

**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 F**



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Published by Authority of the Speaker of the House of Assembly  
Halifax



# VOLUME F

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2023

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CHAPTER F-1

**An Act to Ensure Fair Registration Practices  
by Regulating Bodies**

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**Short title**

**1** This Act may be cited as the *Fair Registration Practices Act*. 2008, c. 38, s. 1.

**Interpretation**

**2** In this Act,

“internal review” means a rehearing, reconsideration, review or appeal or other process provided by a regulating body in respect of the merits of a registration decision, regardless of the terminology used to describe the process;

“internal review decision” means a decision in an internal review;

“Minister” means the Minister of Labour, Skills and Immigration;

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

“record” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

“registration” means the end result of a process by which an applicant seeks authority to

(a) engage in the practice of an occupation governed by a regulating body, whether such practice is independent, conditional or under supervision; or

(b) use a designation or certification granted by a regulating body,

but does not include periodic renewals;

“registration decision” means, irrespective of the terminology used by a regulating body, a decision to grant or not grant registration to an applicant;

“registration practices” means the administrative steps taken by a regulating body to process an application for registration, but does not include the standards and objective requirements set by a regulating body to assess the qualifications of individuals applying for registration;

“regulating body” means a body listed in Schedule A to this Act or a person listed in Schedule B to this Act;

“regulations” means the regulations made under this Act unless the context indicates otherwise;

“third-party assessor” means a body external to a regulating body relied on by the regulating body to assess the equivalence of the qualifications of an applicant for registration. 2008, c. 38, s. 2; 2014, c. 14, s. 1; 2021, c. 30, s. 1.

### **Act recognizes commitments of Government**

**3** This Act recognizes the commitments the Government of the Province has made under the Canadian Free Trade Agreement between the Government of Canada and the governments of all the provinces of Canada signed in 2017 to facilitate the free movement of persons, goods, service and investments throughout Canada, as implemented by the Province under the *Canadian Free Trade Agreement Implementation Act*. 2018, c. 23, s. 24

### **Minister responsible**

**4** The Minister is responsible for the administration of this Act. 2008, c. 38, s. 4.

## FAIR REGISTRATION PRACTICES CODE

**Sections referred to as Code**

**5** This Section and Sections 6 to 12 may be referred to as the *Fair Registration Practices Code*. 2008, c. 38, s. 5.

**Duty of regulating body**

**6** A regulating body has a duty to carry out registration practices that are transparent, objective, impartial and procedurally fair. 2008, c. 38, s. 6.

**Provision of information by regulating bodies**

**7** A regulating body shall provide information in a clear and understandable form to individuals, including individuals who received their qualifications outside of Canada, applying or intending to apply for registration by the regulating body, and shall provide

- (a) information about its registration practices and internal review processes;
- (b) information about the length of time that the registration process for that regulating body usually takes;
- (c) the requirements for registration by the regulating body;
- (d) a description of the criteria used to assess whether the requirements for registration have been met;
- (e) information about any support the regulating body provides to applicants during the registration process; and
- (f) information setting out any fees for registrations. 2008, c. 38, s. 7.

**Duties respecting communication**

**8** A regulating body shall

- (a) respond to inquiries from applicants for registration within a reasonable time;
- (b) where registration is granted, provide written confirmation within a reasonable time to applicants;
- (c) where registration is not granted, provide written decisions that include reasons to applicants within a reasonable time respecting registration decisions; and
- (d) provide, where practical, information respecting measures or programs that may be available to assist unsuccessful applicants in obtaining registration at a later date. 2008, c. 38, s. 8.

**Documentation of qualifications**

**9** A regulating body shall

- (a) make information publicly available on what documentation of qualifications must accompany an application; and
- (b) where documentation cannot be obtained by an applicant for reasons beyond the applicant's control, advise the applicant what alternative

information may be supplied by the applicant that may be acceptable to the regulating body. 2008, c. 38, s. 9.

#### **Internal review process**

**10 (1)** Where a regulating body does not grant registration to an applicant, the regulating body shall provide an internal review process within a reasonable time and shall inform the applicant of the internal review process and of the procedures and time frames for the internal review.

**(2)** A regulating body shall provide an applicant for registration an opportunity to provide new information and to make submissions with respect to an internal review in such manner as is determined by the internal review decision-maker.

**(3)** A regulating body may specify how submissions in respect of an internal review are to be submitted.

**(4)** An internal review decision-maker shall, within a reasonable time, provide an applicant with a written decision that includes reasons.

**(5)** No one who acted as a decision-maker in respect of a registration decision may act as a decision-maker in an internal review in respect of that registration decision. 2008, c. 38, s. 10.

#### **Training of decision-makers**

**11** A regulating body shall ensure that individuals acting as decision-makers in internal reviews receive training on conducting an internal review. 2008, c. 38, s. 11.

#### **Access to records**

**12 (1)** Upon the written request of an applicant for registration by a regulating body, the regulating body shall provide the applicant with access to records held by it that are related to the application.

**(2)** Notwithstanding subsection (1), a regulating body may refuse access to a record if

(a) the record or any information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be;

(b) another enactment, including an Act of the Parliament of Canada or a regulation made pursuant to such an Act, or a court order or order of a quasi-judicial tribunal prohibits disclosure of the record or any information in the record in the circumstances;

(c) granting the access could reasonably be expected to lead to the identification of a person who provided information in the record to the regulating body explicitly or implicitly in confidence, and the regulating body considers it appropriate in the circumstances that the identity of the person be kept confidential;

(d) granting the access could reasonably be expected to threaten or harm the mental or physical health or the safety of another person; or

(e) granting the access could negatively affect public safety or could undermine the integrity of the registration process.

(3) Notwithstanding subsection (2), an applicant has a right of access to that part of a record that can reasonably be severed from the part to which the applicant does not have a right of access by reason of that subsection.

(4) A regulating body shall establish a process under which requests for access to records will be considered.

(5) A regulating body may charge an applicant a fee for making records available, which fee must not exceed the amount of reasonable cost recovery. 2008, c. 38, s. 12.

#### REVIEW OFFICER

##### **Appointment of Review Officer and employees**

13 A Review Officer and any other employees required for administration of this Act must be appointed pursuant to the *Civil Service Act*. 2008, c. 38, s. 13.

##### **Powers and duties of Review Officer**

14 (1) The Review Officer shall carry out the powers and duties assigned to the Review Officer under this Act and the regulations, including

(a) the provision of information and advice to regulating bodies to assist them in meeting their obligations under this Act and the regulations, including establishing guidelines to assist regulating bodies in preparing reports;

(b) the provision of information and advice to regulating bodies, government agencies, community agencies, colleges and universities, and others as the Minister may direct, respecting matters under this Act and the regulations;

(c) the assessment of the registration practices of regulating bodies based on their obligations under this Act and the regulations;

(d) the provision of information and advice to departments of Government respecting matters under this Act and the regulations;

(e) the provision of information and advice to the Minister respecting matters related to the administration of this Act; and

(f) the provision of formal reports to the Minister on registration practices of a regulating body and to other ministers of the Crown respecting those practices as they relate to a regulating body that falls under the jurisdiction of their respective departments.

(2) The Review Officer, with respect to the registration practices of a regulating body, may

(a) recommend to a regulating body that legislation be made, amended or revoked or that it make, amend or revoke regulations that the regulating body has the authority to make, amend or revoke under an Act that governs the regulating body; and

(b) recommend to a minister of the Crown responsible for the regulating body that the minister exercise any power that the minister has to request or require the regulating body to make, amend or revoke legislation or regulations.

(3) Where a report is made under clause (1)(f), a copy of the report must be provided by the Review Officer to the regulating body to which the report relates.

(4) In exercising the obligations under this Act or the regulations, the Review Officer may not request or accept personal information.

(5) The Review Officer shall not become involved in a registration decision or an internal review decision on behalf of an applicant or potential applicant for registration. 2008, c. 38, s. 14.

#### **Annual Report**

**15 (1)** The Review Officer shall prepare and submit to the Minister an annual report on the implementation of this Act and the regulations and on the effectiveness of this Act and the regulations in helping to ensure that the registration practices of regulating bodies are transparent, objective, impartial and fair.

(2) Within 15 days of receiving the annual report under subsection (1), the Minister shall table it in the House of Assembly or, where the Assembly is not then sitting, file it with the Clerk of the Assembly.

(3) The annual report under subsection (1) must be made available to the public by the Review Officer and a copy provided to the regulating bodies.

(4) Upon a request by the Review Officer, a regulating body shall submit statistical data and other internal review and registration decision information, which the Review Officer may include in the annual report under subsection (1).

(5) The data and information that the Review Officer may request under subsection (4) includes

- (a) application statistics;
- (b) registration statistics;
- (c) internal review statistics;
- (d) information on timelines for processing registration decisions;
- (e) information on timelines for processing internal reviews; and

(f) any other information the Review Officer considers necessary for completion of the annual report under subsection (1). 2008, c. 38, s. 15; 2014, c. 14, s. 2; 2021, c. 30, s. 2.

**Review and reporting on registration practices**

**16 (1)** In this Section and Sections 17 to 22, “reporting period” means the period of time under Section 18.

**(2)** Every regulating body shall review its registration practices in accordance with this Section and shall file a report on the results of the review with the Review Officer for the reporting period.

**(3)** The report required under subsection (2) must include all of the following information respecting the registration practices of the regulating body:

- (a) requirements for registration;
- (b) the criteria used to assess whether the requirements for registration have been met;
- (c) acceptable alternative information to be provided by an applicant who cannot obtain documentation of qualifications for reasons beyond the applicant’s control;
- (d) the fees charged for registration;
- (e) how the requirements for registration are made available to potential applicants;
- (f) a description of existing accommodation policies for applicants with a physical disability or mental disability;
- (g) an outline of the role of third-party assessors;
- (h) a description of the process under which requests for access to records are considered;
- (i) information about any support the regulating body provides to applicants during the registration process;
- (j) information about the length of time, commencing from the date of receipt of a completed application, that the registration practices for that regulating body usually take to reach a registration decision;
- (k) a description of the internal review process available to applicants who are not granted registration, including opportunities provided to an applicant to make submissions respecting such review;
- (l) a statement that no one who acted as a decision-maker in respect of a registration decision acted as a decision-maker in an internal review;
- (m) a description of the training provided to individuals who make internal review decisions; and
- (n) all of the following information concerning individuals qualified outside of the Province:
  - (i) the number of applicants who received their qualifications outside of the Province but within Canada and a listing of the provinces of Canada where such qualifications were obtained,

(ii) the number of applicants who received their qualifications outside of Canada and a listing of the countries where such qualifications were obtained, and

(iii) the number of applicants identified in sub-clauses (i) and (ii) accepted and rejected for registration during the reporting period.

(4) The Review Officer may exempt a regulating body from any requirements of subsection (3).

(5) Any report required by this Section must be signed by a person with authority to sign on behalf of the regulating body. 2008, c. 38, s. 16; 2021, c. 30, s. 3.

#### **Additional information and filing dates**

17 (1) Where the Review Officer believes that information in addition to that required under subsection 16(3) is necessary in order to assess the registration practices of a regulating body, the Review Officer may require the regulating body to provide such additional information at such reasonable times as are specified by the Review Officer.

(2) Not earlier than six months after December 7, 2009, or when a regulating body is added to Schedule A or B of this Act, the Review Officer shall specify a reasonable date when the first report required by subsection 16(2) is to be filed by a regulating body and shall immediately notify the regulating body of that filing date.

(3) In determining the date for the first report to be filed by a regulating body, the Review Officer shall take into consideration the particular circumstances of the regulating body, including the capacity of the regulating body to meet its obligations under this Act, the degree of public risk involved and the registration year of the regulating body. 2008, c. 38, s. 16.

#### **Frequency of reporting**

18 A report under Section 16 must be filed every five years after the date specified by the Review Officer for the first report under subsection 17(2), unless the Review Officer, based on an assessment of the information provided in a report, specifies a more frequent reporting. 2008, c. 38, s. 16; 2021, c. 30, s. 3.

#### **Personal information**

19 Notwithstanding any other provision in this Act, no report or other document prepared and submitted by any person for the purpose of Section 16 may contain personal information. 2008, c. 38, s. 16.

#### **Reports to be made public**

20 The Review Officer shall make all reports required to be filed under Section 16 by a regulating body available to the public. 2008, c. 38, s. 16.

#### **Finding of non-compliance**

21 Where the Review Officer, based on an assessment of the information provided in a report required under subsection 16(2), makes a finding that the regis-

tration practices of the regulating body are non-compliant with this Act or the regulations, the regulating body shall demonstrate compliance in the manner prescribed by the Review Officer within one year of the finding of non-compliance, unless the Review Officer extends the one-year deadline. 2008, c. 38, s. 16; 2021, c. 30, s. 3.

#### **Order by Review Officer**

**22 (1)** Where the Review Officer, following consultations with a regulating body, concludes that the regulating body has contravened this Act or the regulations, the Review Officer may make such orders requiring compliance with this Act or the regulations as the Review Officer considers appropriate.

**(2)** No order may be made under subsection (1) if the governing legislation of a regulating body does not permit the regulating body to comply with this Act or the regulations. 2008, c. 38, s. 17.

#### **Notice of order**

**23 (1)** Before making an order under Section 22, the Review Officer shall give notice of the proposed order to the regulating body that is the subject of the proposed order.

**(2)** A notice given under subsection (1) must inform the regulating body of

- (a) the nature of the proposed order;
- (b) the steps that the regulating body must take in order to comply with the proposed order;
- (c) the right of the regulating body to make written submissions to the Review Officer in respect of the proposed order; and
- (d) the time within which the submission must be made.

**(3)** Within 30 days after the day it receives notice of the proposed order or within such longer period of time as may be specified in the notice, a regulating body may make oral or written submissions to the Review Officer to explain an alleged contravention of this Act or the regulations.

**(4)** The Review Officer may review an order made under Section 22 and vary or rescind it and, where the Review Officer proposes to vary an order, subsections (1) and (3) apply. 2008, c. 38, s. 18.

#### **Review of order by Court**

**24** An order by the Review Officer under Section 22 is subject to review by the Supreme Court of Nova Scotia. 2008, c. 38, s. 19.

#### **Offence, prohibition and penalty**

- 25 (1)** A regulating body that
- (a) fails to file a report required under Section 16;
  - (b) furnishes false or misleading information in the report required by Section 16 or other report or record filed with the Review

Officer under this Act or otherwise provides false or misleading information to the Review Officer;

(c) fails to comply with an order made by the Review Officer under this Act;

(d) obstructs the Review Officer or a person employed by the Review Officer in exercising powers or performing duties under this Act; or

(e) contravenes subsection (2),

is guilty of an offence.

(2) No regulating body shall intimidate, coerce, penalize or discriminate against another person because that person

(a) has co-operated or may co-operate with the Review Officer or person employed by the Review Officer in exercising powers or performing duties under this Act; or

(b) has provided, or may provide, records or other information in the course of an activity or proceeding under this Act.

(3) Every regulating body that is guilty of an offence under this Section is liable on summary conviction to a fine of not more than \$10,000. 2008, c. 38, s. 20.

#### **Protection of Review Officer and others**

26 (1) In this Section,

“legal proceeding” means any civil proceeding, discovery, inquiry, arbitration, proceeding before a tribunal, board or commission, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include an application for judicial review by an applicant respecting a decision by a regulating body or any proceeding conducted pursuant to this Act or the regulations;

“witness” includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents or is called upon to answer any questions or produce any document, whether under oath or not.

(2) No legal proceeding may be commenced against the Review Officer or any other employees required for the administration of this Act for any act done or omitted in good faith in the execution or intended execution of the Review Officer’s duties under this Act or the regulations.

(3) No legal proceeding may be commenced against a regulating body or any officer, member, committee, council, board, agent or employee thereof for any act done or omitted in good faith in the execution or intended execution of the regulating body’s obligations under this Act or the regulations.

(4) Neither the Review Officer nor any other employee required for the administration of this Act is a competent or compellable witness in a legal proceeding in connection with anything done under this Act or the regulations, and the Review Officer shall not answer any question or produce documents or records gathered in the course of the Review Officer's duties under this Act or the regulations.

(5) No officer, member, employee, agent or any person acting on behalf of a regulating body is a competent or compellable witness in a legal proceeding in connection with anything done under this Act or the regulations, and an officer, member, employee, agent or any person acting on behalf of a regulating body shall not answer any question or produce documents or records gathered in the course of the execution or intended execution of the regulating body's obligations under this Act or the regulations.

(6) Subsections (4) and (5) do not apply to documents or records that have been made available to the public by the Review Officer or the regulating body in accordance with this Act or the regulations. 2008, c. 38, s. 21.

#### Ministerial regulations

27 (1) The Minister may make regulations amending the Schedules to this Act.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2014, c. 14, s. 3.

#### Regulations

- 28 (1) The Governor in Council may make regulations
- (a) governing the form of reports and other documents to be provided to the Review Officer for the purpose of this Act;
  - (b) respecting the functions, duties and powers of the Review Officer;
  - (c) exempting any regulating body from any provision of this Act or the regulations;
  - (d) defining any word or expression used but not defined in this Act;
  - (e) further defining any word or expression defined in this Act;
  - (f) respecting any transitional matters necessary for the effective implementation of this Act and the regulations;
  - (g) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Where a provision of a regulation conflicts with a matter specified by the Review Officer or with a decision of the Review Officer, the regulation prevails.

(3) A regulation may apply to all regulating bodies, to a class of regulating bodies or to a particular regulating body, and there may be different regulations for different regulating bodies or classes of regulating bodies.

(4) A regulation may be limited as to time and place.

(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*. 2008, c. 38, s. 22; 2014, c. 14, s. 4; 2023, c. 3, Sch. A, s. 1.

#### Consultation respecting regulations

29 A regulating body that will be affected by any new regulations or any substantive amendment to the regulations must be consulted before any new regulations are made or any substantive amendment to the regulations is made. 2008, c. 38, s. 23; 2023, c. 3, Sch. A, s. 2.

#### Review Officer's authority limited

30 Notwithstanding anything in this Act, the Review Officer does not have the authority to set a regulating body's standards or objective requirements to assess the qualifications of individuals applying for registration. 2008, c. 38, s. 25.

#### SCHEDULE A

Association of Interior Designers of Nova Scotia  
 Association of Nova Scotia Land Surveyors  
 Association of Professional Engineers of the Province of Nova Scotia  
 Association of Professional Geoscientists of Nova Scotia  
 Board of Registration of Embalmers and Funeral Directors  
 Chartered Professional Accountants of Nova Scotia  
 College of Occupational Therapists of Nova Scotia  
 College of Paramedics of Nova Scotia  
 College of Physicians and Surgeons of Nova Scotia  
 Cosmetology Association of Nova Scotia  
 Denturist Licensing Board  
 Licensed Professional Planners Association of Nova Scotia  
 Midwifery Regulatory Council of Nova Scotia  
 Nova Scotia Association of Architects  
 Nova Scotia Association of Medical Radiation Technologists  
 Nova Scotia Association of Real Estate Appraisers  
 Nova Scotia Barristers' Society  
 Nova Scotia Board of Examiners in Psychology  
 Nova Scotia College of Audiologists and Speech-Language Pathologists  
 Nova Scotia College of Chiropractors  
 Nova Scotia College of Counselling Therapists  
 Nova Scotia College of Dispensing Opticians  
 Nova Scotia College of Medical Laboratory Technologists

Nova Scotia College of Nursing  
Nova Scotia College of Optometrists  
Nova Scotia College of Pharmacists  
Nova Scotia College of Physiotherapists  
Nova Scotia College of Respiratory Therapists  
Nova Scotia College of Social Workers  
Nova Scotia Dental Hygienists' Association  
Nova Scotia Dental Technicians Association  
Nova Scotia Dietetic Association  
Nova Scotia Institute of Agrologists  
Nova Scotia Real Estate Commission  
Nova Scotia Registered Barbers Association  
Nova Scotia Registered Music Teachers Association  
Nova Scotia Securities Commission  
Nova Scotia Veterinary Medical Association  
Provincial Dental Board of Nova Scotia  
Registered Professional Foresters Association of Nova Scotia  
Society of Certified Engineering Technicians and Technologists of Nova Scotia

2008, c. 38, Sch. A; 2015, c. 52, s. 32; N.S. Reg. 50/2015, s. 3; 2019, c. 8, s. 181; N.S. Reg. 104/2020, s. 3.

#### SCHEDULE B

Minister of Education and Early Childhood Development  
Minister of Environment and Climate Change  
Minister of Finance and Treasury Board  
Minister of Labour, Skills and Immigration  
Minister of Natural Resources and Renewables  
Minister of Service Nova Scotia

2008, c. 38, Sch. B; N.S. Reg. 50/2015, s. 4; N.S. Reg. 104/2020, s. 4.

CHAPTER F-2

**An Act to Provide for the Family Court**

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**Short title**

**1** This Act may be cited as the *Family Court Act*. R.S., c. 159, s. 1.

**Interpretation**

**2** In this Act, “Minister” means the Minister of Justice. R.S., c. 159, s. 2.

**Administration**

**3** This Act is administered by the Minister. R.S., c. 159, s. 3.

**Family Court for the Province of Nova Scotia**

**4** There is established for the Province a court of record to be known as the Family Court for the Province of Nova Scotia and the judges thereof are judges for the whole Province. R.S., c. 159, s. 4.

**Judges**

**5 (1)** The Governor in Council may appoint one or more judges of the Family Court.

(2) No person may be appointed as a judge of the Family Court unless the person is a barrister of the Supreme Court of Nova Scotia of at least five years standing.

(3) The Governor in Council may fix and determine the salary or rate of remuneration of a judge of the Family Court and of the Chief Judge.

(4) With respect to matters assigned to the Family Court pursuant to Section 13, a judge of the Court has and may exercise the jurisdiction, powers and authority of a judge of the Provincial Court.

(5) Except where otherwise provided, all judges of the Family Court have in all respects equal power, authority and jurisdiction. R.S., c. 159, s. 5; 1992, c. 16, s. 13.

#### **Chief Judge and Associate Chief Judge**

6 (1) The Governor in Council may designate a judge of the Family Court as Chief Judge of the Family Court who holds the office of Chief Judge for such term as the Governor in Council may determine.

(2) The Chief Judge is responsible for the administration of the judicial functions of the Family Court, including, without limiting the generality of the foregoing, the scheduling of the sittings of the Family Court and the assignment of judicial duties.

(3) The Governor in Council may appoint, on the recommendation of the Minister, an Associate Chief Judge who holds the office of Associate Chief Judge for such term as the Governor in Council may determine.

(4) The Associate Chief Judge has and shall exercise such powers and shall perform such duties as are assigned to the Associate Chief Judge by the Chief Judge. R.S., c. 159, s. 5; 1992, c. 16, s. 13.

#### **Powers of Chief Judge**

7 (1) The Chief Judge has the powers and shall perform the duties prescribed in the regulations.

(2) The Chief Judge may suspend a judge of the Family Court upon such terms and conditions as the Chief Judge may determine where the Chief Judge believes immediate action is necessary.

(3) Within 10 days of suspending a judge of the Family Court, the Chief Judge shall request the Judicial Council to investigate the circumstances giving rise to the suspension and to take the appropriate action. R.S., c. 159, s. 5; 1992, c. 16, s. 13.

#### **Substitute for Chief Judge or Associate Chief Judge**

8 (1) The Minister may designate a judge of the Family Court to act in the place of the Chief Judge for all purposes during the illness, absence or inability to act of the Chief Judge and the Associate Chief Judge.

