensation and costs.

(2) Where a party initiates proceedings under subsection (1), the practice and procedure of the Court applies with necessary changes to the proceedings. 2019, c. 29, s. 9.

Outstanding claim

48 (1) Notwithstanding Section 47, where proceedings before the Board for a determination of compensation for claims of injurious affection within the meaning of clause (b) of the definition of “injurious affection” in Section 3 have been commenced before June 1, 2019, but not completed, the Board shall determine compensation in accordance with Part V.

(2) For the purpose of subsection (1), proceedings before the Board are commenced when either party serves a notice of hearing upon the other of them or upon the Board to have the compensation determined by the Board. 2019, c. 29, s. 9.

PART VII**GENERAL****Regulations**

49 The Governor in Council may make regulations

- (a) prescribing rates of interest for the purpose of Section 30;
- (b) prescribing forms for the purpose of this Act and providing for their use;
- (c) prescribing a schedule of costs payable to an owner under this Act and the rate of interest on unpaid costs;
- (d) defining any word or expression used but not defined in this Act;
- (e) generally for any matter or thing necessary to effect the purpose of this Act. R.S., c. 156, s. 66; 1992, c. 11, s. 36; 1995-96, c. 19, s. 11.

Alienation of land acquired under Act

50 (1) Any land acquired under this Act for any purpose for which a statutory authority is authorized to acquire the same may be granted, sold, leased, transferred or otherwise disposed of by the statutory authority upon such terms and subject to such conditions as will assure, in the opinion of the statutory authority, the carrying out of the purposes for which the land was acquired and subject to any statutory provision governing the disposition of land by the statutory authority.

(2) Any land referred to in subsection (1) when not required by a statutory authority may be disposed of by that statutory authority as if acquired by purchase. R.S., c. 156, s. 67.

Regulations Act

51 Regulations made by the Governor in Council pursuant to subsections 8(4), 9(2) and 11(7) and Section 49 is a regulation within the meaning of the *Regulations Act*. R.S., c. 156, s. 67.

PART VIII

PURCHASE AND DISPOSAL OF LAND
BY THE CROWN IN RIGHT OF THE PROVINCE**Application of Part**

52 This Part applies only to the Crown in right of the Province. R.S., c. 156, s. 69.

Interpretation of Part

53 In this Part,

“conveyance” includes a surrender to the Crown, and any conveyance to the Crown or to a minister or to any officer of a minister’s department, in trust, for or to the use of the Crown, must be held to be a surrender;

“land” includes any estate, term, easement, right or interest to, over, or affecting land;

“lease” includes agreement for a lease;

“minister” means the minister presiding over a department of the Government of the Province and charged with or having the supervision, management or control of the construction, maintenance or repair of the public work;

“owner” includes mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or a trustee in whom land or any interest therein is vested;

“public work” includes highways, roads and bridges, public buildings, and all other works and property, whether or not of the kind hereinbefore mentioned, belonging to the Province, and also all other works and property acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of the Province, or for the acquisition, construction, repair, extension, enlargement or improvement of which any public money is appropriated by the Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only. R.S., c. 156, s. 70.

Powers respecting public works

54 A minister or the minister’s engineers, superintendents, agents, workers or servants may, for any purpose relative to the use, construction, maintenance or repair of a public work, or for obtaining better access thereto, and without the consent of the owner,

(a) enter into and upon any land and survey and take levels of the same, and make such borings or sink such trial pits as the minister considers necessary for any purpose related to a public work;

(b) enter upon any land and deposit thereon such material as is required for a public work or for the purpose of digging, quarrying, cutting or carrying away any material therefrom for the purpose of the construction, repair or maintenance of a public work;

(c) make and use all such temporary roads to and from timber, stone, clay, gravel or sand or gravel pits as are required by the minister for

the convenient passing to and from a public work during the construction, repair or maintenance thereof;

(d) enter upon any land for the purpose of making proper drains to carry off water from a public work, or for keeping such drains in repair;

(e) divert or alter, temporarily or permanently, the course of any river or other watercourse or any railway, road, street or other way, or raise or sink its level, in order to carry it over or under, on the level of or by the side of a public work, as the minister considers necessary for any purpose related to that work;

(f) for the purpose of a public work, divert or alter the position of any water pipe, oil or gas pipe, sewer or drain, or any telegraph, telephone or electric wire, pole or tower. R.S., c. 156, s. 71.

Wall removed or ditch built

55 Whenever it is necessary, in the construction, repair or maintenance of a public work, to take down or remove any wall or fence of any owner or occupier of land adjoining a public work, or to construct any drain or ditch for carrying off water, the wall or fence must be replaced as soon as the necessity that caused its taking down or removal has ceased, and after it has been so replaced, or when the drain or ditch is completed, the owner or occupier of the land shall maintain the wall, fence, drain or ditch to the same extent as the owner or occupier might by law be required to do if the wall or fence had never been so taken down or removed, or the drain or ditch had always existed. R.S., c. 156, s. 72.