(2) The Minister may designate a judge to act in the place of the Associate Chief Judge for all purposes during the illness, absence or inability to act of the Associate Chief Judge or while the Associate Chief Judge is acting in the place of the Chief Judge. R.S., c. 159, s. 5; 1992, c. 16, s. 13.

#### **Oath of office**

9 (1) Before entering on the duties of office, a judge of the Family Court or the Chief Judge shall take an oath prescribed by the regulations.

(2) The oath must be taken before a judge of the Nova Scotia Court of Appeal, a judge of the Supreme Court of Nova Scotia or the Chief Judge of the Family Court.

(3) The judge of the Family Court or the Chief Judge shall cause the oath to be transmitted to the Minister forthwith after it is taken.

(4) A judge of the Family Court holds office during good behaviour. R.S., c. 159, s. 5; 1992, c. 16, s. 13.

#### **Appointment of retired judges**

10 (1) Where it appears to the Chief Judge of the Family Court that it is in the public interest, the Chief Judge may, in accordance with regulations made pursuant to subsection (4), appoint retired judges of the Family Court to act as judges of the Family Court.

(2) Upon appointment, a judge appointed pursuant to subsection (1) has all the power, authority and jurisdiction necessary to carry out the duties assigned to that judge.

(3) A judge appointed pursuant to subsection (1) is not an employee within the meaning of the *Public Service Superannuation Act*.

(4) The Governor in Council, on the recommendation of the Minister, may make regulations determining the terms and conditions of the appointment of judges pursuant to subsection (1).

(5) The exercise by the Governor in Council of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*. 1992, c. 16, s. 14.

#### **Immunity from liability**

11 A judge of the Family Court has the same immunity from liability as a judge of the Supreme Court of Nova Scotia. 1992, c. 16, s. 14.

#### **Family Court jurisdiction**

12 The Family Court has jurisdiction over matters conferred on it pursuant to this Act or any enactment. R.S., c. 159, s. 6.

#### **Jurisdiction**

13 (1) For the purpose of subsection (2) and clause (3)(c), “child” means a person under the age of majority.

(2) For the purpose of clause (3)(c), “husband and wife” includes a man and woman who, although not married to each other, have lived together as husband and wife for a period of not less than one year and “parent and child” includes such a man or woman and their child.

(3) Notwithstanding any other Act, the Governor in Council may by order confer on the Family Court exclusive original jurisdiction or concurrent or general jurisdiction over any or all charges, offences and matters arising from any one or more of the following Acts or subjects:

(a) the *Labour Standards Code* in so far as it relates to a prosecution for an offence respecting the employment of children;

(b) Sections 172, 215 and 740 of the *Criminal Code* (Canada);

(c) Sections 266, 810 and 811 of the *Criminal Code* (Canada), where the parties are husband and wife or parent and child;

(d) such other Acts or matters as the Governor in Council considers appropriate. R.S., c. 159, s. 7.

#### **Reservation of judgment**

14 Upon the hearing of any proceeding, the presiding judge of the Family Court may, of the presiding judge’s own motion or by consent of the parties, reserve judgment until a future day, not later than six months from the day of reserving judgment. R.S., c. 159, s. 8.

#### **Duties of officers**

15 It is the duty of peace officers to serve any process issued out of the Family Court, to execute any order issued by any judge of the Court, to convey a young offender to such place or places as may be directed in such orders and to assist the Court and the officers of the Court in carrying out the *Youth Criminal Justice Act* (Canada) and any other matters or enactment for which the Court is responsible. R.S., c. 159, s. 9; 1996, c. 23, s. 9.

#### **Procedure and publicity**

16 (1) In relation to charges, offences or matters arising from an Act of the Province, where no other procedure is prescribed in this Act, the *Summary Proceedings Act* applies.

(2) A judge of the Family Court shall as far as possible guard against any publicity in proceedings in the Court.

(3) The place in which proceedings in the Family Court take place is not deemed to be a public court and no person is permitted to be present other than the officers of the Court, the parties, their counsel, witnesses and such other persons as the presiding judge of the Court may require or permit to be present. R.S., c. 159, s. 10.

**Family Court Rules Committee**

**17 (1)** The Minister may establish a Family Court Rules Committee composed of such members as are appointed by the Minister who shall designate one of the members as chair.

**(2)** The Family Court Rules Committee may make rules

(a) regulating the pleadings, practice and procedure of the Family Court;

(b) adopting rules of the Supreme Court of Nova Scotia, with such changes as are advisable, in relation to remedies in proceedings in the Family Court;

(c) respecting costs in respect of proceedings in the Family Court;

(d) providing for service out of the jurisdiction;

(e) regulating the form and execution of any process of the Court;

(f) prescribing and regulating the proceedings under any enactment that confers jurisdiction upon the Family Court or a judge thereof.

**(3)** Where provisions in respect of practice or procedure are contained in any Act, rules may be made adding to or modifying such provisions to an extent that is considered necessary for the equitable dispatch of the business of the Family Court unless that power is expressly excluded. R.S., c. 159, s. 11.

**Approval and publication of rules**

**18** The rules made by the Family Court Rules Committee pursuant to Section 17 are of no force and effect unless they are approved by the Governor in Council upon the recommendation of the Minister and published in the Royal Gazette and are effective of and from the date of such publication. R.S., c. 159, s. 12.

**Awarding of costs**

**19** The Family Court is granted the authority to award costs in any matter or proceeding in which it has jurisdiction and its authority to award costs is not limited by reason of the fact that the enactment governing the proceeding does not grant to the Court authority to award costs. R.S., c. 159, s. 13.

**Sittings of Court**

**20 (1)** The Minister may by order provide for night sittings of the Family Court established under this Act and may direct a judge of the Court to hold sittings of the Court at such times and places as specified in the order.

**(2)** The Minister may make general regulations respecting the holding of night sittings of the Family Court. R.S., c. 159, s. 15.

**Expenses of Court**

**21** Expenses of the Family Court that are approved by the Minister must be paid out of the General Revenue Fund. R.S., c. 159, s. 17.

**Regulations**

**22 (1)** The Governor in Council may make regulations for the better carrying out of the purposes and provisions 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*. R.S., c. 159, s. 14; 1992, c. 16, s. 15.

**Regulations respecting oaths**

**23 (1)** The Minister may make regulations prescribing the oaths to be taken by a judge of the Family Court and the Chief Judge pursuant to subsection 9(1).

**(2)** The forms contained in the Schedule to Chapter 159 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 Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

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CHAPTER F-3

**An Act to Authorize the Release  
of Information to Provide Assistance  
for the Enforcement of Family Orders**

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

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**Short title**

**1** This Act may be cited as the *Family Orders Information Release Act*.  
R.S., c. 161, s. 1.

**Purpose**

**2** The purpose of this Act is to assist with the enforcement of court orders respecting children and support obligations by providing for the release of information that may assist in locating children, defaulting spouses or other persons.  
R.S., c. 161, s. 2.

**Interpretation**

**3** In this Act,  
“access right” means a right respecting access or visitation of a child;  
“custody order” means an order awarding custody of a child;  
“family order” means a support order, a custody order or an order granting an access right, and includes an order or judgment, or any interim order or judgment, relating to family support, custody or access that is enforceable in the Province or another province;  
“Minister” means the Attorney General;  
“support order” means an order for maintenance, alimony or family financial support and includes an order for arrears of payments thereof. R.S., c. 161, s. 3.

**Agreement**

**4** With the approval of the Governor in Council, the Minister, on behalf of the Province, may enter into an agreement with the government of another province of Canada or the Government of Canada, or any or all of them, respecting the

searching for and release of information in the control of the Province, another province or the Government of Canada to assist with the enforcement of a family order, and the Minister may release information or approve the release of information in accordance with the agreement. R.S., c. 161, s. 4.

**To whom information may be released**

**5** Subject to the regulations, the Minister may release information or authorize its release to

- (a) a person, service, agency or body
  - (i) entitled to have a family order enforced, or
  - (ii) authorized by the Minister to assist with the enforcement of a family order; or
- (b) a peace officer investigating a child abduction. R.S., c. 161, s. 5.

**Information that may be released**

**6** Notwithstanding any general or special Act, the information that may be released pursuant to this Act is

- (a) the address of the person who
  - (i) is in arrears under a support order,
  - (ii) is believed to have possession of a child contrary to a custody order or an order granting an access right,
  - (iii) is believed to have possession of a child who is the object of an investigation of child abduction;
- (b) the address of a child referred to in this Section;
- (c) the name and address of the employer of a child or other person referred to in this Section. R.S., c. 161, s. 6.

**Regulations**

- 7 (1)** The Governor in Council may make regulations
- (a) authorizing a person in possession of information to release it for the purpose of this Act;
  - (b) prescribing the form and content of and the procedures for an application for the release of information;
  - (c) respecting the steps that a person seeking information must take to locate a person before requesting the release of information pursuant to this Act;
  - (d) respecting searches for information;
  - (e) respecting conditions for the release of information;
  - (f) respecting any matter 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*. R.S., c. 161, s. 7.

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CHAPTER F-4

**An Act to Protect the Dealers  
and Vendors of Farm Machinery**

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

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**Short title**

**1** This Act may be cited as the *Farm Machinery Dealers and Vendors Act*. 2003, c. 3, s. 1.

**Interpretation**

**2** In this Act,

“Court” means the Supreme Court of Nova Scotia;

“dealer” means an individual, corporation or partnership carrying on a retail business in which the individual, corporation or partnership

(a) leases, with or without the right to purchase, or sells new farm machinery;

(b) sells repair parts for farm machinery; or

(c) operates a maintenance and repair service shop for farm machinery;

“dealership agreement” means a written or oral agreement between a dealer and a vendor;

“farm machinery” means any equipment, implement or machinery that is used or intended for use in farming operations, including any com-

bine, tractor, implement or attachment, but does not include a motor vehicle within the meaning of the *Motor Vehicle Act* other than a farm tractor;

“terminate”, in relation to a dealership agreement, means to

- (a) terminate the agreement;
- (b) cancel the agreement;
- (c) fail to renew the agreement;
- (d) fail to extend the agreement; or
- (e) substantially change the competitive circumstances of the agreement;

“vendor” means

- (a) a manufacturer of farm machinery or repair parts who
  - (i) sells, consigns or delivers farm machinery or repair parts to a dealer for sale by the dealer, or to a distributor or supplier for sale by a dealer, or
  - (ii) leases or delivers farm machinery to a dealer for the purpose of being let by the dealer; or
- (b) a distributor or supplier of farm machinery or repair parts who
  - (i) sells, consigns or delivers farm machinery or repair parts to a dealer for sale by the dealer, or
  - (ii) leases or delivers farm machinery to a dealer for the purpose of being let by the dealer. 2003, c. 3, s. 2.

#### **Application of Act**

**3** This Act applies to every dealership agreement

- (a) whether entered into before, on or after March 1, 2006; and
- (b) notwithstanding any provision to the contrary in the agreement. 2003, c. 3, s. 3.

#### **Prohibitions against discrimination**

**4** No vendor shall

- (a) directly or indirectly discriminate in the prices charged for farm machinery of like grade and quality to similarly situated dealers;
- (b) impose substantially different contractual requirements on similarly situated dealers; or
- (c) discriminate against or penalize a dealer for carrying on business as a dealer or agent for another vendor, or selling or servicing the product of another vendor. 2003, c. 3, s. 4.

#### **Termination of dealership agreement**

**5** No vendor shall terminate a dealership agreement except in accordance with this Act. 2003, c. 3, s. 5.

**Application to Court**

**6** (1) A vendor who wishes to terminate a dealership agreement shall apply to the Court for a determination of whether the vendor has cause to terminate the agreement.

(2) At any time after an application is made pursuant to subsection (1), either the dealer or vendor may request that the Court make an interim order to protect the business interests of the dealer or vendor, respectively.

(3) Upon a request pursuant to subsection (2), the Court may make an interim order imposing any condition on the dealer or vendor, or both of them, that the Court considers necessary to protect the business interests of the dealer and the vendor.

(4) An order made pursuant to subsection (3) is effective until a determination is made pursuant to subsection (5) and may be varied by the Court.

(5) Where the Court determines that the vendor has cause to terminate the agreement, the Court

- (a) shall make an order to that effect;
- (b) may impose conditions on the termination; and
- (c) may allow the dealer an opportunity to correct any default. 2003, c. 3, s. 6.

**Circumstances that are cause for termination**

**7** For the purpose of a determination pursuant to Section 6, any of the following circumstances constitutes cause to terminate a dealership agreement:

(a) the dealer has made an assignment in bankruptcy or has been petitioned into bankruptcy, and has not been discharged from the bankruptcy;

(b) the dealer's farm machinery, or a substantial part of it, is being liquidated, and the liquidation materially affects the contractual relationship between the dealer and vendor;

(c) the dealer has defaulted under a security agreement between the dealer and vendor, or a guarantee of the dealer's financial obligations to the vendor has been revoked or discontinued;

(d) the dealer has failed to operate in the normal course of business for 14 consecutive days, or has otherwise abandoned the dealership;

(e) the dealer has pleaded or been found guilty of an offence affecting the contractual relationship between the dealer and vendor;

(f) the dealer has failed to substantially comply with the essential and reasonable requirements of the dealership agreement, if the requirements are not different from the requirements imposed on other similarly situated dealers;

(g) any other circumstances prescribed in the regulations. 2003, c. 3, s. 7.

**Circumstances that are not cause for termination**

**8** For the purpose of a determination pursuant to Section 6, none of the following circumstances constitutes cause to terminate a dealership agreement:

- (a) the executive management or ownership of the dealer has changed, unless the change is detrimental to the representation or reputation of the vendor's products;
- (b) the dealer has refused to purchase or accept delivery of farm machinery or a service from the vendor, unless the farm machinery or service would normally be purchased by similarly situated dealers as an essential part of the operation of the dealer or for the repair of farm machinery commonly sold by the dealer;
- (c) the vendor desires further market penetration, unless the dealer has failed substantially to achieve, in comparison with other similarly situated dealers, a reasonable sales performance level of the vendor's product required of all such similarly situated dealers to achieve that penetration;
- (d) the dealer is carrying on business as a dealer or agent for another vendor, or selling or servicing the product of another vendor;
- (e) any other circumstances prescribed in the regulations. 2003, c. 3, s. 8.

**Mediation**

**9 (1)** Where an application has been made pursuant to Section 6, the Court shall, at the request of a dealer or vendor, by order, appoint a mediator who shall endeavour to facilitate the settlement of a dispute.

**(2)** The mediation must be conducted in accordance with Schedule C to the *Commercial Arbitration Act* and that Schedule and Section 39 of that Act apply with necessary changes to the mediation.

**(3)** The Court

- (a) shall fix the length of a mediation period; and
- (b) may shorten or lengthen the mediation period at the request of the dealer or the vendor.

**(4)** The dealer and vendor may agree, with the Court's approval, to shorten or lengthen the mediation period.

**(5)** Where the dealer and vendor agree on the person to be appointed as mediator, the Court shall appoint that person.

**(6)** Where the dealer and vendor do not agree on the person to be appointed as mediator, the Court shall appoint a mediator.

**(7)** The mediator shall meet and confer with the dealer and vendor as often as the mediator considers necessary. 2003, c. 3, s. 9.

**Report of mediator**

**10 (1)** On or before the last day of the mediation period, the mediator shall file a report with the Court that either

(a) sets out the settlement agreement reached by the dealer and vendor; or

(b) states only that the dealer and vendor did not reach an agreement.

(2) The mediator shall give copies of the report filed pursuant to subsection (1) to the dealer and vendor promptly after filing it. 2003, c. 3, s. 9.

#### **Evidence not admissible**

11 No evidence of anything said or communication made in the course of the mediation is admissible in any proceeding. 2003, c. 3, s. 9.

#### **Fees and expenses**

12 The Court shall

(a) require the parties to pay the fees and expenses of the mediator; and

(b) specify the proportions or amounts of the fees and expenses that each party shall pay. 2003, c. 3, s. 9.

#### **Mediator not liable**

13 No mediator is liable for any loss or damage suffered by any person by reason of any action or omission of the mediator in the discharge of the mediator's duties pursuant to this Act. 2003, c. 3, s. 9.

#### **Certain provisions void**

14 The following provisions in a dealership agreement are void:

(a) a provision allowing for termination of the agreement without cause;

(b) a provision requiring the dealer to carry on exclusive dealings with the vendor, so as to prevent the dealer from, or penalize the dealer for, carrying on business as a dealer or agent of another vendor, or selling or servicing the product of another vendor;

(c) a provision that limits, modifies or makes inapplicable, or in effect limits, modifies or makes inapplicable, any benefit or remedy available to a dealer pursuant to this Act. 2003, c. 3, s. 10.

#### **Application to Court for relief**

15 (1) A dealer who believes that the dealer has suffered harm because of actions of a vendor that contravene Section 4 or that the dealer's dealership agreement with a vendor has been terminated in contravention of Section 5 may apply to the Court for relief.

(2) On an application pursuant to subsection (1), the Court may make any order that it considers appropriate, including one or more of the following:

(a) an order directing the vendor to reinstate a dealership agreement or restore any rights under a dealership agreement that have been terminated;

- (b) an order enjoining the vendor from doing or continuing to do anything that contravenes this Act;
- (c) an order awarding damages to the dealer for any loss resulting from the vendor's contravention of this Act;
- (d) an interim order of the kind referred to in clause (a) or (b).

(3) Subsections (1) and (2) apply notwithstanding any other penalty that may be imposed on the vendor pursuant to this Act with respect to the vendor's contravention of Section 4 or 5. 2003, c. 3, s. 11.

#### **Offence and penalty**

**16 (1)** Every vendor who contravenes Section 4 or 5 is guilty of an offence and is liable on summary conviction to

- (a) a fine of not more than \$150,000; and
- (b) in the case of a continuing offence, a further fine of not more than \$10,000 for each day or part of a day during which the offence continues.

(2) In addition to any penalty imposed with respect to a contravention referred to in subsection (1), the convicting court may order the vendor convicted of the offence to comply with any terms of a dealership agreement that the vendor has contravened. 2003, c. 3, s. 12.

#### **Termination by mutual agreement**

**17** Nothing in this Act precludes a vendor and a dealer from terminating a dealership agreement by mutual agreement. 2003, c. 3, s. 13.

#### **Limitation of actions**

**18** For greater certainty, no person is entitled to any compensation from the Crown in right of the Province as the result of the application, enforcement or operation of this Act or the regulations. 2003, c. 3, s. 14.

#### **Regulations**

- 19 (1)** The Governor in Council may make regulations
- (a) prescribing circumstances in addition to those listed in Section 7 that constitute cause for termination of a dealership agreement;
  - (b) prescribing circumstances in addition to those listed in Section 8 that do not constitute cause for termination of a dealership agreement;
  - (c) defining any word or expression used but not defined in this Act;
  - (d) respecting any matter or thing 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*, 2003, c. 3, s. 15.

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CHAPTER F-5

**An Act to Protect Farmers  
Engaged in Normal Farm Practices  
from Being Sued in Nuisance or Negligence**

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**Short title**

**1** This Act may be cited as the *Farm Practices Act*. 2000, c. 3, s. 1.

**Purpose of Act**

**2** The purpose of this Act is to

- (a) provide a mechanism for the establishment of normal farm practices; and
- (b) protect farmers who are following normal farm practices from civil action in nuisance or negligence. 2000, c. 3, s. 2.

**Interpretation**

**3** In this Act,

“agricultural operation” means an activity that is carried on for the purpose of the production of agricultural products or services for gain or reward, and includes

- (a) the raising of livestock, including poultry, fur-bearing animals, honey bees, game birds and game animals;
- (b) the production of agricultural crops, including mushrooms, turf, maple syrup, greenhouse crops, orchards and nursery stock;

- (c) the production of eggs, cream and milk;
- (d) the operation of agricultural machinery and equipment, including irrigation pumps, bird scarers, exhaust fans and hay dryers;
- (e) the process at a farm necessary to prepare a farm product for distribution, including cleaning, grading, storage and packaging;
- (f) the clearing, draining, levelling, irrigating or cultivating of land;
- (g) the application of fertilizers, soil conditioners, pest control products or other agricultural inputs;
- (h) the storage, disposal or use of organic by-products for farm purposes; and
- (i) any other activity prescribed by the Governor in Council;

“Board” means the Farm Practices Board established pursuant to this Act;

“code of practice” means a code of practice adopted pursuant to this Act;

“farm” means the land, buildings, structures, equipment, machinery and livestock used in the production of agricultural products or services for gain or reward;

“farmer” means an individual, a farm corporation, a co-operative corporation, an unincorporated association or a partnership that carries on an agricultural operation;

“Minister” means the Minister of Agriculture;

“normal farm practice” means a practice that is conducted as part of an agricultural operation

- (a) in accordance with an approved code of practice;
- (b) in accordance with a directive, guideline or policy statement set by the Minister with respect to an agricultural operation or normal farm practice; or
- (c) in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, including the use of innovative technology used with advanced management practices;

“order” means an order of the Board. 2000, c. 3, s. 3.

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

**4** The Minister has the general supervision and management of this Act and the regulations. 2000, c. 3, s. 4.

### **Farm Practices Board**

**5 (1)** A board to be known as the Farm Practices Board is established, consisting of seven members appointed by the Minister.

- (2) In appointing members to the Board, the Minister shall appoint
- (a) two members from persons recommended by the Nova Scotia Federation of Agriculture;
  - (b) one member from persons recommended by the Nova Scotia Federation of Municipalities; and
  - (c) four members-at-large.
- (3) The Minister shall appoint one member of the Board to be the Chair of the Board.
- (4) Members of the Board must be appointed for such term as is determined by the Governor in Council.
- (5) A majority of the members of the Board constitutes a quorum.
- (6) Members of the Board shall be paid such remuneration as is determined by the Governor in Council.
- (7) Members of the Board shall be reimbursed as determined by the Governor in Council for reasonable travelling and other expenses incurred by them in accordance with the work of the Board.
- (8) A vacancy on the Board does not impair the ability of the Board to act. 2000, c. 3, s. 5.

#### **Rules of procedure**

6 The Board may make rules of procedure for the conduct and management of its affairs. 2000, c. 3, s. 6.

#### **Study and report**

7 The Minister may request the Board to study and report to the Minister on any matter related to farm practices. 2000, c. 3, s. 7.

#### **Code of practice**

8 (1) A person may make a request to the Minister that a code of practice be developed.

(2) Upon receipt of a request pursuant to subsection (1), the Minister may refer the request to the Board for an opinion from the Board as to the desirability of adopting a code of practice.

(3) Where the Board recommends that a code of practice be adopted, the Minister shall, following such public consultation as the Minister considers appropriate, develop a code of practice. 2000, c. 3, s. 8.

#### **Function of Board**

9 (1) Any person may apply, in writing, to the Board for a determination as to whether or not an odour, noise, dust, vibration, light, smoke or other disturbance results from a normal farm practice.

(2) The Board may refuse to consider an application or to make a determination if, in the opinion of the Board,

(a) the complaint in question has already been before the Board and a determination has been made by the Board; or

(b) the applicant does not have a sufficient personal interest in the subject-matter of the application.

(3) The Board, on receipt of an application, shall determine if the farm practice being carried on by the farmer is consistent with the code of practice or, in the absence of a code of practice, with a directive, guideline or policy statement or with proper and accepted customs and standards of similar agricultural operations.

(4) Where the Board determines that a farm practice is not a normal farm practice, the Board shall issue an order to modify or cease the farm practice. 2000, c. 3, s. 9.

#### **Prohibition of certain civil proceedings**

10 (1) Subject to subsection (2), no person shall

(a) commence a civil action in nuisance, negligence or otherwise, for any odour, noise, dust, vibration, light, smoke or other disturbance resulting from an agricultural operation; or

(b) apply for an injunction or other order of a court preventing or restricting the carrying on of an agricultural operation because it causes any odour, noise, dust, vibration, light, smoke or other disturbance.

(2) Subsection (1) does not apply

(a) to an agricultural operation that is found by the Board not to comply with normal farm practices; or

(b) where a farmer fails to comply with an order of the Board. 2000, c. 3, s. 10.

#### **Appeal to Supreme Court**

11 Any party to an application made to the Board pursuant to this Act may appeal a decision of the Board on any question of law to the Supreme Court of Nova Scotia within 30 days of the making of the decision. 2000, c. 3, s. 11.

#### **Restriction on application of bylaws**

12 No municipal bylaw respecting a nuisance, activity or thing that may be or may cause a nuisance, including odour, noise, dust, vibration, light, smoke or other disturbance, applies to restrict a normal farm practice carried on as part of an agricultural operation. 2000, c. 3, s. 12.

#### **Effect on planning strategies and land-use bylaws**

13 Nothing in this Act affects the ability of a municipality to apply a municipal planning strategy or land-use bylaw to farm land. 2000, c. 3, s. 13.

**Offence and penalties**

**14 (1)** A person who violates an order issued by the Board pursuant to this Act is guilty of an offence.

**(2)** A person who is guilty of an offence under this Act is liable on summary conviction to a fine not exceeding \$2,000 or, in default of payment, to imprisonment to a term not exceeding six months, or to both a fine and imprisonment. 2000, c. 3, s. 14.

**Regulations**

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

(a) determining what activities are an agricultural operation for the purpose of this Act;

(b) prescribing procedures for issuing a directive, guideline or policy statement with respect to an agricultural operation or normal farm practice;

(c) respecting a code of practice;

(d) prescribing the terms, eligibility for reappointment, remuneration and duties of the Board;

(e) prescribing procedures for making an application to the Board;

(f) prescribing fees payable and when refunds are permitted for applications to the Board;

(g) prescribing the procedures for conducting investigations and for issuing orders;

(h) prescribing the procedures for conducting a hearing on an application;

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

(j) respecting any matter 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*. 2000, c. 3, s. 15.

CHAPTER F-6

**An Act to Provide for  
a Farm Registration System**

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

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**Short title**

**1** This Act may be cited as the *Farm Registration Act*. 1994-95, c. 3, s. 1.

**Purpose of Act**

**2** The purpose of this Act is to provide for

- (a) a farm-business registration system designed to facilitate access to government programs by farm businesses;
- (b) the creation of a database that may be used
  - (i) by government departments to verify farm-business eligibility for programs of assistance, and
  - (ii) for the development of agriculture policy; and
- (c) the fair and equitable funding of general farm organizations by farm businesses. 1994-95, c. 3, s. 2.

**Interpretation**

**3** In this Act,

- “Appeal Committee” means the Appeal Committee established pursuant to this Act;
- “Department” means the Department of Agriculture;
- “farm business” means a farming business within the meaning of the *Income Tax Act* (Canada);
- “Minister” means the Minister of Agriculture;

“Registrar” means the Registrar of Farms appointed pursuant to this Act. 1994-95, c. 3, s. 3; 2002, c. 1, s. 2.

### Supervision of Act

**4** The Minister has the general supervision and management of this Act and the regulations. 1994-95, c. 3, s. 4.

### Registrar of Farms

**5 (1)** The Minister may appoint a person employed in the Department to be the Registrar of Farms.

**(2)** The Registrar of Farms shall

(a) receive applications for registration pursuant to this Act;

(b) prescribe the forms to be used for the purpose of this Act;

(c) receive and process fees collected pursuant to this Act as part of the registration process;

(d) administer and oversee the registration process and data collected pursuant to this Act;

(e) determine whether an organization meets the criteria for a general farm organization;

(f) where the organization meets the criteria referred to in clause (e), by order designate the organization as a general farm organization for the purpose of this Act; and

(g) perform such other functions as are assigned to the Registrar by the Minister.

**(3)** Where the Minister approves, the Registrar of Farms may delegate the Registrar’s duties under subsection (2). 1994-95, c. 3, s. 5; 2002, c. 1, s. 3; 2004, c. 24, s. 23.

### General farm organization

**6 (1)** To be a general farm organization for the purpose of this Act, the organization must

(a) have at least the percentage of registered farm businesses as members as prescribed in the regulations;

(b) have geographic representation from across the Province as prescribed by the regulations; and

(c) meet any additional criteria prescribed by the regulations.

**(2)** A commodity group, marketing board or issue-specific group is not a general farm organization for the purpose of this Act.

(3) For the purpose of this Act, the Nova Scotia Federation of Agriculture is recognized as a general farm organization unless this recognition is revoked by the Appeal Committee. 1994-95, c. 3, s. 3; 2002, c. 1, s. 2.

### Registration

7 (1) Upon payment of the annual fee prescribed by the regulations, a farm business may register with the Registrar, on an annual basis, the information prescribed by the regulations.

(2) With the approval of the Registrar, a farm operation that is not a farm business may, upon payment of the annual fee prescribed by the regulations, register with the Registrar, on an annual basis, the information prescribed by the regulations.

(3) Subject to the regulations, the fees referred to in subsections (1) and (2) must be used in support of general farm organizations.

(4) Upon payment of the annual fee referred to in subsections (1) and (2), the Registrar shall forward the fee and the name, address, telephone number and registration number of the farm business or farm operation that paid the fee to the appropriate general farm organization.

(5) Notwithstanding subsections (1) and (2), a farm business or a farm operation may, at the time of payment of the annual fee, state that they do not want to be a member of a general farm organization.

(6) Where a farm business or a farm operation makes a statement referred to in subsection (5), the Registrar shall not forward the information referred to in subsection (4) to a general farm organization. 1994-95, c. 3, s. 8; 2002, c. 1, s. 6; 2005, c. 18, s. 1.

### Verification of information

8 (1) For the purpose of verifying information submitted to the Registrar pursuant to Section 7, the Registrar, or a person authorized by the Registrar, may

(a) at all reasonable times, inspect, examine, check or audit the books, records and inventory of a farm business or farm operation; or

(b) enter upon and inspect any land, place or premises owned or occupied by a farm business or farm operation.

(2) For the purpose of verifying information submitted to a general farm organization pursuant to Section 7, the Registrar, or a person authorized by the Registrar, may

(a) at all reasonable times, inspect, examine, check or audit the books, records and inventory of a general farm organization; or

(b) enter upon and inspect any land, place or premises owned or occupied by a general farm organization. 1994-95, c. 3, s. 8; 2002, c. 1, s. 6; 2005, c. 18, s. 1.

### Application of Freedom of Information and Protection of Privacy Act

**9 (1)** For greater certainty, the *Freedom of Information and Protection of Privacy Act* applies to information submitted to the Registrar pursuant to Section 7.

**(2)** For greater certainty, any personal information provided to a general farm organization pursuant to subsection 7(4) must be kept confidential and must not be disclosed to any person, except as may be necessary for the performance of the general farm organization's duties under Section 7. 1994-95, c. 3, s. 9; 2002, c. 1, s. 7.

### Audit by Auditor General

**10** The registration process under this Act is subject to audit by the Auditor General or such other person as may be determined by the Auditor General. 1994-95, c. 3, s. 10.

### Appeal Committee

- 11 (1)** There is an Appeal Committee consisting of
- (a) one person who is an employee of the Department appointed by the Minister;
  - (b) one registered farm-business operator appointed by each general farm organization; and
  - (c) at the discretion of the Minister, one other person appointed by the Minister.

**(2)** The members of the Appeal Committee must be appointed for such term, not to exceed three years, as the Minister determines.

**(3)** The person appointed to the Appeal Committee pursuant to clause (1)(a) is the Chair of the Appeal Committee.

**(4)** The members of the Appeal Committee, other than the member pursuant to clause (1)(a), may be paid such reasonable travelling and living expenses and such fees as the Minister determines. 1994-95, c. 3, s. 7; 2002, c. 1, s. 5; 2004, c. 24, s. 24.

### Appeal

**12 (1)** Any person directly affected by a decision made pursuant to this Act may, within 60 days of the decision, appeal to the Appeal Committee.

**(2)** The Appeal Committee may vary or confirm a decision made pursuant to this Act. 1994-95, c. 3, s. 11.

### Regulations

- 13 (1)** The Governor in Council may make regulations
- (a) respecting the registration process;
  - (b) subject to subsection 6(1), prescribing the criteria for a general farm organization;

- (c) prescribing the percentage for the purpose of subsection 6(3);
- (d) prescribing fees to be paid;
- (e) defining any term used but not defined in this Act;
- (f) respecting such matters or things as the Governor in Council considers necessary 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*. 1994-95, c. 3, s. 12; 2002, c. 1, s. 8; 2005, c. 18, s. 2.

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CHAPTER F-7

**An Act to Facilitate  
the Incorporation of Farmers Fruit,  
Produce and Warehouse Companies**

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

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**Short title**

**1** This Act may be cited as the *Farmers Fruit, Produce and Warehouse Companies Act*. R.S., c. 162, s. 1.

PART I

**Formation of company**

**2** Any number of persons, not fewer than five, may form themselves into a company for the purpose of

(a) buying, selling, bartering, taking on consignment, dealing in and packing fruit, fodder and other farm produce, arsenate of lead, spraying materials and all kinds of insecticides and fungicides, power-spraying outfits, hand pumps and all other commodities or material incidental to the use of the same, nails, pulp heads, paper and all material necessary for the purpose of packing fruit and farm produce, flour, feeds and all milling produce, artificial fertilizers of all kinds, seeds, farming implements, tools and wagons and all manner of merchandise;

(b) buying, selling, leasing, erecting, improving, managing and operating stores, storehouses, warehouses and other buildings that may be incidental or conducive to the purposes of the company, and carrying on the business of storekeepers and warehouse keepers in connection therewith;

(c) investing or taking stock in any company or business considered to be for the benefit of the company,

by subscribing their names and addresses to a memorandum of association in the form prescribed by the regulations and otherwise complying with the requirements of this Part with respect to registration, but no subscriber may take less than one share. R.S., c. 162, s. 2.

**Evidence of signature**

**3** The signatures of such memorandum of association must be proved by the affidavit of a witness in the form prescribed by the regulations and made before a justice of the peace. R.S., c. 162, s. 3.

**Registration**

4 The memorandum of association must be delivered to the Registrar of Joint Stock Companies or, in the Registrar's absence, the Deputy Registrar of Joint Stock Companies, who shall retain and register the same, and the memorandum, when registered, binds the company and the members thereof to the same extent as if each member had subscribed the member's name and affixed the member's seal thereto, and there was in the memorandum contained on the part of the member, the member's executors and administrators a covenant to observe all the conditions of such memorandum, subject to this Act. R.S., c. 162, s. 4.

**Name**

5 Every company incorporated under this Part must have the word "Limited" as the last word of its name. R.S., c. 162, s. 5.

**Incorporation**

6 (1) Upon the registration of the memorandum of association the Registrar of Joint Stock Companies or, in the Registrar's absence, the Deputy Registrar of Joint Stock Companies shall certify under the Registrar's or Deputy Registrar's hand and seal that the company is incorporated under this Part.

(2) The subscribers to the memorandum of association, together with such other persons as become members of the company, are thereupon a body corporate, by the name in the memorandum of association. R.S., c. 162, s. 6.

**Evidence of registration**

7 A certificate of incorporation of any company given by the Registrar of Joint Stock Companies or, in the Registrar's absence, the Deputy Registrar of Joint Stock Companies is conclusive evidence that the provisions of this Part with respect to registration have been complied with. R.S., c. 162, s. 7.

**Directors**

8 There must be not fewer than three nor more than 15 directors and the subscribers to the memorandum of association are the directors of the company until replaced by others duly elected in their stead. R.S., c. 162, s. 8.

**Election**

9 Directors must be elected by the shareholders at a general meeting of the company, and the company may by bylaw determine the term of office, the mode, manner and qualification of electing directors and, unless the bylaw otherwise provides, all retiring members of the board of directors are, if otherwise qualified, eligible for re-election. R.S., c. 162, s. 9.

**Notice of meeting**

10 Notice of the time and place of holding the annual meeting or any general meeting of the company must be given by mailing written notices thereof, postage paid, to the shareholders' addresses respectively at least one week before the date of such meeting. R.S., c. 162, s. 10.

**Voting**

**11 (1)** At all annual and general meetings each shareholder who has in the year immediately preceding such meeting delivered the shareholder's fruit or farm produce to the company for packing and disposal is entitled to give one vote for each share held by the shareholder, and all questions proposed for the consideration of shareholders must be determined by a majority of votes, the chair presiding at any meeting having the casting vote in case of an equality of votes.

**(2)** Notwithstanding subsection (1), in the case of a company incorporated under this Part after April 30, 1946, each shareholder thereof, at all meetings of such company, may exercise only one vote on any question arising at such meetings irrespective of the number of shares owned or held by such shareholder.

**(3)** The shareholders of any company incorporated under this Part prior to April 30, 1946, may by bylaw provide that subsection (1) does not apply to such company and, on and after the date of the approval of such bylaw by the Governor in Council, each shareholder of such company may, at all meetings thereafter held, exercise only one vote on any question arising at such meetings, irrespective of the number of shares owned or held by such shareholder. R.S., c. 162, s. 11.

**Officers**

**12** The directors shall elect from among themselves a president and where they see fit, a vice-president of the company, and may also appoint all other officers. R.S., c. 162, s. 12.

**Powers**

**13 (1)** The companies organized under this Part have all the usual powers, rights and franchises incident to incorporated companies.

**(2)** Every company under this Part, subject to the conditions of and in addition to all other powers conferred by this Part, has, in like manner as if the same were included among the objects set out in its memorandum, all corporate powers and all corporate capacity necessary to enable it to do, in addition to the acts and things included in the objects set out in its memorandum all or any of the acts and things set out in subsection 33(4) of the *Companies Act*, but all or any of the said rights and powers may be excluded or modified by express provision of the memorandum of the company.

**(3)** Every company under this Part, in addition to all other powers hereby conferred, has the power, by resolution of the directors, to borrow money for the purposes of the company by the issue and sale of units of loan capital and the said units must be issued in such denominations, for such period, at such rates of interest, and subject to such other terms and conditions as the directors determine.

**(4)** Every company under this Part, subject to the conditions of and in addition to all other powers conferred by this Part, has, in like manner as if the same were included in its memorandum of association, all corporate powers and all corporate capacity necessary to enable it to enter into any contract or contracts with its members and patrons, and with any company or companies, setting forth the terms and conditions on which the products of such members and patrons must be sold, the deductions that may be made from the money obtained for such products

and the distribution of the surplus money of the company to its members and patrons, or their agents. R.S., c. 162, s. 13.

#### **Bylaws, rules and regulations**

**14 (1)** The shareholders at any annual meeting, or at a special general meeting called for the purpose, may make bylaws, rules and regulations not contrary to this Part or the laws of the Province

(a) to regulate any matter connected with the internal affairs of the company;

(b) to regulate the sale, barter or disposition by the shareholders of the company of fruit and farm produce grown by them;

(c) to provide for forfeiting the shares of any shareholder who violates any of such bylaws;

(d) to provide for the payment of pecuniary penalties by any shareholder who violates any of such bylaws, to be recovered in the name of the company in any court of competent jurisdiction;

(e) changing the name of the company.

**(2)** A copy of such bylaws, rules and regulations, certified under the seal of the company and the hand of the secretary, must be delivered to the Registrar of Joint Stock Companies or in the Registrar's absence the Deputy Registrar of Joint Stock Companies and the same, when approved by the Governor in Council, have the same force and effect as if they were enacted in and formed a part of this Part. R.S., c. 162, s. 14.

#### **Cancellation of share**

**15** The directors have the power to cancel the stock of any shareholder who refuses or neglects after 60 days notice to pay any calls regularly payable upon the share or shares held by such shareholder, and any calls previously paid must, upon such cancellation, be forfeited to the company. R.S., c. 162, s. 15.

#### **Liability of shareholder**

**16** No shareholder may be held personally liable for any debt, default or liability of the company beyond the amount unpaid on the shareholder's respective shares in the capital stock thereof, unless the shareholder has become, by the shareholder's own actions, liable for a greater sum by becoming surety for the debts of the company. R.S., c. 162, s. 16.

#### **Agreement with company**

**17 (1)** Any shareholder or shareholders in a company formed under this Part may enter into an agreement with such company in the form prescribed by the regulations, or to the like effect, and any such agreement is enforceable at law.

**(2)** Any omissions or deviations from said form in such agreement not affecting the substance thereof, does not in anyway affect its validity, and the same is so enforceable.

**(3)** Every agreement entered into under this Section and every pledge, hypothecation or other offer for collateral made under such agreement, as

against purchasers and creditors, takes effect and has priority only from the time of filing such agreement and pledge, hypothecation or other offer for collateral in accordance with the *Personal Property Security Act*.

(4) In this Act, “instrument”, “purchasers” and “creditors” respectively bear the same meaning as given to them in the *Registry of Deeds Act* and the *Personal Property Security Act*. R.S., c. 162, s. 17.

### Companies Act

18 All the provisions of the *Companies Act*, except those inconsistent with this Part, apply with necessary changes to every company incorporated under this Part and “articles” and “articles of association” whenever used in the *Companies Act* are deemed to include the bylaws of any company incorporated under this Part. R.S., c. 162, s. 18.

## PART II

### Central company

19 Any number of companies, not fewer than 10, incorporated under Part I or for a like purpose under the *Companies Act*, where authorized by its memorandum of association to do so, may form themselves into a central company for the following purposes:

- (a) buying, selling, bartering, taking on consignment or disposing of on consignment and packing and dealing in fruit, fodder and other farm produce as well as fertilizer and artificial manures of all kinds, arsenate of lead, spraying materials and all kinds of insecticides and fungicides, power-spraying outfits, hand pumps and all other commodities or material incidental to the use of the same, nails, pulp heads, paper and all material necessary for the purpose of packing fruit and farm produce, flour, feeds and all milling produce, seeds, farming implements, tools and wagons and all manner of merchandise;
- (b) warehousing the same as well with cold storage as otherwise and marketing and transporting the same and carrying on the business of warehouse keepers and shippers of such fruit, fodder and other farm produce;
- (c) buying, building, erecting, acquiring, owning, leasing, operating, managing and selling, evaporators, canning and vinegar factories and investing or taking stock therein or in any business considered to be for the benefit of the company. R.S., c. 162, s. 19.

### Memorandum of association

20 (1) Any company incorporated as aforesaid may, by a two-thirds vote of its shareholders at a general meeting of the company called for the purpose, pass a resolution in the form prescribed by the regulations, and thereupon the president of the said company shall, for the purpose of this Part, sign the name and address of the said company to a memorandum of association in the form prescribed by the regulations and shall write opposite to the name of the company the number of shares it takes.

(2) Thereupon and thereby such company is a shareholder in such central company upon the completion of the incorporation thereof under this Part.

(3) The shares taken by any subscribing company must not represent less than 20% of the nominal capital of such company. R.S., c. 162, s. 20.

#### **Evidence of signature**

21 The signatures of such memorandum of association must be proved by the affidavit of a witness in the form prescribed by the regulations and made before a justice of the peace. R.S., c. 162, s. 21.

#### **Registration**

22 (1) At least 10 companies must subscribe the memorandum of association and the same when completed must be delivered to the Registrar of Joint Stock Companies, who shall retain and register the same.

(2) Upon such registration, the Registrar shall certify under the Registrar's hand and seal of office that the company is incorporated under this Part, which is conclusive evidence that all the requirements of this Part in respect of matters precedent and incidental thereto have been complied with, and that the company is a company authorized to be incorporated and duly incorporated under this Part. R.S., c. 162, s. 22.

#### **Incorporation and powers**

23 (1) Every company registered under this Part, upon the issuing of the certificate aforesaid by the Registrar of Joint Stock Companies, is a body corporate under the name given and specified in the memorandum of association, and may sue or be sued, plead or be impleaded, under such name, as a body corporate in any court of law or equity, and for any purpose of this Part and incidental or necessary in respect thereto has all the rights and powers of an incorporated company.

(2) The company shall have a seal of such design as the directors may determine. R.S., c. 162, s. 23.

#### **Powers of company**

24 Any company so incorporated may, as by such company is deemed necessary or expedient for any business or purpose aforesaid,

(a) buy, build, erect, lease, improve, manage and operate storehouses, warehouses, as well with cold storage as otherwise, and other buildings incidental or conducive to any such business or purpose, and sell, sublet or dispose of the same, and also buy, build, erect, lease, improve, manage and operate mills and buildings for the manufacture or storage of barrel staves and material for barrels, box shooks and every article or material useful or used for or in connection with the packing of fruit or farm produce or any article in which the central company may deal;

(b) lease, buy or otherwise acquire real estate, and sublet, sell or otherwise dispose of the same;

(c) buy, build, acquire, own, lease, hire, charter and manage wharves, box cars or refrigerator cars for railway use and steamships and other vessels;

(d) buy, have and sell and dispose of any manner of personal property necessary or useful in carrying on the business of the company;

(e) buy, build, erect, acquire, own, lease, operate, manage and sell, evaporators, canning and vinegar factories and invest or take stock therein or in any business considered to be for the benefit of the company. R.S., c. 162, s. 24.

#### **Organizational meeting**

**25 (1)** Every company being a shareholder in such central company shall, at a general meeting called for that purpose within one month of the registration of such memorandum of association, appoint three of its shareholders as its representatives who must meet for the purpose of organization of such central company.

**(2)** Such representatives shall, at the said meeting, organize the said central company by electing from among themselves a president, secretary and directors and there must be one director for each company holding shares in the central company. R.S., c. 162, s. 25.

#### **Meetings**

**26 (1)** The first meeting of the central company must be called by the president of the company first subscribing the memorandum of association, who shall give the representatives of the companies holding stock in the central company at least 10 days written notice of the time and place of holding such meeting by a letter mailed, postage prepaid, for that length of time previous to the meeting, to the addresses of the persons to be notified.

**(2)** A meeting of the representatives of the companies holding stock in the central company may be called at any time by notice as aforesaid by the president of the central company.

**(3)** The president shall call such meeting whenever requested by the board of management hereinafter provided for.

**(4)** Where the president on such request refuses or neglects to call such meeting, the board of management may call the same on notice as aforesaid. R.S., c. 162, s. 26.

#### **Resolution by outside company**

**27** After any central company is incorporated under this Part, any company incorporated under Part I or under the *Companies Act*, where authorized by its memorandum of association to do so as aforesaid, that has not subscribed the registered memorandum of association of such central company, may pass a resolution as near as may be as provided in Section 20. R.S., c. 162, s. 27.

#### **Additional shareholder**

**28** The company so passing the said resolution shall deliver a copy thereof, certified by the president of the company, to the president of the central company, who shall submit the same to the directors of the central company at their next meeting, who shall accept or reject the same. R.S., c. 162, s. 28.

**Issue of shares**

**29** Where the same is accepted, stock to the amount specified in the said resolution, not less than 20% of the capital stock of the company, must be issued and allotted to such company, which is thereupon a shareholder in the said central company to the amount of the said stock with all the powers, rights and obligations attached to companies subscribing the memorandum of association. R.S., c. 162, s. 29.