Blasting

56 (1) Where the Province has contracted with any person for the construction or execution of any public work, or where, by direction of the Governor in Council, or of a minister within the scope of the minister's powers, any officer, employee or agent of the Province is charged with the construction or execution of any public work, the Governor in Council may, where in the Governor in Council's opinion it is necessary or expedient that any material be excavated or removed by blasting or the use of explosives, authorize the work to be performed in that manner, notwithstanding that the blasting or explosions may cause damage to land or other property or to the prosecution of any industry or work that is situated in the vicinity of the work or that may be thereby affected.

(2) Notice of the authorization of any work in the manner set forth in subsection (1) must be sent at least seven days in advance to the owner of any land or other property or to any person carrying on any industry or work that may be affected by such work, and any such owner or person may, within seven days after the sending of such notice to the owner or person, apply to the Governor in Council or to any person designated by the Governor in Council for a review of the authorization.

(3) Where the construction or execution of a public work is contracted for, then unless the contract otherwise provides, the amount of compensation payable by the Province is chargeable to the contractor, and, where not paid by the contractor forthwith upon demand, may be recovered from the contractor by the Province as money paid to the contractor's use, or may be deducted from any money in the hands of the Province belonging or payable to the contractor. R.S., c. 156, s. 73.

Compensation by Province for damage

57 Compensation must be paid by the Province to each person by whom any actual loss or damage is sustained by reason of the exercise of any power under this Part, equal to the amount of any such loss or damage for which the Province would be liable to that person if the power had not been exercised under the authority of a statute. R.S., c. 156, s. 74.

Power of minister to acquire land

58 A minister may, for and in the name of the Crown in right of the Province, purchase or acquire any land that the minister considers necessary

- (a) for any purpose for which a minister is authorized under a specific Act or the former Act to purchase and acquire any land;
- (b) to implement or carry out or effect an agreement entered into between the Province and the Government of Canada or a regional municipality, town or county or district municipality or any combination thereof if the agreement is financed from public funds;
- (c) for any public work;
- (d) for any purpose that is a public purpose. R.S., c. 156, s. 75.

Survey or establishment of boundary

59 (1) A minister may employ a Nova Scotia Land Surveyor or engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by the Crown for any of the purposes authorized by this Act.

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer. R.S., c. 156, s. 76.

Deposit of plan

60 Where land appropriated for a public work is Crown land, under the control of the Government of the Province, a plan of such land must be deposited with the Department of Natural Resources and Renewables. R.S., c. 156, s. 77.

Power of representative to contract

61 (1) Any tenant for life, representative or trustee of an incompetent person or of a person incapable of managing the person's affairs, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of the representative, the representative's heirs and assigns, but also for and on behalf of those whom the representative represents, whether infants, issue unborn, incompetent persons or other persons seised, possessed or interested in any land or other property may contract and agree with a minister for the sale of the whole or any part thereof, and may convey the same to the Crown, and may also contract and agree with the minister as to the amount of compensation to be paid for any such land or property or for damages occasioned thereto, and may also act for and on behalf of those whom the representative represents in any proceeding for determining the compensation to be paid under this Act.

(2) Where there is no guardian or other person to represent a person under disability, the judge may, after due notice to the persons interested, appoint a guardian or person to represent, for any of the purposes mentioned in subsection (1), the person under disability. R.S., c. 156, s. 78; 2017, c. 4, s. 82.

Compensation payable from General Revenue Fund

62 The Minister of Finance and Treasury Board may pay to any person out of any unappropriated money forming part of the General Revenue Fund any sum to which, under this Act, the person is entitled as compensation or for costs as a result of the Province purchasing, acquiring or expropriating land. R.S., c. 156, s. 79; 2010, c. 2, s. 84.

Property acquired for public purpose

63 All lands, streams, watercourses and property acquired under this Act or otherwise by the Crown for any public work and purpose is vested in the Crown and, when not required for the public work or purpose may be sold, leased or otherwise disposed of under the authority of the Governor in Council. R.S., c. 156, s. 80.

Alienation of land acquired by Crown

64 Any land acquired under this Act for any of the purposes set out in Section 10 or 58 may be granted, sold, leased, transferred or otherwise disposed of by the Governor in Council upon such terms and subject to such conditions as will assure, in the opinion of the Governor in Council, the carrying out of the purposes for which the land was acquired. R.S., c. 156, s. 81.

PART IX

TRANSITIONAL

Transitional matters

65 (1) A reference in any Act other than this Act to the former Act or the former *Expropriation Procedure Act* or the procedure under either or both of those Acts means and is to be construed as a reference to this Act.

(2) Nothing herein contained means or is to be construed to mean that the power of a statutory authority to expropriate land is revoked or changed except that in the case of the Crown in right of the Province, the execution of expropriation documents must be under the signature of the Attorney General rather than the minister named or designated in the appropriate Act. R.S., c. 156, s. 82.