**Annual meeting**

**30 (1)** Each company holding shares in the central company shall, annually and before the time of the annual meeting of the central company, appoint three shareholders as their representatives who shall form the annual meeting of the central company, and shall meet at the time fixed therefor and elect from among themselves or from the shareholders in the companies so holding shares in the central company, a president, secretary and directors and such other officers as are provided for by bylaw for the central company for the then ensuing year.

**(2)** Any officer or director may be re-elected.

**(3)** Where any annual meeting fails to elect any officer or director, the person then being such officer or director shall continue as such until the person's successor is elected.

**(4)** Upon the death or resignation of any director, a meeting of the company must be convened and a director appointed in the place of the one so dying or resigning. R.S., c. 162, s. 30.

**Capital stock**

**31 (1)** The capital stock of any company organized under this Part must be not less than \$50,000.

**(2)** No person, firm or corporation, excepting companies organized under Part I or under the *Companies Act*, may subscribe for or hold any of such stock. R.S., c. 162, s. 31.

**Increase of capital stock**

**32 (1)** Any central company incorporated under this Part may increase its capital stock by a two-thirds vote of the representatives of the companies holding stock in such central company, by resolution in that behalf.

**(2)** In such case a copy of the resolution so increasing the amount of capital stock, certified by the president and secretary of the company, must be deposited with the Registrar of Joint Stock Companies, who shall register the same, and thereupon the capital stock of the company is deemed to be increased to the amount specified in the resolution. R.S., c. 162, s. 32.

**Call upon share**

**33** All calls made upon stock must be paid by the company subscribing the same, and the capital stock of any such company is liable for all calls made on the stock of such company by the directors of the central company. R.S., c. 162, s. 33.

**Directors and board of management**

**34 (1)** Excepting the organization of the central company and the election of officers and directors, all the business of such central company must be done by its directors, but the company at any general meeting may discuss any question connected with the business of the company and make any recommendation as to the same considers expedient.

**(2)** Each director has as many votes at meetings of directors as the company for which the director is such director holds shares in the central company, if the company for which the director is such director has, in the year immediately preceding the holding of the general meeting of the central company at which such director is elected, surrendered its apples to the central company for disposal.

**(3)** The president of the company presides at all meetings of directors if present, and in the president's absence a chair of the meeting must be elected.

**(4)** The directors may appoint a board of management, subject to the directors, to manage the business affairs of the company.

**(5)** Such board must consist of five members, of whom the president of the company is one.

**(6)** The two members receiving the largest number of votes are deemed elected for two years, the others retiring at the expiration of one year, but being eligible for re-election, and thereafter two members must be elected each year for a period of two years.

**(7)** The board may employ a general manager for the company.

**(8)** The directors may at any annual meeting or special meeting called for that purpose, cancel the appointment of any or all the members of the said board and appoint another or others instead.

**(9)** The directors may make calls upon the stock of the company not exceeding at any one time 25% of the subscribed stock.

**(10)** The directors have the power to cancel the stock of any shareholding company that refuses or neglects after 60 days notice to pay any calls regularly payable upon the share or shares held by such company, and any calls previously paid must upon such cancellation be forfeited to the central company. R.S., c. 162, s. 34.

**Dividend**

**35 (1)** At the close of every year's operations, the directors may declare a dividend out of any profit made by the company of such an amount as in their judgement the business of the company warrants.

**(2)** Such dividend when declared must be paid over to the shareholders of the company as soon as may be after the same has been declared in proportion to the amount paid up on their respective shares. R.S., c. 162, s. 35.

**Profit**

**36** It is not necessary that any annual dividend be declared, or that the annual profits of the company or any portion thereof be paid out in dividends, but the same may, in the discretion of the directors, be used for any business purpose within the powers of the company under this Part, or to create a reserve fund. R.S., c. 162, s. 36.

**Bylaws**

**37 (1)** The directors may make, amend, repeal or re-enact bylaws for the company, not inconsistent with this Part or the laws in force in the Province

- (a) regulating and determining
  - (i) the time and place of the annual meeting of the company and all meetings of directors,
  - (ii) the notice required for annual and other meetings of the company and meetings of directors,
  - (iii) the issuing of stock and the form of stock certificates and the making, accepting and endorsing of bills and notes and the execution of deeds, leases and transfers of property,
  - (iv) the manner of making and collecting calls and the proceedings to be observed in respect thereto;

(b) regulating the disposition of fruit and farm produce, had or held for shipment by companies holding shares in the central company, and determining how far any such shareholding company violating such bylaws is debarred from receiving any dividend money payable on stock held by such company;

(c) determining the powers and duties of the board of management and the powers and duties of the general manager, and any other matter concerning the rights of shareholders in the revenues of the company connected with the internal affairs of the company.

**(2)** Such bylaws, when approved by the Governor in Council, are of the same force and effect as if they were enacted in this Part and formed a part thereof. R.S., c. 162, s. 37.

**Auditor**

**38** The directors shall appoint a chartered accountant as auditor for the central company. R.S., c. 162, s. 38.

**Liability**

**39** No shareholder in the company is liable for any debt, default or other liability of the company beyond the amount unpaid on the stock subscribed by such shareholder, and no director or other officer of the company is liable on or in respect of any such debt, default or other liability, unless such director or officer has incurred such liability by becoming surety for the company. R.S., c. 162, s. 39.

**Agreement with company**

**40 (1)** Any shareholder or shareholders in a company formed under this Part may enter into an agreement with the company in the form prescribed by the regulations, or to the like effect, and any such agreement is enforceable at law.

**(2)** Any omissions or deviations from the prescribed form in such agreement, not affecting the substance thereof, does not in anyway affect its validity, and the same is enforceable. R.S., c. 162, s. 40.

**Name**

**41** The word "Limited" must form a part of the name of every company incorporated under this Part, and such name must be printed or stamped upon all billheads, letterheads, advertisements or notices, used, signed or given by the company. R.S., c. 162, s. 41.

**Companies Act**

**42** All the provisions of the *Companies Act*, except those inconsistent with the provisions of this Part apply with necessary changes to every company incorporated under this Part. R.S., c. 162, s. 42.

**Surplus money**

**43** Every company incorporated under this Act has power to distribute the surplus money earned or received by it in any year in such manner and to such persons as the company may by bylaw determine. R.S., c. 162, s. 43.

**Deemed powers**

**44 (1)** Every company incorporated under Chapter 33 of the Acts of 1908 shall, notwithstanding that it was not and is not authorized by its memorandum of association to do so, be deemed and held to have had and to have capacity, authority and power to become a shareholder in any central company formed under Chapter 22 of the Acts of 1912 or under Part II.

**(2)** Every company heretofore or hereafter incorporated under Part I shall, notwithstanding that it was not or is not authorized by its memorandum of association to do so, be deemed and held to have had and to have capacity, authority and power to become a shareholder in any central company formed under Chapter 22 of the Acts of 1912 or under Part II. R.S., c. 162, s. 44.

## PART III

**Interpretation**

**45** The words and expressions defined in Section 2 of the *Companies Act* have the same meaning in this Part as they have in the *Companies Act*, and the word "company" means a company formed and registered under this Part and the *Companies Act*. R.S., c. 162, s. 45.

**Formation of loan company**

**46** Subject to the provisions of this Part, any three or more companies incorporated under Part I are authorized and empowered by subscribing their names and affixing their corporate seals to a memorandum and otherwise complying with

the requirements of the *Companies Act* in respect of registration, to form under the *Companies Act* an incorporated company limited by shares, notwithstanding that the purpose for which such companies are associated is that of a loan company, but this Act does not authorize the incorporation of more than one such company, and the memorandum or the articles must not be registered unless the Governor in Council has approved thereof. R.S., c. 162, s. 46.

### Objects and powers

**47 (1)** The objects of the company as set forth in its memorandum must be solely as follows:

(a) to lend money to its members only and on such terms as may seem expedient, if it takes as security mortgages or conveyances or assignments by way of mortgage of real estate of the members to whom the money is lent, and if no money may be so lent without the approval of the Governor in Council or of some person or corporation designated by the Governor in Council;

(b) where thought fit to take by way of additional security for the money so lent mortgages, conveyances or assignments of any other real or personal property or assets of such members or any other persons, including the uncalled capital of such members or any other incorporated bodies;

(c) to borrow or raise or secure the payment of money by the issue of debentures, perpetual or otherwise, charged upon all or any of the company's assets or property both present and future, including its uncalled capital, and to purchase, redeem or pay off any such securities;

(d) to do all such other things as are incidental or conducive to the attainment of the above objects.

**(2)** The company has power to sue for money due the company either under mortgages or otherwise, with power to buy in and purchase property sold under any order or judgment obtained by the company and to hold property so purchased for such time as may be necessary and to sell the same either at public or private sale for such price and on such terms as the directors may think fit. R.S., c. 162, s. 47.

### Change of objects

**48** The memorandum of the company must not be altered with respect to the objects of the company or in any other respect under the *Companies Act* except with the consent of the Governor in Council, and subsection 33(4) of the *Companies Act* does not apply to the company. R.S., c. 162, s. 48.

### Member company

**49** A member of the company must be

(a) a company incorporated under Part I or II;

(b) a company incorporated under any Act for which Part I or II was substituted by way of amendment, revision or consolidation;

(c) a company or association incorporated under the *Co-operative Associations Act*;

(d) a company or association to which the *Co-operative Associations Act* applies; or

(e) Scotian Gold Co-operative Limited,

if in the case of a company or association mentioned in clause (c) or (d) the principal business of the company or association is, in the opinion of the Minister of Agriculture, buying, selling, leasing, erecting, improving, maintaining and operating storehouses, warehouses and other buildings that may be incidental or conducive to the purposes of the company or association and the carrying on of the business of warehouse keepers in connection with fruit, potatoes and vegetables. R.S., c. 162, s. 49.

### Directors

**50 (1)** The number of the directors of the company and the appointment thereof must be as follows:

(a) three directors appointed at the annual meeting of Scotian Gold Co-operative Limited;

(b) two directors appointed by The Nova Scotia Fruit Growers' Association, incorporated under the *Companies Act* on January 8, 1931;

(c) one director appointed by those members of the company that are incorporated under Part I or II and which are not shareholders of Scotian Gold Co-operative Limited;

(d) where the company has made a mortgage or deed of trust to a trustee to secure the payment of its debentures, three directors appointed by the trustee, but no appointment by the trustee is effective until it has been approved by the Governor in Council.

**(2)** No member of the company is eligible for appointment as a director.

**(3)** The directors hold office for such term as may be prescribed by the articles but, where the articles do not prescribe the term, the directors hold office for one year from the date of the annual meeting of Scotian Gold Co-operative Limited except where a vacancy occurs among the directors, in which case the director appointed to fill the vacancy holds office for the unexpired portion of the term of the director's predecessor. R.S., c. 162, s. 50.

### Guarantee by Province

**51** The Governor in Council may guarantee the payment of the principal and interest or either of them or any part thereof payable under any debentures of the company, if the aggregate amount of principal so guaranteed does not exceed \$500,000 and such guarantee may be evidenced in such manner as the Governor in Council considers expedient. R.S., c. 162, s. 51.

**Borrowing**

**52** The company may pledge its debentures with any chartered bank or trust company as security for advances made to the company and the Governor in Council may guarantee the repayment of any advances made to the company by any chartered bank or trust company and any interest payable on such advances. R.S., c. 162, s. 52.

**Inspection of records**

**53** All records of the company whatsoever may at any time be inspected by such person as the Governor in Council appoints for the purpose. R.S., c. 162, s. 53.

**Waiver of printing and fees**

**54** It is not necessary to print the articles or any special resolution of the company, and no fees under the *Companies Act* are payable by the company. R.S., c. 162, s. 54.

**Corporations Registration Act**

**55** Section 12 of the *Corporations Registration Act* does not apply to the company. R.S., c. 162, s. 55.

**Regulations**

**56 (1)** The Minister of Agriculture may make regulations prescribing forms for the purpose of this Act.

**(2)** The forms contained in the Schedules to Chapter 162 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 Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

CHAPTER F-8

**An Act Respecting Compensation  
to the Families of Persons Killed by Accident**

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**Short title**

**1** This Act may be cited as the *Fatal Injuries Act*. R.S., c. 163, s. 1.

**Interpretation**

**2** In this Act,

“child” includes a son, daughter, grandson, granddaughter, stepson and stepdaughter;

“common-law partner” of an individual means another individual who has cohabited with the individual in a conjugal relationship for a period of at least one year immediately preceding the death of the individual;

“jury”, in the case of an action being tried by a judge without a jury, includes judge;

“parent” includes a father, mother, grandfather, grandmother, stepfather and stepmother;

“spouse” means either of a man or woman who are married to each other;

“verdict”, in the case of an action being tried by a judge without a jury, includes a judgment. R.S., c. 163, s. 2; 2000, c. 29, s. 9.

**Liability**

**3** Where the death of a person has been caused by such wrongful act, neglect or default of another as would, if death had not ensued, have entitled the person injured to maintain an action and recover damages in respect thereto, in such case, the person who would have been liable if death had not ensued is liable to an

action of damages, notwithstanding the death of the person injured, and although the death has been caused under such circumstances as amount in law to a crime. R.S., c. 163, s. 3.

#### **Representative of deceased**

**4 (1)** Such action must be brought by, and in the name of, the executor or administrator of the person deceased.

**(2)** Where there is no executor or administrator, or if there is an executor or administrator and no action has been brought under this Act within six months after the death of such person by and in the name of such executor or administrator, such action may be brought by and in the name or names of the spouse, common-law partner, parent or child of such person, or any of them. R.S., c. 163, s. 4; 2000, c. 29, s. 10.

#### **Damages**

**5 (1)** Every action brought under this Act must be for the benefit of the spouse, common-law partner, parent or child of such deceased person and the jury may give such damages as they think proportioned to the injury resulting from such death to the persons respectively for whose benefit such action was brought, and the amount so recovered, after deducting the costs not recovered, if any, from the defendant, must be divided among such persons in such shares as the jury by their verdict find and direct.

**(2)** In subsection (1), “damages” means pecuniary and non-pecuniary damages and, without restricting the generality of this definition, includes

(a) out-of-pocket expenses reasonably incurred for the benefit of the deceased;

(b) a reasonable allowance for travel expenses incurred in visiting the deceased between the time of the injury and the death;

(c) where, as a result of the injury, a person for whose benefit the action is brought provided nursing, housekeeping or other services for the deceased between the time of the injury and the death, a reasonable allowance for loss of income or the value of the services; and

(d) an amount to compensate for the loss of guidance, care and companionship that a person for whose benefit the action is brought might reasonably have expected to receive from the deceased if the death had not occurred.

**(3)** In assessing the damage in any action there must not be taken into account any sum paid or payable on the death of the deceased, whether by way of pension or proceeds of insurance, or any future premiums payable under any contract of assurance or insurance.

**(4)** In an action brought under this Act where funeral expenses have been incurred by the parties for whose benefit the action is brought, damages may be awarded for reasonable necessary expenses of the burial of the deceased, including transportation and things supplied and services rendered in connection therewith. R.S., c. 163, s. 5; 2000, c. 29, s. 11.

**Statement of claim**

6 In every action the plaintiff on the record shall set forth, in the plaintiff's statement of claim, or deliver therewith to the defendant, or the defendant's solicitor, full particulars of the person or persons for and on behalf of whom such action was brought and of the nature of the claim in respect to which damages are sought to be recovered. R.S., c. 163, s. 6.

**Payment into court**

7 If the defendant pays money into court, the defendant may pay it as a compensation in one sum to all the persons entitled thereto under this Act, without specifying the shares of the several persons. R.S., c. 163, s. 7.

**Sufficiency of payment**

8 If any sum paid into court is not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury thinks the same is sufficient, the defendant is entitled to the verdict upon that issue. R.S., c. 163, s. 8.

**Apportionment by judge**

9 In all cases where for any reason the compensation is not apportioned among the several persons entitled under this Act, a judge may apportion the same and dispose of the costs of the application and inquiry as the judge thinks just. R.S., c. 163, s. 9.

**Limitation of action**

10 Not more than one action lies for and in respect to the same subject-matter of complaint and every such action must be commenced within 12 months after the death of the deceased person. R.S., c. 163, s. 10.

**Illegitimate child**

11 The mother of an illegitimate child has the same rights under this Act in respect of the death of that child as she would have if the child had been legitimate, and an illegitimate child has the same rights under this Act in respect of the death of the child's mother as the child would have if the child had been a legitimate child. R.S., c. 163, s. 11.

**Settled intention to treat as child**

12 A person has in respect of the death of a deceased the same rights under this Act as

(a) a child of the deceased if the deceased has demonstrated a settled intention to treat that person as a child of the family of the deceased;

(b) a parent of the deceased if that person has demonstrated a settled intention to treat the deceased as a child of the family of that person. R.S., c. 163, s. 12.

CHAPTER F-9

**An Act Respecting  
the Investigation of Fatalities**

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

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### Short title

**1** This Act may be cited as the *Fatality Investigations Act*. 2001, c. 31, s. 1.

### Interpretation

**2 (1)** In this Act,

“autopsy” means the dissection of a body of a person for the purpose of examining organs and tissues to determine the cause of death, the manner of death or the identity of the person, and includes chemical, histological, microbiological or serological tests and other laboratory investigations;

“body” means a dead human body or the remains of a dead human body;

“cause of death” means the medical cause of death according to the *International Statistical Classification of Diseases and Related Health Problems* as last revised by the International Conference for that purpose and published by the World Health Organization;

“Committee” means a Death Review Committee established under Section 43, the Domestic Violence Death Review Committee established under Section 44 or the Child Death Review Committee established under Section 45;

“common-law partner” of an individual means another individual who has cohabited with the individual for a period of at least two years;

“death review” means a review by a Committee under Section 43, 44 or 45;

“healthcare facility” means a hospital as defined in the *Hospitals Act*, a nursing home or residential-care facility as defined in the *Homes for Special Care Act* or a child-caring facility as defined in the *Children and Family Services Act*;

“inquiry” means a fatality inquiry under Section 28;

“investigator” means a medical examiner’s investigator who acts as an assistant to the medical examiner in determining the manner and cause of death of a person and who is appointed under clause 3(4)(c) or a person who is a medical examiner’s investigator under Section 6;

“judge” means a judge of the Provincial Court of Nova Scotia;

“manner of death” means the mode or method of death, whether natural, homicidal, suicidal, accidental or undeterminable;

“medical examiner” means a medical examiner appointed under Section 4;

“Minister” means the Minister of Justice;

“nearest relative” means the first living person on the list determined in accordance with subsection (2) who has attained the age of majority and is able and willing to act in the capacity contemplated in the relevant provision of this Act;

“pathologist” means a physician who is a specialist in pathology as recognized by the College of Physicians and Surgeons of Nova Scotia;

“physician” means a qualified medical practitioner registered under the *Medical Act*;

“spouse” means, with reference to a dead person, a person to whom the dead person was married at the time of death.

(2) For the purpose of this Act, the nearest relative of a deceased person is the first person on the following list of categories and, if there is more than one person within a category, the eldest person within that category:

- (a) the spouse or common-law partner of the deceased, if the spouse or common-law partner was cohabiting with the deceased in a conjugal relationship immediately before that person’s death;
- (b) the children of the deceased;
- (c) the parents or guardian of the deceased;
- (d) the siblings of the deceased;
- (e) the grandchildren of the deceased;
- (f) the grandparents of the deceased;
- (g) the uncles and aunts of the deceased;
- (h) the nephews and nieces of the deceased;
- (i) the next in order of kin after those persons referred to in clauses (a) to (h). 2001, c. 31, s. 2; 2019, c. 30, s. 1.

#### **Chief Medical Examiner**

**3 (1)** The Governor in Council shall appoint a Chief Medical Examiner who must be a pathologist with training or experience in forensic pathology.

**(2)** The Chief Medical Examiner holds office during good behaviour.

**(3)** The Chief Medical Examiner may exercise and perform the powers and duties of a medical examiner.

- (4)** The Chief Medical Examiner is responsible to the Minister for
- (a) the operation of this Act in relation to the reporting, investigating and recording of deaths;
  - (b) the appointment of medical examiners;
  - (c) the appointment of investigators;

- (d) the administration of the budget of the Office of the Chief Medical Examiner;
- (e) the appointment of an Acting Chief Medical Examiner who may act in the place of the Chief Medical Examiner;
- (f) the education of persons required to perform functions under this Act;
- (g) the supervision of medical examiners and investigators in the performance of their duties; and
- (h) the discharge of other duties as assigned by this Act or the regulations.

(5) The Chief Medical Examiner, before entering upon the duties of the office, shall take and subscribe an oath in the form prescribed in the regulations to faithfully discharge the duties of the office, which oath may be administered by a judge of the Supreme Court of Nova Scotia or the Provincial Court of Nova Scotia and the Chief Medical Examiner shall file this oath with the Minister.

- (6) The Chief Medical Examiner ceases to hold office upon
  - (a) ceasing to hold a medical licence under the *Medical Act*;
  - (b) resigning in writing to the Minister;
  - (c) termination by the Minister for cause; or
  - (d) ceasing to be ordinarily resident in the Province. 2001, c. 31, s. 3.

#### Medical examiners

4 (1) The Chief Medical Examiner may appoint physicians as medical examiners and shall inform the Minister of each appointment and its term.

(2) A medical examiner, before entering upon the duties of the office, shall take and subscribe an oath in the form prescribed in the regulations that the medical examiner will faithfully discharge the duties of the medical examiner's office, which oath may be administered by a judge of the Supreme Court of Nova Scotia or the Provincial Court of Nova Scotia and the medical examiner shall file this oath with the Minister.

(3) An appointment of a medical examiner made before April 4, 2003, is deemed to be an appointment of the medical examiner under this Act.

(4) An oath of office sworn by a medical examiner before April 4, 2003, is deemed to be an oath of office as sworn by the medical examiner under this Act.

- (5) A medical examiner ceases to hold office upon
  - (a) ceasing to hold a medical licence under the *Medical Act*;
  - (b) resigning in writing to the Minister;
  - (c) termination of the medical examiner's appointment by the Chief Medical Examiner;

- (d) termination of the medical examiner's appointment by order of the Minister; or
- (e) ceasing to be ordinarily resident in the Province.

(6) A medical examiner is suspended during any period that the medical examiner's registration as a medical practitioner is suspended under the *Medical Act*.

(7) The Minister may suspend the appointment of a medical examiner during any period that a complaint regarding the medical examiner is under review by the Chief Medical Examiner. 2001, c. 31, s. 4.

### Investigation of deaths

5 (1) Upon notification of a death, where the medical examiner is satisfied that the death occurred under a circumstance referred to in Sections 11 to 14, the medical examiner shall investigate the death and, if possible, establish

- (a) the identity of the person;
- (b) the date, time and place of death;
- (c) the cause of death; and
- (d) the manner of death.

(2) A medical examiner shall keep a record of all deaths of which the medical examiner is notified under this Act and shall provide to the Chief Medical Examiner a record of all investigations that the medical examiner or an investigator under the supervision of the medical examiner makes into a death, including the reports, certificates and other documents prescribed by the Chief Medical Examiner.

(3) In making a report under subsection (2), a medical examiner or investigator shall not express an opinion with respect to culpability.

(4) Where a medical examiner is unable to investigate a death of which the medical examiner receives notice, the medical examiner shall

- (a) notify another medical examiner if the death occurred in a circumstance referred to in Sections 11 to 14; and
- (b) record why the death was not investigated by the medical examiner.

(5) When a medical examiner has investigated a death and has determined the manner and cause of death, the medical examiner shall submit a medical certificate of death in accordance with the *Vital Statistics Act*.

(6) A medical examiner may authorize a physician to submit a medical certificate of death.

(7) Where a medical examiner has authorized a physician to complete a medical certificate of death for a person who has died in a circumstance referred to in Sections 11 to 14, the medical examiner shall establish and record

- (a) the identity of the person;

- (b) the date, time and place of death;
- (c) the cause of death;
- (d) the manner of death; and
- (e) the name of the physician who completed the medical certificate of death. 2001, c. 31, s. 5.

#### **Duties and powers of investigators**

- 6 (1)** An investigator, if authorized by a medical examiner,
- (a) shall assist the medical examiner in carrying out the medical examiner's duties under this Act; and
  - (b) may exercise the powers and perform the duties of a medical examiner set out in Section 5 but where the investigator is not a physician, the investigator may not sign a medical certificate of death.

**(2)** Every member of a municipal police department, the Serious Incident Response Team or the Royal Canadian Mounted Police serving in the Province is, by virtue of the member's office, a medical examiner's investigator and shall act under the direction of a medical examiner or investigator. 2001, c. 31, s. 6; 2002, c. 30, s. 3; 2014, c. 25, s. 5.

#### **Powers of medical examiners and investigators to investigate**

- 7 (1)** A medical examiner or an investigator acting under the medical examiner's authorization may, without a warrant,
- (a) enter a place where the medical examiner or the investigator believes, on reasonable grounds, that a body that is the subject of an investigation, or matters related to the body, is or has been located;
  - (b) take possession of anything that the medical examiner or the investigator has reasonable grounds to believe may be directly related to the death or may assist in determining the issues set out in subsection 5(1) and place anything seized into the custody of a peace officer;
  - (c) cordon off or secure the scene or area in which the death under investigation occurred for a period not exceeding 48 hours or such further period as the Chief Medical Examiner may authorize;
  - (d) inspect and make copies of a diagnosis, a record or information relating to a person who has received diagnostic and treatment services;
  - (e) with the approval of the Chief Medical Examiner, obtain the services or retain expert assistance for a part of the medical examiner's or investigator's investigation; and
  - (f) take photographs or inspect and make copies of documents or information in any form if the medical examiner or investigator has reasonable grounds to believe that this may assist in determining any of the issues set out in subsection 5(1).

(2) While a medical examiner or investigator is exercising a power under subsection (1), the medical examiner or investigator may be accompanied by any person whose assistance is required as part of an investigation.

(3) Where the Chief Medical Examiner applies to a judge or justice of the peace for a warrant on the basis of a belief on reasonable grounds that

(a) it is necessary to do so for the purpose of an investigation under this Act; and

(b) evidence related to the identity of a deceased person, the manner or cause of a death or the date, time or place of death may be found in a building, receptacle or place,

the judge or justice of the peace may issue a warrant authorizing the Chief Medical Examiner, a medical examiner or an investigator acting under the Chief Medical Examiner's authority to enter and search the building, receptacle or place and to take possession of anything that any of those persons believes, on reasonable grounds, may be directly or indirectly related to the death.

(4) The items seized under subsection (1) or (3) may only be used to establish the identity of a deceased person, the cause and manner of death or the date, time or place of death as required for the purpose of this Act.

(5) Notwithstanding subsection (4), where a peace officer or an officer authorized under an enactment has reasonable grounds to believe that items seized under subsection (1) or (3) are relevant to an investigation into a possible contravention of the law or are required for another lawfully authorized purpose, the peace officer or officer may apply to a justice of the peace or a judge for a warrant or an order permitting access to or possession of the items on such grounds as the justice of the peace or judge considers reasonable. 2001, c. 31, s. 7; 2002, c. 30, s. 4.

#### **Collection of information and use by Committee**

**8 (1)** Notwithstanding subsections 5(1) and 7(4), a medical examiner or investigator may collect information relating to the facts or circumstances of a death if requested to do so by a Committee.

(2) Notwithstanding subsection 7(4), for the purpose of conducting a death review, a Committee may use any information acquired by a medical examiner or investigator in the course of conducting an investigation or preparing a report under this Act. 2002, c. 30, s. 4; 2019, c. 30, s. 2.

#### **Jurisdiction**

**9** Unless otherwise directed by the Minister or the Chief Medical Examiner, a medical examiner or investigator has jurisdiction throughout the Province. 2001, c. 31, s. 8.

#### **Conflict of interest**

**10 (1)** A medical examiner shall not engage a person to act as an investigator if the person has an interest, whether professional or personal, that conflicts with the duties of an investigator under this Act unless the medical examiner first advises the Chief Medical Examiner of the conflict and the Chief Medical Examiner authorizes the medical examiner to engage the person as an investigator.

(2) A medical examiner shall not act as a medical examiner if the medical examiner has an interest, whether professional or personal, that conflicts with the duties of a medical examiner under this Act unless the medical examiner first advises the Chief Medical Examiner of the conflict and the Chief Medical Examiner authorizes the medical examiner to act as a medical examiner. 2001, c. 31, s. 8.

#### **Duty to notify of death**

11 A person having knowledge of or reason to believe that a person has died under one of the following circumstances shall immediately notify a medical examiner or an investigator:

- (a) as a result of violence, accident or suicide;
- (b) unexpectedly while the person was in good health;
- (c) where the person was not under the care of a physician;
- (d) where the cause of death is undetermined; or
- (e) as the result of improper or suspected negligent treatment by a person. 2001, c. 31, s. 9.

#### **Death in healthcare facility**

12 (1) Where a person dies while in a healthcare facility and there is reason to believe that

- (a) the death occurred as the result of violence, suspected suicide or accident;
- (b) the death occurred as a result of suspected misadventure, negligence or accident on the part of the attending physician or staff;
- (c) the cause of death is undetermined;
- (d) a stillbirth or a neonatal death has occurred if maternal injury has occurred or is suspected, either before admission or during delivery; or
- (e) the death occurred within 10 days of an operative procedure or under initial induction, anaesthesia or the recovery from anaesthesia from that operative procedure,

the person responsible for that facility shall immediately notify a medical examiner or an investigator.

(2) Where a person is declared dead on arrival or dies in the emergency department of a healthcare facility as a result of a circumstance referred to in subsection (1), the person responsible for that facility shall immediately notify a medical examiner or an investigator. 2001, c. 31, s. 10.

#### **Death in custody or detention**

13 (1) Where a person dies

- (a) while detained or in custody in a correctional institution such as a jail, penitentiary, guard room, remand centre, detention

centre, youth facility, lock-up or any other place where a person is in custody or detention;

(b) while an inmate who is in a hospital as defined in the *Hospitals Act* or in a psychiatric facility as defined in the *Involuntary Psychiatric Treatment Act*;

(c) in an institution designated in the regulations;

(d) while in the custody of the Minister of Community Services pursuant to the *Children and Family Services Act*; or

(e) while detained by or in the custody of a peace officer or as a result of the use of force by a peace officer while on duty,

the person in charge of that institution or the person detaining or having the custody of the deceased person shall immediately notify a medical examiner or an investigator.

(2) Where a person dies while committed to a facility or institution set out in subsection (1) but while not on the premises or in actual custody, the person in charge of that facility or institution, jail or other place shall, immediately on receiving notice of the death, notify a medical examiner. 2001, c. 31, s. 11.

#### **Death probably related to employment or occupation**

**14** Where a person dies as the result of

(a) a disease or ill health;

(b) an injury sustained by the person; or

(c) a toxic substance introduced into the person,

probably caused by or connected with the person's employment or occupation, the physician attending the deceased person at the time of that person's death shall immediately notify a medical examiner or an investigator. 2001, c. 31, s. 12.

#### **Autopsy**

**15** (1) A medical examiner may authorize the autopsy of the body of a person who died under a circumstance referred to in Sections 11 to 14.

(2) Where a medical examiner authorizes an autopsy, the autopsy must be carried out by a pathologist.

(3) A person who performs an autopsy shall provide the medical examiner who authorized the autopsy with autopsy reports as soon as is practicable. 2001, c. 31, s. 13.

#### **Removal of organs or tissues**

**16** (1) Where the removal of the tissue or organs does not interfere with an investigation or proceeding and appropriate consent has been obtained under the *Human Organ and Tissue Donation Act*, a medical examiner may remove or allow the removal of organs or tissues for therapeutic, medical education or scientific research.

(2) Where a person has been declared legally dead but that person's organ functions are sustained by artificial means, and the appropriate consent has been given under the *Human Organ and Tissue Donation Act* for live organ donation, the medical examiner must be notified and shall determine whether the removal of those tissues or organs will interfere with an investigation or proceeding. 2001, c. 31, s. 14; 2019, c. 6, s. 40.

#### **Duty where death but no body**

17 Where a person knows or believes that a death has occurred in the Province but no body has been located, that person shall immediately notify a medical examiner or an investigator, who shall notify the Chief Medical Examiner. 2001, c. 31, s. 15.

#### **Unidentified or unclaimed body**

18 (1) Where a body is unidentified or unclaimed and an investigation indicates that the body is likely to remain unidentified or unclaimed, the Chief Medical Examiner shall arrange for the storage of the body for a period of seven days from the completion of the investigation.

(2) Where, on the expiry of the seven-day period, the body remains unidentified or unclaimed, the Public Trustee may deal with the body in accordance with the *Public Trustee Act*. 2001, c. 31, s. 16; 2022, c. 26, s. 39.

#### **Items seized**

19 Where a medical examiner or an investigator seizes anything under subsection 7(1), except prescription medicines, illegal drugs or other dangerous or illegal items or substances, the medical examiner shall, unless otherwise required by court order or pursuant to a search warrant, retain it until the conclusion of an investigation or inquiry into the death and then shall return it to the person from whom it was seized or, if that person is deceased, to that person's nearest relative. 2001, c. 31, s. 17; 2002, c. 30, s. 5.

#### **Destruction of soiled or damaged clothing**

20 A medical examiner may destroy soiled or damaged clothing that was taken into possession with a body and that is not required for the purpose of this Act or an investigation or proceeding conducted under another Act of the Province. 2001, c. 31, s. 18.

#### **No cleaning or alterations to body**

21 (1) No person who has reason to believe that a person died under a circumstance referred to in Sections 11 to 14 shall, except under a direction of a medical examiner or the Chief Medical Examiner,

(a) clean or make alterations to the body or clothing on the body or objects attached to the body; or

(b) apply a chemical or other substance to the body internally or externally.

(2) Subsection (1) does not apply to a person who makes alterations or applies a chemical or other substance to a body for the purpose of resuscitation. 2001, c. 31, s. 19.

**Restriction on cremation or disposal of body**

**22** No person shall

- (a) cremate a body or otherwise dispose of a body in such a manner that the body is not available for future examination; or
- (b) ship or take a body from a place in the Province to a place outside of the Province,

until a medical examiner or an investigator authorized by a medical examiner issues a certificate in the form prescribed by the Chief Medical Examiner stating that the medical examiner or the investigator has examined the medical certificate of death. 2001, c. 31, s. 20; 2013, c. 10, s. 3.

**Body brought into Province**

**23** Where a body is brought into the Province for ultimate disposal and it is determined that the body will not be required for future examination, no person shall dispose of the body until a medical examiner or investigator has been notified and has

- (a) inspected the medical certificate of death or other documents accompanying the body;
- (b) made the investigation that may be necessary to establish or confirm the cause of death; and
- (c) issued a certificate as prescribed by the Chief Medical Examiner. 2001, c. 31, s. 21.

**Disinterment**

**24 (1)** Notwithstanding the *Health Protection Act*, the Chief Medical Examiner may order a body disinterred for the purpose of an investigation under this Act.

**(2)** Copies of an order under subsection (1) must be given at least 48 hours before the disinterment to

- (a) the spouse or, where there is no spouse, the nearest relative of the deceased who resides in the Province;
- (b) a medical health officer;
- (c) the Registrar of Vital Statistics; and
- (d) the owner or the person in charge of the cemetery or mausoleum where the body is buried or stored. 2001, c. 31, s. 22; 2004, c. 4, s. 111.

**Release of reports or records**

**25 (1)** All reports, certificates and other records made by a person under this Act are the property of the Government of the Province, and no such report, certificate or record, other than a medical certificate of death completed in accordance with the *Vital Statistics Act* or reports, certificates and other records released in the course of an inquiry held pursuant to this Act, may be released without the permission of the Chief Medical Examiner.

(2) On completion of an investigation and on receipt of a request from the nearest relative, the executor or executrix of the deceased or other interested party considered valid by the Chief Medical Examiner, a report must be completed and sent by the Chief Medical Examiner to the person making the request. 2001, c. 31, s. 23.

#### **Notification about suspected offence**

26 Where, during the course of an investigation, a medical examiner is of the opinion that an offence related to the death being investigated may have been committed, the medical examiner shall immediately notify the Chief Medical Examiner and the peace officer in charge of the police detachment or station that is closest to the place at which the medical examiner believes the offence to have occurred. 2001, c. 31, s. 24.

#### **Obstruction**

27 No person shall hinder, obstruct or interfere with the Chief Medical Examiner, a medical examiner or an investigator in the performance of the duties of the Chief Medical Examiner, medical examiner or investigator under this Act. 2001, c. 31, s. 25; 2002, c. 30, s. 6.

#### **Recommendation for inquiry**

28 (1) Where the Chief Medical Examiner is of the view that it is necessary that a fatality inquiry be held regarding one or more deaths that occurred under a circumstance referred to in Sections 11 to 14, the Chief Medical Examiner may recommend to the Minister that an inquiry be held.

(2) A recommendation under this Section must be in writing and be accompanied by all reports, documents and certificates that may be relevant to the death. 2001, c. 31, s. 26.

#### **Minister's powers or recommendation**

29 (1) Where the Chief Medical Examiner recommends to the Minister under Section 28 that a fatality inquiry be held, the Minister shall order that an inquiry be held.

(2) Where the Minister is satisfied that a fatality inquiry is in the public interest or the interest of public safety, the Minister may order that an inquiry be held.

(3) Where the Minister orders that a fatality inquiry be held pursuant to subsection (1) or (2), the Chief Judge of the Provincial Court of Nova Scotia shall appoint a judge to conduct an inquiry and make recommendations on any issues identified in the order of the Minister. 2001, c. 31, s. 27.

#### **No opinion to be expressed on culpability**

30 In recommending to the Minister to hold an inquiry, the Chief Medical Examiner shall not, with respect to the death or deaths for which the inquest is to be held, express an opinion with respect to culpability. 2001, c. 31, s. 28.

**Powers of judge holding inquiry**

**31** A judge who holds an inquiry under this Act has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*, 2001, c. 31, s. 29.

**Report and attendance by medical examiner**

**32 (1)** A report that purports to be made by a medical examiner pursuant to subsection 5(2) must be admitted in evidence without proof of the signature or appointment of the medical examiner.

**(2)** Notwithstanding subsection (1), a judge may require a medical examiner to attend and give evidence at a fatality inquiry and the medical examiner is entitled to receive a fee for attendance as prescribed by the regulations if the medical examiner is not a full-time employee of the Province. 2001, c. 31, s. 30.

**Evidence at inquiry**

**33 (1)** Subject to subsection (2), a judge may admit in evidence at a fatality inquiry

- (a) any oral testimony; or
- (b) any document or other thing,

that is relevant to the purpose of the fatality inquiry but shall refuse to admit in evidence all or part of any oral testimony or any document or other thing if the judge is satisfied that the oral testimony, document or other thing or part of it is vexatious, unimportant or unnecessary for the purpose of the fatality inquiry.

**(2)** Notwithstanding any enactment, a judge may admit in evidence all or any relevant part of a diagnosis, record or information referred to in subsection (1) to enable the judge to make findings and recommendations and to report in respect of any or all of the matters set out in subsection 41(1).

**(3)** Nothing is admissible in evidence at a fatality inquiry that would be inadmissible in a judicial proceeding by reason of any privilege under the law of evidence.

**(4)** When a document has been admitted in evidence at a fatality inquiry, the judge may, or the person producing it or entitled to it may, with the leave of the judge, cause the document to be copied and the judge may

- (a) authorize the copy to be admitted in evidence in the place of the document admitted and release the document admitted; or
- (b) furnish to the person producing it or the person entitled to it a copy of the document admitted that has been certified by the judge. 2001, c. 31, s. 31.

**Hearings open or in camera**

**34** All hearings at a fatality inquiry under this Act are open to the public except where the judge is of the opinion that

- (a) matters involving public security may be disclosed; or

(b) intimate or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure of the matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the judge may hold the hearing, or any part of it concerning any such matters, in camera. 2001, c. 31, s. 32.

#### **Decision final**

**35** No decision of the judge that a hearing or any part of it be held in camera or in public may be questioned or reviewed in any court, and no order may be made or process entered or proceedings taken in any court, whether by way of *certiorari*, *mandamus*, injunction, declaratory judgment, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain that decision. 2001, c. 31, s. 33.

#### **No publication of in camera evidence**

**36 (1)** No person shall knowingly and wilfully release, publish or disclose or cause to be released, published or disclosed to anyone any oral testimony or documentary evidence introduced or heard in camera at a fatality inquiry.

(2) Subsection (1) does not apply to

- (a) oral testimony; or
- (b) documentary evidence,

contained in the findings of the judge or in the written report of the judge under Section 41 or otherwise released by or under the authority of the judge. 2001, c. 31, s. 34.

#### **Stay of inquiry**

**37 (1)** The Minister or the judge may at any time before or during a fatality inquiry stay the inquiry

- (a) for the purpose of allowing a police investigation in respect of a death; or
- (b) pending the determination of a charge where a person is charged in respect of a death.

(2) Where the Minister has stayed a fatality inquiry pursuant to subsection (1), the Minister may refer the matter back to the judge to continue the fatality inquiry at a later date.

(3) Where a judge has stayed a fatality inquiry pursuant to subsection (1) and subsequently determines that it is no longer necessary for the inquiry to be stayed, the judge shall continue the inquiry. 2001, c. 31, s. 35.

#### **Crown attorney or Minister to appear at inquiry**

**38 (1)** A Crown attorney or counsel for the Minister shall appear at a fatality inquiry and may examine and cross-examine witnesses and present arguments and submissions.

- (2) The participants at a fatality inquiry are
- (a) a personal representative of the deceased; and
  - (b) any person who applies to the judge before or during the inquiry and is declared by the judge to be an interested person.
- 2001, c. 31, s. 36.

**Record of evidence**

**39** A record of the evidence received at a fatality inquiry, including a list of exhibits and witnesses, must be made. 2001, c. 31, s. 37.

**Transfer to another judge**

**40** Where a fatality inquiry is commenced by a judge who dies or retires or is removed from office before the completion of the fatality inquiry, or who for any reason is unable to complete the fatality inquiry, the Chief Judge of the Provincial Court may appoint another judge to complete the fatality inquiry or to conduct another fatality inquiry. 2001, c. 31, s. 38.

**Report of judge**

**41 (1)** At the conclusion of the fatality inquiry, the judge shall make and file with the Provincial Court a written report containing any findings made by the judge as to

- (a) the identity of the deceased;
- (b) the date, time and place of death;
- (c) the circumstances under which the death occurred;
- (d) the cause of death;
- (e) the manner of death; and
- (f) the issues identified by the Minister in the order requiring an inquiry to be held,

and shall send a copy of the report to the Minister.

(2) The findings of the judge must not contain any findings of legal responsibility.

(3) The report and findings of the judge under subsection (1) and any recommendations made by the judge must not disclose any matters heard or disclosed in camera unless the judge is satisfied that the disclosure is essential in the public interest. 2001, c. 31, s. 39.

**Interpretation of Sections 42 to 52 and 55**

**42** In this Section and Sections 43 to 52 and 55,

“child death” means the death of a person under 19 years of age that occurred under a circumstance referred to in Section 11 if, at the time of death, the person was

- (a) in the care and custody of an agency pursuant to the *Children and Family Services Act*;

(b) the subject of a supervision order pursuant to the *Children and Family Services Act*;

(c) a resident of, or attending and present in, a child-caring facility licensed or approved under the *Children and Family Services Act*;

(d) admitted to and assigned a bed in a hospital as defined in the *Hospitals Act*;

(e) a resident of a residential care facility or nursing home licensed under the *Homes for Special Care Act*;

(f) detained or in custody in a correctional facility as defined in the *Correctional Services Act* or being transferred to or from a correctional facility by a sheriff as defined in that Act;

(g) attending and present at a public school as defined in the *Education Act*;

(h) in transit to or from a public school as defined in the *Education Act* while on a school bus;

(i) attending an event or program offered by or on behalf of an education entity as defined in the *Education Act* or sanctioned by a public school, such as a field trip or a sporting event;

(j) attending a program and present in a child-care facility or family child-care home managed by an agency licensed under the *Early Learning and Child Care Act*;

(k) attending and present at a pre-primary program provided under the *Pre-primary Education Act* or otherwise offered by an education entity as defined in the *Education Act*; or

(l) in the custody or care of any other person or body as prescribed by the regulations;

“death review information” means information that was communicated for the purpose of, or created in the course of, the carrying out of a death review by a Committee and is in the custody of a Committee or a medical examiner;

“domestic violence death” means

(a) a homicide that involves the death of

(i) a person, the person’s child or other family member, or

(ii) any other person present at a domestic violence incident involving a person

that is committed by the person’s current or former intimate partner; or

(b) a homicide-suicide where, in addition to a death referred to in clause (a), the current or former intimate partner commits suicide;

“intimate partner” means, with respect to a person, an individual who is or was a spouse, common-law partner, dating partner or sexual partner of the person or in a similar relationship with the person. 2019, c. 30, s. 3.

**Death Review Committees**

**43 (1)** The Minister may, in consultation with the Chief Medical Examiner, establish one or more Death Review Committees to review the facts and circumstances of deaths referred to in subsection (2) for the purpose of

- (a) investigating and monitoring trends involving deaths;
- (b) reviewing the facts and circumstances relating to specific deaths;
- (c) providing advice and recommendations to the Minister; and
- (d) performing other duties and functions as prescribed by the regulations.

**(2)** A Death Review Committee may review the facts and circumstances of one or more deaths that occurred under a circumstance referred to in Sections 11 to 14 as determined by the Minister.

**(3)** A Death Review Committee shall not conduct a death review with respect to a specific death until a medical examiner has completed the medical examiner's duties under Section 5. 2019, c. 30, s. 3.

**Domestic Violence Death Review Committee**

**44 (1)** A Domestic Violence Death Review Committee is established to review the facts and circumstances of domestic violence deaths for the purpose of

- (a) investigating and monitoring trends involving domestic violence deaths;
- (b) reviewing the facts and circumstances relating to specific domestic violence deaths;
- (c) providing advice and recommendations to the Minister regarding the prevention and reduction of domestic violence deaths; and
- (d) performing other duties and functions as prescribed by the regulations.

**(2)** The Domestic Violence Death Review Committee may review the facts and circumstances of one or more domestic violence deaths during a review.

**(3)** The Domestic Violence Death Review Committee shall not conduct a death review with respect to a specific domestic violence death until a medical examiner has completed the medical examiner's duties under Section 5. 2019, c. 30, s. 3.

**Child Death Review Committee**

**45 (1)** A Child Death Review Committee is established for the purpose of

- (a) reviewing aggregate, population-level information regarding deaths of persons under 25 years of age to find trends and inform prevention programs;

- (b) reviewing the facts and circumstances relating to specific child deaths;
- (c) providing advice and recommendations to the Minister respecting the prevention and reduction of
  - (i) deaths of persons under 25 years of age, and
  - (ii) child deaths; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) The Child Death Review Committee shall not conduct a death review with respect to a specific child death until a medical examiner has completed the medical examiner's duties under Section 5.

(3) The Minister may, in consultation with the Chief Medical Examiner, direct the Child Death Review Committee to review the facts and circumstances of the death of a person under 19 years of age that occurred under a circumstance referred to in Sections 11 to 14. 2019, c. 30, s. 3.

#### **Appointment, remuneration and composition of a Committee**

46 (1) Members of a Committee are appointed in the manner prescribed by the regulations.

(2) The Minister may prescribe, authorize or provide for the payment of remuneration and expenses of Committee members.

(3) The membership of the Domestic Violence Death Review Committee must include persons with knowledge and expertise in the area of domestic violence.

(4) The membership of the Child Death Review Committee must include persons with knowledge and expertise in the delivery of government services to persons under 19 years of age.

(5) The Chief Medical Examiner is the Chair of all Committees.

(6) The Minister shall, after consultation with the Chief Medical Examiner, designate one of the members of each Committee to be the Vice-chair of that Committee.

(7) In case of the absence of the Chair of a Committee or the Chair's inability to act, the Vice-chair shall perform the duties and exercise the powers of the Chair. 2019, c. 30, s. 3.

#### **Criminal investigation or prosecution of specific death**

47 A death review respecting a specific death may not interfere with a criminal investigation or prosecution. 2019, c. 30, s. 3.

#### **Report of Committee**

48 (1) Upon completing a death review, a Committee shall prepare a written report containing

- (a) its findings respecting the matter that is the subject of the review;
- (b) its advice and recommendations to the Minister respecting the prevention of similar deaths; and
- (c) any other information as may be prescribed by the regulations.

(2) The findings of a Committee may not include any findings of legal responsibility or any conclusions of law.

(3) A Committee shall provide the report prepared under subsection (1) to the Minister in the manner prescribed by the regulations.

(4) A Committee shall not disclose the report to any other person or body unless authorized to do so by the Minister.

(5) Notwithstanding subsection (4), where the subject-matter of a death review conducted by the Child Death Review Committee involves the death of a child under the custody, care or purview of a Government department other than the Department of Justice, the Child Death Review Committee shall provide a copy of the report to the Minister responsible for that department. 2019, c. 30, s. 3.

#### Information Committee may access

49 (1) Notwithstanding any other enactment, in conducting a death review, a Committee is entitled to access or make copies of any information, including personal information and personal health information, that

- (a) is in the custody or under the control of a public body as defined in the *Freedom of Information and Protection of Privacy Act*, a municipality as defined in Part XX of the *Municipal Government Act* or a custodian as defined in the *Personal Health Information Act*; and
- (b) the Committee considers necessary to enable it to carry out a death review.

(2) A public body or custodian shall, upon request from a Committee, disclose to the Committee the information to which the Committee is entitled under subsection (1).

(3) Nothing in this Section compels the disclosure of any information or records that are subject to any type of privilege, including solicitor-client privilege.

(4) Except as provided under this Act, a member of a Committee, or a person acting under the direction of, or on behalf of, a Committee shall not publish or disclose to any person or body any information recorded, compiled or created for or by, or provided to, the Committee in the course of a death review.

(5) The *Freedom of Information and Protection of Privacy Act*, Part XX of the *Municipal Government Act* and the *Personal Health Information Act* do not apply to Committees or to death review information. 2019, c. 30, s. 3.

**No action lies**

**50 (1)** No action lies against a Committee, a member of a Committee or any person acting on behalf of, or under the direction of, a Committee for anything done, or omitted to be done, in good faith in the exercise of a power or performance of a duty or function under Sections 43 to 49 or the associated regulations.

**(2)** No action lies against a person who, in good faith, discloses information to a Committee at the request of the Committee or for the purpose of assisting the Committee with a death review. 2019, c. 30, s. 3.

**Admissibility of evidence**

**51 (1)** A member of a Committee shall not give or be compelled to give evidence in any criminal or civil proceeding in respect of any matter coming to that member's knowledge in the course of a death review, except in a prosecution for perjury.

**(2)** Nothing in subsection (1) prevents a member of a Committee from giving or being compelled to give evidence in any criminal or civil proceeding in respect of information or knowledge regarding the subject-matter of a death review that was acquired outside of the death review process.

**(3)** Death review information is not admissible in evidence in a legal proceeding. 2019, c. 30, s. 3.

**Lawful use of information**

**52** Nothing in Sections 49 to 51 prevents the lawful use of, disclosure of or access to information regarding the subject-matter of a death review that was obtained or created outside of the death review process. 2019, c. 30, s. 3.

**Offences and penalties**

**53** A person who fails to comply with this Act or the regulations or who obstructs or hinders any person in that person's performance of duties pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000 and to imprisonment for a term of not more than six months or to both a fine and imprisonment. 2001, c. 31, s. 40.

**Regulations**

- 54 (1)** The Governor in Council may make regulations
- (a) prescribing fees payable under this Act
    - (i) to witnesses, court reporters and interpreters, and
    - (ii) to persons who provide services under this Act;
  - (b) respecting the procedures to be followed by medical examiners or investigators who conduct investigations under this Act;
  - (c) respecting the procedures to be followed by pathologists who perform autopsies under this Act;
  - (d) prescribing the forms of any oaths required to be sworn pursuant to this Act;

(e) prescribing reports, certificates and other documents that must be provided to medical examiners and the Chief Medical Examiner;

(f) prescribing a tariff of fees to be charged for services provided under this Act;

(g) designating any place as an institution for the purpose of Section 13;

(h) prescribing the persons and classes of persons to whom copies of autopsy reports made under subsection 15(3) shall be provided by the Chief Medical Examiner;

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

(j) respecting any 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*, 2001, c. 31, s. 41.

#### Ministerial regulations

55 (1) The Minister may make regulations

(a) prescribing persons or bodies for the purpose of clause (l) of the definition of “child death” in Section 42;

(b) prescribing the manner of appointments to a Committee;

(c) prescribing the term of office and qualification of any member of a Committee;

(d) prescribing the payment of remuneration and expenses to any member of a Committee;

(e) prescribing the terms of reference of a Committee;

(f) establishing the duties, powers and functions of a Committee and its members;

(g) respecting the procedures to be followed by a Committee in conducting a death review;

(h) respecting the types of deaths and the circumstances involving deaths that may be reviewed by a Committee;

(i) respecting matters other than deaths that may be reviewed by a Committee;

(j) prescribing the content that must be included in a report by a Committee and the manner and timing in which a Committee must provide its report to the Minister or to the Minister of a department as provided for under subsection 48(5);

(k) respecting the publication of all or part of a Committee report, including the summaries or recommendations that may be part of a report;

(l) authorizing the Chair of a Committee to enter into agreements with persons or bodies to facilitate the work of a Committee;

(m) determining when the work of a Committee must be stayed;

(n) respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of Sections 42 to 52.

**(2)** The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2019, c. 30, s. 4.

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CHAPTER F-10

**An Act to Establish a Holiday in February**

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**Short title**

**1** This Act may be cited as the *February Holiday Act*. 2013, c. 35, s. 1.

**Third Monday in February**

**2** The third Monday in February in 2015 and in each subsequent year must be kept and observed throughout the Province under such name as the Governor in Council determines. 2013, c. 35, s. 2.

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CHAPTER F-11

**An Act to Enable Nova Scotia  
to Enter into an Agreement  
Respecting Electric Power and Energy**

**Table of Contents**

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

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Agreement authorized.....	2

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**Short title**

**1** This Act may be cited as the *Federal-Provincial Energy Agreement Act*. R.S., c. 165, s. 1.

**Agreement authorized**

**2** The Governor in Council may authorize the Attorney General to enter into an agreement with

- (a) the Government of Canada or an agency thereof; and
- (b) the government of any other province or an agency thereof, or any company which operates a plant for the production, transmission, delivery or furnishing of electric power and energy, or any combination of such parties,

respecting the financing, construction, administration and operation of thermal plants and transmission facilities for the generating, furnishing and transmission of electric power and energy. R.S., c. 165, s. 2; 1992, c. 8, s. 28.

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CHAPTER F-12

**An Act Respecting  
the Federation of Agriculture,  
County or Regional Federations of Agriculture  
and District Federations of Agriculture**

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**Short title**

**1** This Act may be cited as the *Federations of Agriculture Act*. 1992, c. 5, s. 1.

**Interpretation**

**2** In this Act,  
“commodity group” means an organized body of producers of specific agricultural product or products;  
“Federation” means the Nova Scotia Federation of Agriculture. 1992, c. 5, s. 2.

**Nova Scotia Federation of Agriculture**

**3** The Nova Scotia Federation of Agriculture, a body corporate, is continued. 1992, c. 5, s. 3.

**Membership of Federation**

4 The membership of the Federation consists of

- (a) each person who was a member of the Federation immediately prior to June 30, 1992; and
- (b) each person who becomes a member of the Federation according to the bylaws of the Federation,

as long as that person is a member. 1992, c. 5, s. 4.

**Objects of Federation**

5 The objects of the Federation are to

- (a) formulate farm policies in consultation with its members;
- (b) keep its members informed of the activities of the Federation and of other matters of interest or benefit to them;
- (c) improve the farm and rural life of the Province;
- (d) make representations to Government, Government committees of inquiry or departments of Government on matters of concern to farmers;
- (e) promote any program that directly or indirectly benefits the economic position of farmers;
- (f) take common action on any matter of interest and benefit to farmers;
- (g) provide a coordinating function for commodity groups;
- (h) co-operate with government in the development and delivery of assistance to the agricultural industry;
- (i) initiate or develop programs with commodity groups that will enhance the future of the producers of the commodity group's concern;
- (j) keep the general public informed on the state of agriculture and its importance to the economy. 1992, c. 5, s. 5.

**Powers of Federation**

6 The Federation may exercise such powers as are incidental or conducive to the attainment of its objects and, without restricting the generality of the foregoing, may

- (a) acquire, hold, sell, lease, convey, mortgage, improve, enjoy or in any way deal with real or personal property;
- (b) make bylaws for the regulation and conduct of the affairs of the Federation and for the carrying out of its objects. 1992, c. 5, s. 6.

**Council of Leaders**

7 (1) The affairs of the Federation must be managed by a Council of Leaders in such number and with such officers as may be fixed by the bylaws of the Federation.

(2) The members of the Council of Leaders may be paid such remuneration and travelling expenses, incurred in the exercise of their duties, as determined at the annual meeting of the Federation.

(3) Each member of the Council of Leaders and each officer is exempt from personal liability for the debts, obligations or acts of the Federation as long as the member or officer does not contravene this Act. 1992, c. 5, s. 7.

#### **Financial year of Federation**

8 (1) The financial year of the Federation ends on such date as the Federation, by bylaw, stipulates.

(2) The Federation shall, not later than 120 days after the end of each of its financial years, hold an annual meeting at such time and place as may be fixed by the Council of Leaders of the Federation. 1992, c. 5, s. 8.

#### **County or regional federations of agriculture**

9 (1) A county or regional federation of agriculture may be formed within a county or such other territory as may be designated by the Council of Leaders of the Federation.

(2) The bylaws, or any amendments thereto, of a county or regional federation of agriculture must be approved by the Council of Leaders of the Federation. 1992, c. 5, s. 9.

#### **Membership of county or regional federation**

10 (1) Each person authorized by the bylaws of a county or regional federation of agriculture may, upon payment of the required membership fee, become a member of the county or regional federation of agriculture.

(2) No person may vote at a meeting of a county or regional federation of agriculture except in accordance with the bylaws of the county or regional federation. 1992, c. 5, s. 10.

#### **Objects of county or regional federation**

11 The objects of a county or regional federation of agriculture are to

(a) enable and encourage members to confer together for the exchange of information on matters relating to agriculture and to the welfare and progress of the county or region generally;

(b) improve the agriculture and rural life of the county or region;

(c) promote any program that directly or indirectly affects the economic position of the primary producer. 1992, c. 5, s. 11.

#### **Powers of county or regional federation**

12 A county or regional federation of agriculture is a body corporate and may exercise such powers as are incidental or conducive to the attainment of its objects, and, without restricting the generality of the foregoing, may

(a) acquire, hold, sell, convey, lease, mortgage, improve and enjoy or in any way deal with real or personal property;

(b) make bylaws for the regulation and conduct of the affairs of the federation and for the carrying out of its objects. 1992, c. 5, s. 12.

#### **Executive committee of county or regional federation**

**13 (1)** The affairs of every county or regional federation of agriculture must be managed by an executive committee of such number and with such officers as may be fixed by the bylaws of the federation.

**(2)** Each member of an executive committee and each officer is exempt from personal liability for the debts, obligations or acts of the county or regional federation of agriculture unless the member or officer contravenes this Act. 1992, c. 5, s. 13.

#### **Financial year of county or regional federation**

**14 (1)** The financial year of a county or regional federation of agriculture ends on such date as the county or regional federation, by bylaw, stipulates.

**(2)** A county or regional federation of agriculture shall, not later than 120 days after the end of each of its financial years, hold an annual meeting at such time and place as may be fixed by the executive committee of the county or regional federation. 1992, c. 5, s. 14.

#### **Continuation of existing federations**

**15** Each county or regional federation of agriculture formed pursuant to the *Agriculture and Marketing Act* and in existence immediately prior to June 30, 1992, is continued as a body corporate and this Act applies to that county or regional federation of agriculture as if that county or regional federation of agriculture were formed pursuant to this Act. 1992, c. 5, s. 15.

#### **District federations of agriculture**

**16 (1)** A district federation of agriculture may be organized for such district or districts within a county as may be designated by the executive committee of the county federation of agriculture.

**(2)** The bylaws, or any amendments thereto, of a district federation of agriculture must be approved by the executive committee of the county or regional federation of agriculture. 1992, c. 5, s. 16.

#### **Membership of district federation**

**17 (1)** Each person authorized by the bylaws of the district federation of agriculture may, upon payment of the required membership fee, become a member of a district federation of agriculture.

**(2)** No person may vote at a meeting of a district federation of agriculture except in accordance with the bylaws of the district federation. 1992, c. 5, s. 17.

#### **Objects of district federation**

**18** The objects of a district federation of agriculture are to

- (a) enable and encourage members to confer together for the exchange of information on matters relating to agriculture and to the welfare and progress of the districts generally;
- (b) improve the agriculture and rural life of the district; and
- (c) promote any program that directly or indirectly affects the economic position of the primary producer. 1992, c. 5, s. 18.

**Executive committee of district federation**

**19 (1)** The affairs of a district federation of agriculture must be managed by an executive committee of such number and with such officers as may be fixed by the bylaws of the federation.

**(2)** Each member of the executive committee and each officer is exempt from personal liability for the debts, obligations or acts of the district federation of agriculture as long as the member or officer does not contravene this Act. 1992, c. 5, s. 19.

**Financial year of district federation**

**20 (1)** The financial year of a district federation of agriculture ends on such date as the district federation, by bylaw, stipulates.

**(2)** A district federation of agriculture shall, not later than 120 days after the end of each of its financial years, hold an annual meeting at such time and place as may be fixed by the executive committee of the federation. 1992, c. 5, s. 20.

**Powers of district federation**

**21** A district federation of agriculture is a body corporate and may exercise such powers as are incidental or conducive to the attainment of its objects, and, without restricting the generality of the foregoing may

- (a) acquire, hold, sell, lease, mortgage, improve, enjoy or in any way deal with real or personal property;
- (b) make bylaws for the regulation and conduct of the affairs of the federation and for the carrying out of its objects. 1992, c. 5, s. 21.

**Existing federations continued**

**22** Each district federation of agriculture formed pursuant to the *Agriculture and Marketing Act* and in existence immediately prior to June 30, 1992, is continued as a body corporate and this Act applies to that district federation of agriculture as if that district federation of agriculture had been formed pursuant to this Act. 1992, c. 5, s. 22.

CHAPTER F-13

**An Act Respecting Increases to Fees  
Collected by the Government of Nova Scotia**

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**Short title**

1 This Act may be cited as the *Fee Notification Act*. 2007, c. 8, s. 1.

**Interpretation**

2 In this Act,

“department” means a department established by or pursuant to the *Public Service Act*;

“fee” means a charge, or a series of charges, levied by a department or office to individuals, companies, organizations or jurisdictions external to the Government of the Province for specific regulatory applications, licences, permits, approvals, renewals, amendments, registrations, certifications, filings, administration fees and inspections, but does not include charges

- (a) charged by one department or office to another department or office or to another government;
- (b) for the lease or use of Government facilities or assets;
- (c) for easements and right-of-ways;
- (d) for the utilization of Crown land, assets and natural resources;
- (e) for the purchase of commercial products;
- (f) for premiums in relation to Government-provided insurance programs;
- (g) for interest in relation to Government loan programs;
- (h) for incidental administrative services; or
- (i) if the amount of the charges is provided for in a statute;

“minister” means a member of the Executive Council, and includes any official authorized to act on the minister’s behalf or in the minister’s stead;

“office” means an office established by or pursuant to the *Public Service Act*. 2007, c. 8, s. 2.

**Act binds Crown**

**3** This Act binds the Crown in right of the Province. 2007, c. 8, s. 3.

**Notice of fee increase**

**4** Neither the Governor in Council, nor any minister nor any other official designated under any enactment as having the authority to increase a fee charged by a department or office may increase the fee unless the minister responsible for the department or office has

- (a) presented notice of the increase in the fee to the House of Assembly if the House is then sitting or, if it is not then sitting, to the Clerk of the Assembly; and
  - (b) provided details of the fees to be collected, including
    - (i) the purpose and amount of the fee,
    - (ii) the total revenue expected from the fee, and
    - (iii) whether the fee is designed to recover the full or partial costs of administering a regulatory scheme or providing a service, or to generate revenue in excess of the cost of providing the service.
- 2007, c. 8, s. 4.

**Regulations**

- 5 (1)** The Governor in Council may make regulations
- (a) defining any word or expression used but not defined in this Act;
  - (b) 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*. 2007, c. 8, s. 5.

CHAPTER F-14

**An Act to Provide for Fences  
and Detention of Stray Livestock**

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**Short title**

**1** This Act may be cited as the *Fences and Detention of Stray Livestock Act*. R.S., c. 166, s. 1.

**Interpretation**

**2** In this Act,

“committee” means a fences arbitration committee;

“livestock” means cattle, sheep, swine, goats, horses, ponies, mules, ratites, farmed deer and game farm animals and any other livestock designated by the Minister;

“livestock farm” means that portion of land used for livestock, including land used for grazing purposes;

“Minister” means the Minister of Agriculture;

“municipality” means a municipality as defined in the *Municipal Government Act*;

“non-livestock farm” means land upon which no livestock is maintained;

“owner” includes

- (a) with respect to livestock, any person who has lawful custody of the livestock;
- (b) with respect to a farm, the person occupying or operating the farm. R.S., c. 166, s. 2; 2002, c. 1, s. 9; 2016, c. 20, s. 1.

### **Fences arbitration committee**

**3 (1)** There is established for each municipality a committee to be known as the fences arbitration committee consisting of one member from the municipality appointed by the Nova Scotia Federation of Agriculture and one member appointed by the council of the municipality.

**(2)** The member appointed by the council of a municipality pursuant to subsection (1) may be an employee of the municipality and is the chair of the committee.

**(3)** The Nova Scotia Federation of Agriculture and the council of the municipality shall each appoint an alternate member to serve on the committee when requested to do so by the member appointed by the council of the municipality or the Nova Scotia Federation of Agriculture, as the case may be.

**(4)** Two members of the committee constitute a quorum.

**(5)** The members of a committee hold office for a term of not more than four years.

**(6)** The members of a committee and the alternate members of the committee appointed pursuant to this Section may be paid remuneration, including reasonable expenses, by the municipality at such rates as the municipality may determine.

**(7)** Members of the committee and alternate members of the committee appointed pursuant to this Section must be residents of the municipality for which the committee is established. 2002, c. 1, s. 11; 2016, c. 20, s. 3.

### **Fences**

**4 (1)** The owner of a livestock farm shall build and maintain fences adequate to prevent the owner’s livestock from escaping from the owner’s farm.

**(2)** The owner of a non-livestock farm adjoining a livestock farm shall not plant or cultivate any crop other than hay or pasture that would constitute an enticement to livestock closer than eight feet to a fence built or maintained pursuant to subsection (1).

**(3)** When a livestock farm adjoins another livestock farm, the owners of those farms shall share in the costs of building and maintaining common fences in such proportions as may be agreed upon between them and, failing such agreement, in such proportions as the committee for the municipality in which the lands are situated determines pursuant to this Act.

(4) Subsection (3) does not apply when one of the farms has been operated continuously as a non-livestock farm for a period of one year. R.S., c. 166, s. 5.

#### Disputes referred to committee

5 (1) A person who has complied with subsection 4(2), if applicable, and who believes that an owner of a livestock farm has not complied with or is not complying with subsection 4(1) or any owner of a livestock farm who is unable to reach an agreement with an owner of an adjoining livestock farm pursuant to subsection 4(3) may notify, in writing, the clerk of the municipality in which the land is located and the notification must be accompanied by the fee determined by the municipality.

(2) Where a clerk of a municipality receives a notification in writing pursuant to subsection (1), the clerk shall immediately refer the matter to the chair of the committee for that municipality, who shall, within seven days, convene the committee and provide an opportunity for any of the parties to make representations to the committee, unless, before the expiry of seven days, the chair is satisfied that, in respect of the matter referred to the committee, this Act has been or is being complied with or an agreement has been reached between the parties.

(3) With respect to a matter referred to a committee under this Section, the committee may, by order,

(a) determine the location, height and materials of construction of any fence;

(b) determine the manner of maintenance of a fence;

(c) direct the owner of a farm to construct or maintain any fence in accordance with this Act;

(d) determine the proportion of costs of building and maintaining any fences and common boundaries to be borne by each of the adjoining livestock farm owners pursuant to this Act;

(e) take any immediate action necessary, including the removal and boarding of livestock if it is determined there is a risk to the public, the livestock or property.

(4) Livestock removed pursuant to clause (3)(e) shall be returned only after the proper fences are constructed or maintained to the standard determined by the committee.

(5) Where any person fails to construct or maintain a fence or contribute to the costs of a fence after having been directed to do so by an order of the committee pursuant to this Section, the committee may cause the work so ordered to be done and, for that purpose, its agents and workers may enter upon any land and the costs must be paid by the municipality in which the lands in respect of which the order was made are located and, if the person failing to construct, maintain or contribute is the person assessed for the property on which the work is done, the costs paid by the municipality are a first lien on the property and may be collected in the same manner as municipal taxes.

(6) The costs incurred by a municipality with respect to any action taken pursuant to clause (3)(e) or subsection (4) or (5), including the costs of

constructing or maintaining fences performed by the municipality or its agents and the costs of the removal, boarding, sale of or returning of any livestock, may be recovered from the owner of the livestock by action initiated by the municipality in a court of law. 2002, c. 1, s. 12.

**Title not affected**

**6** Subject to the lien referred to in subsection 5(5), nothing in this Act is to be construed to affect the title to the lands on which fences are erected. R.S., c. 166, s. 7; 2002, c. 1, s. 13.

**Appeal from committee**

**7** Every person aggrieved by a decision of the committee made pursuant to subsection 5(3), (4) or (5) or any order or direction made by the committee may appeal to the Supreme Court of Nova Scotia and the decision of the court is final. 2002, c. 1, s. 14.

STRAY LIVESTOCK

**Detention and sale of stray livestock**

**8 (1)** If any livestock strays onto the lands of a person and the ownership of the livestock is unknown, such person may detain the livestock.

**(2)** Where not claimed by the owner within 48 hours, a person detaining stray livestock shall forthwith transmit to the municipal clerk an adequate description of the livestock that will enable the owner to recognize it, together with an indication of the time and place of finding and the place where the livestock is detained.

**(3)** A municipal clerk who receives the information referred to in subsection (2) shall file a notice with a description of the livestock and post a copy thereof in the municipal clerk's office and shall place the notice and description in two advertisements at least seven days apart from each other in a newspaper of general circulation in the municipality in which the livestock is detained.

**(4)** The last advertisement referred to in subsection (3) must state that unless the livestock is previously claimed, it will be sold at a sale to be held after the expiration of a further seven days, at the time and place indicated in the advertisement.

**(5)** Every person who has detained stray livestock and who does not, within a reasonable time, transmit the information required under subsection (2) to the clerk of the municipality, is guilty of an offence and is liable on summary conviction to a penalty of not more than \$100 for the stray livestock. R.S., c. 166, s. 9.

**Claim, sale or disposal of stray livestock**

**9 (1)** Where the owner claims the livestock before the sale, the owner shall

(a) notify the clerk of the municipality and pay to the clerk the cost of advertising; and

(b) pay to the person detaining the livestock reasonable expenses for keeping the livestock.

(2) The provisions of subsections 8(2), (3) and (4) having been complied with, the committee, by written order, shall direct a sale or other disposition of the stray livestock at the time and place stated under the provisions of subsection 8(4).

(3) Where no offers are made at the sale, or where the amount offered is not reasonable in the view of the committee, the committee shall dispose of the stray livestock in such manner as it considers fit.

(4) The proceeds of the sale or disposal of the stray livestock must be distributed by the committee having regard to the reasonable expenses incurred by the person detaining the livestock and the cost of advertising, and the balance, if any, is retained by the municipality unless claimed by the owner of the livestock within 12 months of the date of sale or other disposition, in which case it must be paid to the owner.

(5) Where livestock is sold or otherwise disposed of pursuant to this Act, the person to whom the livestock is sold or disposed of owns the livestock free of any encumbrances.

(6) Where any question arises between the owner of the livestock, the person detaining it or the municipality respecting ownership or expenses of keeping the livestock, any of the parties may apply to the committee, who shall determine the matter. R.S., c. 166, s. 10; 2002, c. 1, s. 15; 2016, c. 20, s. 4.

## DAMAGES

### Compensation for damage

10 Where any damage is done by livestock breaking into and destroying the product of any enclosure, the same being enclosed at the time by a sufficient fence in the judgement of the committee, the owner of the livestock trespassing shall pay to the person injured compensation for such damage. R.S., c. 166, s. 11.

### Payment by owner

11 In any municipality or portion of any municipality in which, by any bylaw, order or regulation of such municipality, livestock are not allowed to run at large on any public street, square, common or other public ground in such municipality or portion thereof, compensation for any damage caused or done by any livestock straying from any such public street, square, common or other public ground, while running at large, into any field or on any other improved land, being private property, whether the same is enclosed by a fence or not, must be paid by the owner of such livestock so trespassing to the person injured. R.S., c. 166, s. 12.

### Appraisal of damage

12 The amount of the damage to be paid under Sections 10 and 11 must be appraised by the committee. R.S., c. 166, s. 13.

**Action for damage**

**13** Where the owner refuses to pay the amount appraised upon notice thereof, the person injured may maintain an action therefor as for a private debt. R.S., c. 166, s. 14.

**Common law preserved**

**14** Nothing in this Act is to be construed to impair the right of action under the common law for damages occasioned by livestock breaking into lands. R.S., c. 166, s. 15.

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CHAPTER F-15

**An Act Respecting Ferries**

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**Short title**

**1** This Act may be cited as the *Ferries Act*. R.S., c. 168, s. 1.

**Establishing municipal ferry**

**2** The council of each municipality may establish ferries over harbours, bays, rivers and creeks within the municipality, and agree with, and grant licences to, ferry operators on one or both sides thereof, under such regulations, and at such rates of ferriage, as by the council are established. R.S., c. 168, s. 2.

**Duties of ferry operator**

**3** Every ferry operator shall keep safe and good boats or vessels, in good repair and suitable for the ferry, and give ready attendance on the passengers, according to the regulations established by the council. R.S., c. 168, s. 3.

**Offence**

**4** Every ferry operator who

- (a) does not comply with any regulation established by the council;
- (b) takes more than the established rate of ferriage;
- (c) fails to keep safe and good boats or vessels; or
- (d) fails to give ready attendance to passengers,

is for each such offence liable to a penalty of not less than two dollars nor more than eight dollars, and to an action for damages by any person injured by such non-compliance, failure or omission. R.S., c. 168, s. 4.

**Unlawful ferrying**

**5 (1)** When a ferry has been established and the ferry operator licensed, if any other person carries over the harbour, bay, river or creek whereon the ferry is established, any person, cattle or carriage for hire, unless by consent of the licensed ferry operator, or on the ferry operator not giving due attendance, such person is for every offence liable to a penalty of not less than one dollar nor more

than four dollars and in default of payment to imprisonment for not less than five days nor more than 10 days.

(2) If the licensed ferry operator does not give attendance pursuant to the regulations, then any other person may supply the ferry operator's place and receive pay, as if licensed, until another ferry operator is appointed.

(3) The penalty imposed by this Section may not be collected from any ferry operator receiving government aid. R.S., c. 168, s. 5.

**Jurisdiction over certain ferries**

6 (1) Notwithstanding this Act or any other Act of the Legislature, the council of any municipality does not have any power or jurisdiction with respect to

(a) the ferry from Grand Narrows to Iona, in the Island of Cape Breton;

(b) the ferry at Little Narrows, in the Island of Cape Breton;

(c) the ferry at Englishtown, in the Island of Cape Breton;

(d) the ferry from Gabarus to Louisbourg, in the Island of Cape Breton;

(e) the ferry at Petite Passage, Tiverton to Mainland, in the County of Digby;

(f) the ferry at Grand Passage, Freeport to Westport, in the County of Digby;

(g) the ferry at LaHave Mouth, west to east side, in the County of Lunenburg;

(h) the ferry at Chester to Tancook Islands in the County of Lunenburg;

(i) the ferry at Country Harbour, west to east side, in the County of Guysborough;

(j) the ferry at Caribou to Pictou Island in the County of Pictou.

(2) The Governor in Council has with respect to these ferries all the power and jurisdiction that any council of a municipality has with respect to ferries.

(3) The Governor in Council, if the Governor in Council considers it expedient, may operate and maintain any of these ferries and charge and collect ferriage at such rates as the Governor in Council thinks proper.

(4) The expenses of operating and maintaining these ferries must be defrayed out of the revenue derived from such ferries and in case such revenue is in any year insufficient the deficiency is payable out of the Provincial Highway Fund. R.S., c. 168, s. 6.

CHAPTER F-16

**An Act Respecting  
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**Short title**

**1** This Act may be cited as the *Finance Act*. 2010, c. 2, s. 1.

**Interpretation**

**2** In this Act,

“appropriated entity” means any entity that receives an appropriation;

“appropriation” means an authorization under an Appropriations Act for an expenditure of money or incurrence of an expense;

“borrowing” means the raising of money through the incurrence of debt by any means, including loans and the issue and sale of debentures or other securities;

“Crown corporation” means any body corporate conferred such status pursuant to this or any other Act of the Legislature;

“department” means any department, office or other entity established under the *Public Service Act*;

“Department” means the Department of Finance and Treasury Board;

“Deputy Minister” means the Deputy Minister of Finance and Treasury Board;

“directors” includes commissioners, governors and other officials of any body corporate with comparable responsibilities;

“Estimates” means the estimates of prospective revenues, expenses and capital expenditures for a fiscal year submitted to the House of Assembly in accordance with its *Rules and Forms of Procedure*;

“financial transaction” means a contractual arrangement between a member of the Government Reporting Entity and a third party that establishes a payment obligation by the member in exchange for goods, services or tangible capital assets;

“fiscal year” means the period from and including April 1st in one year to and including March 31st in the next year, unless otherwise prescribed by the Minister;

“foreign currency exposure” means the proportion of foreign-currency-denominated public debt and Canadian-denominated public debt converted to a foreign currency expressed relative to the public debt;

“former Act” means Chapter 365 of the Revised Statutes, 1989, the *Provincial Finance Act*;

“General Revenue Fund” means the aggregate of all public money that is on deposit to the credit of the Minister;

“government business enterprises” mean those entities categorized as government business enterprises by the Minister and set out annually in the consolidated financial statements of the Province;

“government partnership arrangements” mean those entities categorized as government partnership arrangements by the Minister and set out annually in the consolidated financial statements of the Province;

“Government Reporting Entity” means the aggregate of all organizations that are part of or controlled, for accounting purposes, by the Province and includes departments, governmental units, government business enterprises, government partnership arrangements and Crown corporations and, for greater certainty, does not include a university to which the *Universities Accountability and Sustainability Act* applies;

“governmental units” mean those entities categorized as government units by the Minister and set out annually in the consolidated financial statements of the Province;

“Minister” means the Minister of Finance and Treasury Board;

“net debt obligation” means

(a) a liability that increases the net debt of the Province, including a borrowing, a capital lease, a contractual obligation to acquire a tangible capital asset and a payroll rebate; or

(b) a contingent liability that may increase the net debt of the Province or that incrementally increases financial risk to the Province, including a guarantee, an indemnity and a comfort letter,

incurred by a member of the Government Reporting Entity in favour of a third party that in total cannot be accommodated in the existing appropriation or other authority of the member;

“operating obligation” means a commitment between an appropriated entity and a third party that establishes expenses for a future fiscal year, including an operating lease and a fee for service contract;

“Province” means the Crown in right of the Province of Nova Scotia;

“Public Accounts” means the consolidated financial statements referred to in Section 58;

“public debt” means all outstanding borrowing made pursuant to this Act or made before August 1, 2010;

“Public Debt Management Fund” means the fund continued pursuant to this Act;

“public money” means all money belonging or payable to, or received, collected or held by, for or on behalf of, the Province, and includes revenue of the Government Reporting Entity and money raised on the credit of the Province, but does not include trust funds;

“securities” includes bonds, notes, deposit certificates, non-interest bearing certificates, debentures, treasury bills, treasury notes, commercial paper or other evidences of indebtedness, shares and stock and any documents commonly known as securities;

“sinking fund” means assets and their earnings to be used for the retirement of public debt, and includes the Public Debt Management Fund;

“special purpose fund” means public money designated by the Minister as a special purpose fund in accordance with this Act;

“trust fund” means money set aside as a trust for the benefit of a third party and held by the Province separate and apart from the General Revenue Fund, and includes the Public Service Superannuation Fund. 2010, c. 2, s. 2; 2014, c. 34, s. 8; 2021, c. 6, s. 7.

## APPLICATION AND PRINCIPLES

### Effect of designation or authorization

**3** Where a power to designate a person or to authorize a person to do an act or thing is given under this Act, the designation or authorization may be by the person’s name, title or office, and, where a title or office is designated or authorized, the designation or authorization applies to every person holding the office or appointed to that title or office while that person holds that title or office. 2010, c. 2, s. 3.

### Conflict with this Act

**4** Where there is a conflict between this Act and any other Act of the Legislature, this Act prevails unless the other Act provides that the other Act or a provision of it applies notwithstanding this Act. 2010, c. 2, s. 4.

### Responsible fiscal management

**5 (1)** The Province shall pursue its policy objectives in accordance with the principles of responsible fiscal management.

**(2)** The principles of responsible fiscal management include

(a) achieving and maintaining Provincial net debt at prudent levels, taking into consideration its impact on the sustainability of government programs and services for future years;

(b) managing prudently the fiscal and financial risks facing the Province;

(c) managing the financial investment portfolios of the Province in a sound and efficient manner;

(d) pursuing policies that are consistent with achieving a reasonable degree of predictability about the level and stability of tax rates, programs and services for future years; and

(e) maintaining a fiscal decision-making system that is rational, fair, efficient, credible, transparent and accountable. 2010, c. 2, s. 5.

## ORGANIZATION

**Seal**

**6** (1) The Governor in Council may authorize a seal for the Department and may modify the seal and prescribe its use on documents.

(2) The seal may be reproduced by engraving, printing, electronic reproduction or any other method of reproduction and, when so reproduced, has the same force and effect as if it were manually affixed. 2010, c. 2, s. 6.

**Minister responsible for Act**

**7** (1) The Minister is responsible for the management and administration of this Act.

(2) The Minister may issue directives as the Minister considers necessary with respect to the authority given to the Minister by this Act. 2010, c. 2, s. 7.

**Minister may delegate**

**8** (1) The Minister may, in writing, in a general or particular case, delegate to any employee of the Department any duty, act or function that the Minister is required or permitted to do pursuant to Section 19, 36, 37, 38, 45 or 49 or by order of the Governor in Council.

(2) An act or thing done or document or instrument executed or signed pursuant to an authorization given pursuant to this Section has the same effect as if the act or thing were done or the document or instrument were executed or signed by the Minister. 2010, c. 2, s. 8.

**Trust fund**

**9** (1) No trust fund may be created using public money without the approval of the Minister.

(2) The Minister has oversight of the creation of any trust fund established using public money.

(3) Where the Minister is the trustee of a trust fund, and there are no terms and conditions specifying how the trust fund is to be invested, the Minister may invest trust funds as set out in this Act. 2010, c. 2, s. 9.

**Special purpose fund**

**10** The Minister may, with the approval of the Governor in Council, designate any money or fund as a special purpose fund and has oversight of the setting of the terms and conditions of the special purpose fund, including which minister has ongoing responsibility for the special purpose fund. 2010, c. 2, s. 10.

**Financial management and General Revenue Fund**

**11** (1) The Minister has responsibility for the financial management of the General Revenue Fund and related activities including

(a) the establishment of aggregate-expense and capital-expenditure targets and borrowing requirements as the Minister considers necessary for the Province's financial planning;

(b) the monitoring of appropriations against actual expenses, prospective capital expenditures and other contractual obligations and revenues throughout the fiscal year;

(c) the establishment of the consolidated fiscal plan and accounting policies for use in financial administration;

(d) the monitoring of the financial management systems of departments to ensure that they are consistent with the Province's financial management processes;

(e) notwithstanding any other enactment, the development and implementation of financial management systems for departments if necessary; and

(f) investigation of any matter relating to the receipt and disbursement of public money.

(2) The Minister shall act generally with a view to promoting economy, efficiency and cost effectiveness in the public service.

(3) The Minister shall act upon any matter relating to the financial management of the General Revenue Fund as may be referred to the Minister by the Governor in Council.

(4) The Minister shall determine financial accountability rules and establish financial performance measurements that must be reported upon by the departments as directed by the Minister and used to assess the ongoing financial management of departments. 2010, c. 2, s. 11.

#### **Deputy Minister**

12 (1) Under the direction of the Minister, the Deputy Minister shall

(a) supervise the administration and management of the Department; and

(b) perform such duties as the Minister assigns to the Deputy Minister.

(2) The Deputy Minister is entitled to require and receive from a member of the Government Reporting Entity such information and explanations as the Deputy Minister considers necessary for the proper performance of the Deputy Minister's duties and has free access, at all times, to the books of account and other documents relating to the accounts of any member of the Government Reporting Entity.

(3) The Deputy Minister shall determine the method of keeping all accounts of the Province and the selection of the books of accounts and the forms used therein. 2010, c. 2, s. 12.

## PUBLIC MONEY — RECEIPTS, REMISSIONS AND INVESTMENTS

**Deposits, expenditures and accounts**

**13 (1)** All money received by the Minister must be deposited to the credit of the Minister in the General Revenue Fund or the appropriate trust fund.

**(2)** Except as otherwise provided, where any expenditure of money or incurrence of an expense is authorized by an Act of the Legislature, such expenditure of money or incurrence of an expense may be charged to or made from the General Revenue Fund.

**(3)** The Minister shall establish accounts with such banks as the Minister designates for the deposit of public money. 2010, c. 2, s. 13.

**Duty of person receiving public money**

**14** Every person employed in the collection or management or charged with the receipt of public money shall

(a) deposit it to the credit of the account of the Province at such places, in such manner and at such times as the Deputy Minister directs;

(b) keep a record of receipts and deposits thereof in such form and manner as the Deputy Minister directs; and

(c) account for the public money in such manner and at such times as the Deputy Minister directs. 2010, c. 2, s. 14.

**Interest on debt owed to Province**

**15 (1)** Where no provision is made in an enactment or agreement respecting the payment of interest on any receivables and debts due to the Province, interest is payable, commencing on the 30th day after the receivable or debt is due and owing, at the prime rate for Canadian-dollar commercial loans in Canada plus three per cent, compounded monthly.

**(2)** The interest rate referred to in subsection (1) must be determined quarterly on January 1st, April 1st, July 1st and October 1st of each year.

**(3)** Notwithstanding subsection (1), the Minister may waive the payment of interest or prescribe a lower rate of interest than that referred to in subsection (1). 2010, c. 2, s. 15.

**Government Reporting Entity sale of real property**

**16** Where a member of the Government Reporting Entity sells real property for monetary consideration, the net monetary proceeds of the sale must, notwithstanding any enactment, be deposited into the General Revenue Fund. 2010, c. 2, s. 16.

**Remission of tax, penalty or other debts**

**17 (1)** The Governor in Council may remit any tax or penalty, including any interest paid or payable thereon, if the Governor in Council considers that the collection of the tax or the enforcement of the penalty is unreasonable or unjust or that it is otherwise in the public interest to remit the tax or penalty.

(2) Notwithstanding subsection (1), the Minister may remit any tax or penalty, including any interest paid or payable thereon, if the amount of the tax or penalty is in the aggregate, \$10,000 or less per person and the Minister considers that the collection of the tax or the enforcement of the penalty is unreasonable or unjust or that it is otherwise in the public interest to remit the tax or penalty.

(3) The Governor in Council may remit any other debt not referred to in subsection (1), including any interest paid or payable thereon, if the Governor in Council considers that the collection of the other debt is unreasonable or unjust or that it is otherwise in the public interest to remit the other debt.

(4) A remission pursuant to this Section may be total or partial or conditional or unconditional and may be granted

(a) before, after or pending any suit or proceeding for the recovery of the tax, penalty or other debt in respect of which the remission is granted; and

(b) with respect to a tax or other debt, in any particular case or class of cases and before the liability for it arises.

(5) A remission pursuant to this Section may be granted by

(a) forbearing to institute a suit or proceeding for the recovery of the tax, penalty or other debt in respect of which the remission is granted;

(b) delaying, staying or discontinuing any suit or proceeding already instituted;

(c) forbearing to enforce, staying or abandoning execution or process on any judgment;

(d) the entry of satisfaction on any judgment; or

(e) repaying any sum of money paid to or recovered by the Minister for the tax, penalty or other debt.

(6) Where a remission is granted pursuant to this Section subject to a condition and the condition is not fulfilled, the tax, penalty or other debt may be enforced, or all proceedings may be had, as if there had been no remission.

(7) A conditional remission, on fulfilment of the condition, and an unconditional remission have effect as if the remission were made after the tax, penalty or other debt in respect of which it was granted had been sued for and recovered.

(8) Where a penalty imposed by any law relating to amounts owed to the Province has been wholly and unconditionally remitted pursuant to this Section, the remission has the effect of a pardon for the offence for which the penalty was incurred, and thereafter the offence has no legal effect prejudicial to the person to whom the remission was granted. 2010, c. 2, s. 17.

**Source of payment of remissions and reporting**

**18** Remissions granted pursuant to this Act may be paid out of the General Revenue Fund and must be reported in the Public Accounts for the fiscal year it is paid in such form as the Minister may direct. 2010, c. 2, s. 18.

**Investment of money of the General Revenue Fund and trust funds**

**19 (1)** Subject to the regulations, the Minister may invest money of the General Revenue Fund, and any trust funds for which no investment provision has otherwise been made, in accordance with this Section.

**(2)** Subject to the regulations, the Minister shall, for the sound and efficient management of the General Revenue Fund and any trust funds referred to in subsection (1), 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. 2010, c. 2, s. 19.

## CONTROL OF PUBLIC MONEY

**Condition of payment from General Revenue Fund**

**20** No payment out of the General Revenue Fund may be made except under the authority of an Act of the Legislature. 2010, c. 2, s. 20.

**Control of issue of money from General Revenue Fund**

**21 (1)** The Deputy Minister has the direction and control of all issues of public money out of the General Revenue Fund.

**(2)** When it becomes apparent to the minister responsible for an appropriated entity that spending authority is insufficient to carry on the operations of the appropriated entity, that minister shall notify the Deputy Minister in writing of that fact and that minister shall not permit the entering into of any new contractual obligation or other commitment without additional spending authority.

**(3)** The Deputy Minister, or an employee of the Department designated by the Deputy Minister, shall ensure that there is sufficient spending authority available for the specified purpose before the issue of public money out of the General Revenue Fund.

**(4)** The Deputy Minister may direct to which appropriation, account or classification any revenue, expense or capital expenditure must be charged.

**(5)** Subject to subsection (6), the Deputy Minister may require that certain documents, certified in such manner as the Deputy Minister sees fit, accompany any request for an issue of public money out of the General Revenue Fund.

**(6)** The Deputy Minister shall not authorize a payment out of the General Revenue Fund until the Deputy Minister is satisfied that the proposed payment has been examined and certified by the head of the applicable appropriated entity, or by some authorized official of such entity, and the request for payment so

certified must be retained by the applicable appropriated entity as a document for such payment. 2010, c. 2, s. 21.

#### **Governor in Council may authorize and require payments**

**22** Where

- (a) any sum of money is directed by the judgment of a court of competent jurisdiction or the award of arbitrators having authority or other lawful authority to be paid by the Province;
- (b) no appropriation has been made for it; and
- (c) there is no other legislative authority for the payment of the sum,

the Governor in Council may, notwithstanding Section 20, authorize and require the Minister to pay the sum out of the General Revenue Fund. 2010, c. 2, s. 22.

#### **Accountable advance**

**23 (1)** On the application of the head or deputy head of a department, the Minister may authorize an accountable advance to public servants out of the General Revenue Fund for the purpose of making a disbursement for moving or training expenses or other contingencies or of making payment on account of expenses to be incurred.

**(2)** An advance to public servants for which an accounting has not been made at the termination of the fiscal year in which it was made must be accounted for or repaid within such time as may be determined by the Minister in any particular case. 2010, c. 2, s. 23.

#### **Settlement of claim by or against Province**

**24 (1)** Where a person has an obligation or debt due to the Province or the Province has a claim against a person, the Governor in Council may, subject to any other Act affecting such obligation, debt or claim, direct the Minister to negotiate and accept a settlement in payment and satisfaction of such obligation, debt or claim, or to determine that any such obligation, debt or claim is not collectable, write off any loss incurred in any such settlement or determination and charge it to the General Revenue Fund.

**(2)** Where the Province has an obligation or debt to a person or a person has a claim against the Province, the Attorney General may, subject to any other Act affecting such obligation, debt or claim, negotiate and make a settlement in payment and satisfaction of such obligation, debt or claim and the Minister may charge any payment made to effect the same to the General Revenue Fund. 2010, c. 2, s. 24.

#### **Guarantee**

**25** Where by or under an Act of the Legislature a guarantee has been given by or on behalf of the Province for the payment of a debt or obligation, any amount required to be paid by the terms of the guarantee may, subject to the Act authorizing the guarantee, be paid out of the General Revenue Fund. 2010, c. 2, s. 25.

**Payment of expenditure pending appropriation**

**26 (1)** After the end of a fiscal year, and subject to any restriction imposed by the Governor in Council, pending the granting of appropriations for the then current fiscal year by the Legislature, the expenditure of money or the incurrence of expenses corresponding to each of the appropriations set out in the Appropriations Act for the immediately preceding fiscal year is deemed to be authorized if

(a) such authority is limited to 50% of the previous year's appropriation; and

(b) the program or activity for which the authority is required is considered by the head of the appropriated entity to be ordinary and usual.

**(2)** Where it becomes apparent to the head of the appropriated entity that the authority under subsection (1) will be exhausted before the granting of appropriations for the then current fiscal year by the Legislature, a special warrant pursuant to this Act must be requested.

**(3)** All expenditures of money and expenses incurred under authority of this Section must be included in the appropriations contained in the immediately following Appropriations Act. 2010, c. 2, s. 26.

**Additional appropriation**

**27 (1)** An additional appropriation must be obtained when it becomes apparent to the head of an appropriated entity that its appropriation for the fiscal year is insufficient to carry out the purpose of the appropriation.

**(2)** Where it has been determined that an additional appropriation is required, the head of the appropriated entity shall submit a report of that fact to the Minister and shall in such report estimate the additional amount required to carry out the program or activity.

**(3)** Upon receipt of a report pursuant to subsection (2), the Minister may make a report to the Governor in Council showing the need for the additional appropriation and the Governor in Council may order that such additional amount as the Governor in Council considers necessary be authorized accordingly.

**(4)** An additional appropriation must not be requested and may not be made for a new program or activity that has not previously been included in the Estimates for a fiscal year.

**(5)** The Minister shall, within 15 days of the obtaining of an order in council pursuant to subsection (3), table the order in the House of Assembly if the House is then sitting or, where it is not then sitting, file the order with the Clerk of the Assembly. 2010, c. 2, s. 27.

**Final appropriation**

**28 (1)** A final additional appropriation for year end adjustments must be requested by the head of an appropriated entity to the Minister when it has been determined that the entity's appropriation and any additional appropriations received by it are insufficient.

(2) The head of the appropriated entity shall submit a report of that fact to the Minister and shall report the additional amount required.

(3) Upon receipt of a report pursuant to subsection (2), the Minister may make a report to the Governor in Council showing the need for the final additional appropriation and the Governor in Council may order that such additional amount as the Governor in Council considers necessary be authorized accordingly.

(4) The Minister's report under subsection (3) must be made to Governor in Council no later than 15 days after the date of the tabling of the Public Accounts.

(5) The Minister shall, within 15 days of the obtaining of an order in council pursuant to subsection (3), table the order in the House of Assembly if the House is then sitting or, where it is not then sitting, file the order with the Clerk of the Assembly. 2010, c. 2, s. 28.

### Special warrant

29 (1) A special warrant may be requested by the head of an appropriated entity only if it appears that the expenditure of money or the incurrence of an expense is urgently and immediately required for the public good and either

(a) was not provided for by the Legislature in the Appropriations Act, and is a new program or activity for which funds have not previously been provided; or

(b) the authority for such expenditure or expense under Section 26 will be exhausted before the granting of appropriations for the then current fiscal year by the Legislature.

(2) A request pursuant to subsection (1) must include a report to the Minister estimating the amount of the necessary expenditure or expense.

(3) Upon receipt of such report, the Minister may make a report to the Governor in Council that the expenditure or expense is in accordance with subsection (1), and the Governor in Council may issue a special warrant authorizing the expenditure or expense to be charged to the General Revenue Fund.

(4) A special warrant pursuant to this Section may not be issued when the Legislature is in session unless the House of Assembly has not sat for any of the five days immediately preceding the issue of the special warrant. 2010, c. 2, s. 29.

### Suspension of right to commit

30 Upon the recommendation of the Minister, the Governor in Council may order the suspension for such period as the Minister considers fit of the right to commit any appropriation or part thereof except the salaries, wages and expenses of members of the public service or the indemnities, salaries and expenses paid pursuant to the *Executive Council Act* or the *House of Assembly Act*. 2010, c. 2, s. 30.

## BORROWING AND LIABILITIES

**Authorized only**

**31** No money may be borrowed by a member of the Government Reporting Entity except as authorized by this Act, an Appropriations Act or another Act of the Legislature. 2010, c. 2, s. 31.

**Powers of Minister**

**32** The Minister may do, or authorize any person to do, all acts, matters and things relating to any borrowing as the Minister considers necessary to comply with the laws of any national or subnational jurisdiction. 2010, c. 2, s. 32.

**Claim on General Revenue Fund**

**33** All borrowing contracted by the Province under Sections 36 and 37 and the interest and other charges in respect of such borrowing are a claim on the General Revenue Fund. 2010, c. 2, s. 33.

**Deposit of proceeds**

**34** The proceeds of all borrowing must be deposited by the Minister to the General Revenue Fund. 2010, c. 2, s. 34.

**Annual borrowing plan**

**35 (1)** An annual borrowing plan must be prepared by the Minister and submitted to Governor in Council for approval at least once in each fiscal year.

**(2)** The annual borrowing plan must be an estimate of the amounts to be raised under Section 36 in that fiscal year.

**(3)** No borrowing may be concluded by the Minister under Section 36 unless in accordance with the then current annual borrowing plan. 2010, c. 2, s. 35.

**Term greater than 365 days**

**36 (1)** Where an Appropriations Act gives authority to the Minister to borrow any sum of money by any means and from any source, for a term greater than 365 days, the Minister may borrow such sum, in whole or in part, by any means, from any source and on such terms as the Minister determines.

**(2)** Where it has been determined that the amount authorized pursuant to subsection (1) and an Appropriations Act is insufficient to carry out the purpose of the Appropriations Act, the Minister shall prepare an additional borrowing plan which must be submitted with a report and recommendation to the Governor in Council.

**(3)** Upon receipt of the additional borrowing plan and report and recommendation pursuant to subsection (2), the Governor in Council may authorize the Minister to borrow any sum of money up to the amount shown in the additional borrowing plan, for a term greater than 365 days, and the sum of money ordered must be added to the amount the Minister is authorized to borrow pursuant to subsection (1).

(4) The bonds, debentures and other securities of the Province are subject to any provisions as to the registration, transfer and management thereof as the Minister may prescribe, including registration and transfer in a register kept in Canada or in any foreign country at such places and by such banks, officers or persons as the Minister may prescribe. 2010, c. 2, s. 36; 2021, c. 6, s. 8.

**Term 365 or fewer days**

37 The Minister may borrow, by any means and from any source, for a term of 365 or fewer days, any sum of money as the Minister considers necessary for the immediate and short-term needs of the Province, and such sums may be borrowed on terms as the Minister determines. 2010, c. 2, s. 37.

**Seal not required**

38 Notwithstanding any other enactment, the Minister may with or without the seal of the Department execute any documents as the Minister considers necessary to secure borrowing authorized by any enactment. 2010, c. 2, s. 38.

**Minister determines form of securities**

39 The Minister may provide for the form and manner of executing securities with or without the seal of the Department, and that any signature upon securities and the coupons attached thereto or upon either of them may be printed or otherwise reproduced. 2010, c. 2, s. 39.

**Absolute holder of security**

40 The Province, or any officer or agent of the Province, is entitled to treat the registered holder of any security as the absolute holder thereof and is not bound to recognize any equitable or other claim to or interest in any security or to be satisfied with respect to the execution of any trust expressed or implied to which such security may be subject. 2010, c. 2, s. 40.

**Registration of securities**

41 The Governor in Council may designate one or more persons to perform such services in respect of the registration of securities as the Governor in Council prescribes. 2010, c. 2, s. 41.

**Recital by Minister is authority**

42 A recital or declaration by the Minister as to available borrowing authority is conclusive evidence of that authority. 2010, c. 2, s. 42.

**Borrowing in foreign currency**

43 (1) Where authority is given to borrow money under Section 36 or 37, that authority authorizes the borrowing of an equivalent amount in the currency of any country other than Canada.

(2) Where a borrowing takes place in accordance with subsection (1), the equivalent amount of the currency of a country other than Canada in Canadian dollars must be calculated in accordance with the nominal rate of exchange between the Canadian dollar and the currency concerned as quoted by the Bank of Canada at its closing on the business day on which the borrowing was

executed or, where such rate is not available, the immediately preceding day for which the Bank of Canada provided the relevant exchange rate.

(3) The Minister may appoint one or more resident agents in any national or subnational jurisdiction, and may grant to such agent or agents the powers, rights and authorities as may be required in connection with the sale of a loan or the issue, registration, transfer or sale of any securities. 2010, c. 2, s. 43.

#### **Reduction in foreign currency borrowings**

44 (1) Unless the foreign currency exposure of the public debt is less than 20%, no further transactions that increase foreign currency exposure may be executed.

(2) No borrowing in a foreign currency may be executed that cause the foreign currency exposure of the public debt to exceed 20%. 2010, c. 2, s. 44.

#### **Redemption and purchase of securities**

45 (1) Where not otherwise authorized in accordance with the borrowing's terms, the Governor in Council may authorize the Minister to redeem in advance of maturity, purchase, pay, refund or renew the whole or any part of an issue of securities of the Province.

(2) Where the Governor in Council has authorized the Minister to redeem in advance of maturity, purchase, pay, refund or renew the whole or any part of an issue of securities of the Province, the Governor in Council may authorize the Minister to

(a) borrow any money necessary for those purposes or any one of them; or

(b) issue securities of the Province in exchange for, substitution or renewal of the original securities.

(3) Where a security of the Province has been acquired pursuant to this Section or through investment in a sinking fund or investment fund, the security may be cancelled and, in that case, may not be reissued and the obligation of the Province under it is extinguished.

(4) This Section does not authorize the Governor in Council or the Minister to require the surrender or sale of any security otherwise than in accordance with its terms.

(5) Within 20 days after the commencement of every session of the House of Assembly, the Minister shall lay before the House a report setting out particulars of all acts done by the Minister under the authority of this Section since the date of the Minister's last report. 2010, c. 2, s. 45.

#### **Guarantees**

46 (1) Where, pursuant to any Act, the Province has guaranteed the payment of any debt or obligation, the Minister may borrow such amount as is necessary to discharge the liability resulting from the guarantee and such borrowing

may be in addition to the limit set out in the annual borrowing plan referred to in Section 35.

(2) Where in any Act of the Legislature a member of the Government Reporting Entity is authorized or empowered to make a loan or give financial assistance to any person, the member of the Government Reporting Entity may, in lieu of the exercise of the authority or power, guarantee the repayment of any loan made or financial assistance given to the person. 2010, c. 2, s. 46.

#### **Destruction of Provincial bonds**

47 The Minister may, after the date of payment or cancellation, authorize the destruction of bonds, debentures, coupons, treasury bills or other securities of the Province. 2010, c. 2, s. 47.

#### **Loss of securities**

48 In the event of the loss of any securities or interest coupons thereon by a holder thereof, the Minister may pay the amount thereof out of the General Revenue Fund and may require an indemnity against loss in respect of such payment and such other documents as the Minister considers necessary. 2010, c. 2, s. 48.

#### **Agreements to manage risk**

49 The Minister may enter into agreements to use financial products to manage risks in relation to the borrowing, lending or investing of public money, including

- (a) using financial products to change interest rates from fixed rates to floating rates or floating rates to fixed rates;
  - (b) exchanging foreign currencies to Canadian dollars or exchanging Canadian dollars to foreign currencies; and
  - (c) exchanging any foreign currency for another foreign currency.
- 2010, c. 2, s. 49.

#### **Sinking funds**

50 The Governor in Council may provide for the creation, maintenance and management of sinking funds. 2010, c. 2, s. 50.

#### **Public Debt Management Fund**

51 (1) The Public Debt Management Fund is continued for the purchase or sale of securities by the Minister for the sound and efficient management of the public debt.

(2) The Governor in Council may direct the Minister to pay into the Public Debt Management Fund such sums as the Governor in Council considers necessary.

(3) The Minister may pay out of the Public Debt Management Fund such sums as the Minister considers necessary to pay or retire debentures, securities or other debt instruments of the Province. 2010, c. 2, s. 51.

**Government Reporting Entity**

**52** Notwithstanding any other enactment, but subject to Section 72, no member of the Government Reporting Entity may mortgage, pledge, charge, or otherwise create a security interest in any asset or undertaking, present or after-acquired, of the Government Reporting Entity, except upon such terms and conditions as are approved by the Governor in Council upon the recommendation of the Minister. 2010, c. 2, s. 52.

**Where loan authorization not required**

**53** Where the Governor in Council has authorized a loan and it subsequently is established that the whole or part of the loan authorization is not required for the purpose for which it was authorized, the Minister may cancel the whole or the part of the loan authorization not required. 2010, c. 2, s. 53.

## ESTIMATES, PUBLIC ACCOUNTS AND REPORTING

**Estimates**

**54 (1)** The Minister shall, at least annually, examine, advise upon and compile the Estimates.

**(2)** The Estimates must contain

(a) the proposed appropriations that are to be voted on by the House of Assembly and will form the basis of the subsequent Appropriations Act; and

(b) any other amounts permitted or required to be paid out of the General Revenue Fund pursuant to this or any other Act that are not required to be voted on by the House of Assembly.

**(3)** The Estimates must be prepared under the direction of the Deputy Minister. 2010, c. 2, s. 54.

**Province's business plan**

**55** The Minister shall, at the time the Minister tables the Estimates for a fiscal year in the House of Assembly, table the Province's business plan and, as the Minister considers appropriate, business plans that have been prepared by any member of the Government Reporting Entity. 2010, c. 2, s. 55.

**Consolidated fiscal plan**

**56 (1)** The Minister shall prepare a four-year consolidated fiscal plan for the Province.

**(2)** The Minister shall table the consolidated fiscal plan in accordance with subsection (1) at the time the Minister tables the Estimates for a fiscal year in the House of Assembly.

**(3)** The consolidated fiscal plan must include

(a) fiscal projections for the four-year period;

(b) the major economic assumptions the Minister made in preparing the plan, including the effect that changes in the assump-

tions may have on the finances of the Province in the fiscal period to which the plan relates; and

(c) such other information as the Minister considers appropriate. 2010, c. 2, s. 56.

#### **Financial reports on state of public finances**

**57 (1)** The Minister shall submit financial reports on the state of the public finances for a fiscal year to the House of Assembly in accordance with the following schedule:

(a) on or before September 30th of the fiscal year to which the report relates;

(b) on or before December 31st of the fiscal year to which the report relates;

(c) as part of the Estimates tabled in the House of Assembly for the following fiscal year; and

(d) as part of the Public Accounts prepared respecting the fiscal year.

**(2)** The Minister shall table the reports referred to in subsection (1) in the House of Assembly if the Assembly is then sitting or, where it is not then sitting, with the Clerk of the Assembly. 2010, c. 2, s. 57.

#### **Public Accounts**

**58 (1)** The Deputy Minister shall prepare for each fiscal year consolidated financial statements called the "Public Accounts", as soon as practicable after the end of the fiscal year and shall submit them to the Minister.

**(2)** The Public Accounts must show for the Government Reporting Entity

(a) a statement of financial position;

(b) a statement of operations and accumulated surpluses or deficits;

(c) a statement of change in net debt;

(d) a statement of cash flow;

(e) the amounts authorized by the Governor in Council under Sections 27 and 29, together with the order in council number providing each amount and the appropriated entity to which the amounts were provided; and

(f) such other statements, supporting schedules and notes considered appropriate by the Deputy Minister.

**(3)** The Public Accounts must show for the General Revenue Fund such further details with respect to expenses as are prescribed by the regulations.

(4) The information to be included in the Public Accounts must be provided to the Deputy Minister by all members of the Government Reporting Entity. 2010, c. 2, s. 58.

#### **Minister to file Public Accounts**

59 (1) The Minister shall table the Public Accounts in the House of Assembly not later than September 30th following the end of the fiscal year to which the Public Accounts relate or, where the House of Assembly is not sitting, file the Public Accounts with the Clerk of the Assembly.

(2) Where a deficit has occurred, the Minister shall table, as part of the Public Accounts, a report setting out the amount of the deficit and the reasons why it occurred. 2010, c. 2, s. 59.

#### **Accountability report**

60 (1) The Minister shall prepare an accountability report approved by the Treasury Board for each fiscal year.

- (2) The report prepared pursuant to subsection (1) must include
- (a) information that shows outcomes against the business plan for that fiscal year; and
  - (b) any other information the Minister considers appropriate.

(3) The Minister shall table the report prepared pursuant to subsection (1) in the House of Assembly not later than December 31st following the end of the fiscal year to which the report relates and, where the House is not sitting, the Minister shall file the report with the Clerk of the Assembly. 2010, c. 2, s. 60.

#### **Minister's discretion**

61 Unless otherwise specified, reporting requirements set out in this Act must be done in such manner and at such time as the Minister directs. 2010, c. 2, s. 61.

### ACCOUNTING FOR PUBLIC MONEY

#### **Accounting system**

62 The Minister shall maintain an accounting system to show

- (a) the current state of the General Revenue Fund;
- (b) revenues, expenses and expenditures of the General Revenue Fund for each fiscal year;
- (c) contractual obligations of the current fiscal year chargeable against each appropriation; and
- (d) appropriations and any additional spending authorities for each fiscal year. 2010, c. 2, s. 62.

#### **Notice and certificate for default**

63 (1) Where the Minister has reason to believe that a person

- (a) has received public money and has not paid it over;
- (b) has received public money for which the person is accountable and has not accounted for it; or
- (c) has in the person's possession or control any public money applicable to a purpose and has not applied it to that purpose,

the Minister may give notice to that person or, in the case of that person's death, to that person's personal representative, requiring payment over, accounting for or application of the money and to provide to the Minister satisfactory evidence that the person has complied with the terms of the notice.

(2) When default is made in the payment, accounting or application of public money by any person, the Minister may issue a certificate stating the amount so due, the amount remaining unpaid, including interest on the amount due in accordance with subsection 15(1) from the date of the notice given under subsection (1), and the name of the person by whom it is payable, and may file the certificate with any prothonotary of the Supreme Court of Nova Scotia or a clerk of that Court and, when so filed, the certificate is of the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Court for the recovery of a debt of the amount stated in the certificate against the person named in it. 2010, c. 2, s. 63.

#### **Affidavit is evidence**

**64** Where it appears to the Minister

- (a) by the books or accounts kept by or in the office of any person employed in the collection or management of public money;
- (b) in any accounting by that person; or
- (c) by that person's written acknowledgement or confession,

that that person has, by virtue of that person's office or employment, received public money and has neglected or refused to pay it over to the proper persons at the proper times, an affidavit deposing to these facts made by any person having knowledge of them, is, in any proceedings for the recovery of the money, admissible as evidence of the facts stated in the affidavit. 2010, c. 2, s. 64.

#### **Set-off by Province of debt**

**65 (1)** Where, in the opinion of the Minister, a person is indebted to the Province, including as a result of an overpayment, in any specific sum of money, the Minister may retain by way of deduction or set-off the amount of the indebtedness out of any sum of money that is or may be due and payable by the Province to the person.

(2) Where the Province owes money to a person and the person is directed by the judgment of a court of competent jurisdiction or an official demand made pursuant to law to pay to the Government of Canada a sum of money, the Minister may retain and pay to the Government of Canada that sum by way of deduction or set-off out of any sum that is or may be due and payable by the Province to that person. 2010, c. 2, s. 65.

**Ownership of records of public money**

**66** All books, papers, accounts and documents kept or used by or received or taken into the possession of any person who is or has been retained or employed in connection with the collection, management, disbursement or accounting of public money, by virtue of that retention or employment, belong to the Province. 2010, c. 2, s. 66.

**Remedy unaffected**

**67** Nothing in this Act affects any remedy that the Province, by virtue of any other Act or law, has for recovering or enforcing the payment or delivering of any money or property belonging to the Province and in the possession of any person or any remedy that the Province or any person has against such person or the person's sureties or against any other person. 2010, c. 2, s. 67.

## GOVERNMENT REPORTING ENTITY

**New members**

**68 (1)** Subject to an Act of the Legislature, no new member of the Government Reporting Entity may be created without the approval of the Minister.

**(2)** The Minister has oversight of the creation of any new member of the Government Reporting Entity. 2010, c. 2, s. 68.

GOVERNMENT BUSINESS ENTERPRISES,  
GOVERNMENTAL UNITS AND CROWN CORPORATIONS**Reporting requirements**

**69 (1)** Each member of the government business enterprise and governmental unit, shall provide to the minister responsible for it

- (a) annually, a budget;
- (b) annually, where directed by the minister responsible or where required under any Act, a business plan and an accountability report;
- (c) no later than June 30th in each year, audited financial statements for the fiscal year just ended; and
- (d) monthly, a forecast update detailing the financial performance of the government business enterprise or governmental unit as compared to the budget referred to in clause (a).

**(2)** Unless specified in subsection (1), the timing of submission of those reports may be directed by the Minister.

**(3)** Each government business enterprise and governmental unit shall provide to the Minister

- (a) no later than June 30th in each year, a copy of its audited financial statements for the fiscal year just ended; and
- (b) such other information or reports as the Minister may require in connection with this Act. 2010, c. 2, s. 69.

**Financial management system**

**70 (1)** A government business enterprise or governmental unit shall submit for the Minister's approval any proposed financial management system to be used in the ongoing financial management or operation of the government business enterprise or governmental unit.

**(2)** A government business enterprise or governmental unit shall not acquire or implement any financial management system unless it has first received the Minister's written approval.

**(3)** The Minister may prescribe the financial accounting policies and procedures for a government business enterprise or a governmental unit. 2010, c. 2, s. 70.

**Crown corporation status**

**71 (1)** The Governor in Council may by order in council confer the status of a Crown corporation under this Act with respect to any body corporate meeting the following requirements:

(a) the Governor in Council is entitled to appoint and remove at least a majority of its directors;

(b) at least 90% of its outstanding voting shares are owned beneficially by one or more or any combination of the Province and other Crown corporations; or

(c) outstanding shares in its capital stock carrying at least a majority of the votes entitled to be cast at a shareholders meeting are owned beneficially by one or more or any combination of the Province and other Crown corporations.

**(2)** Crown corporation status conferred under the former Act is continued.

**(3)** The Governor in Council may in its discretion at any time revoke the status of a Crown corporation conferred under subsection (1) or continued under subsection (2). 2010, c. 2, s. 71.

**Power and capacity**

**72 (1)** Subject to the approval of the Minister, a Crown corporation has the legal power and capacity

(a) to borrow money, in any form, in or out of Canada on its own credit; and

(b) to secure its borrowing, by mortgaging, charging, pledging, or otherwise creating a security interest in any asset or undertaking, present or after-acquired,

but no Crown corporation may incur any indebtedness with an initial term greater than 365 days, without the approval of the Governor in Council, and the Governor in Council may by order in council make subject to its approval, or otherwise curtail, the exercise by a Crown corporation of any other power or capacity conferred by this subsection or subsection (2).

(2) A Crown corporation has the legal power and capacity to invest money, but only in accordance with investment policies, standards and procedures acceptable to the Minister.

(3) The Province may make loans to any Crown corporation.

(4) This Section applies to every Crown corporation notwithstanding anything to the contrary contained in any other Act or in the memorandum, articles, letters patent, bylaws or other corporate charter or constitution of such corporation, but only applies to such corporation while it is a Crown corporation. 2010, c. 2, s. 72.

### Guarantees

73 (1) The Province may, on such terms as the Governor in Council determines, guarantee the payment of any borrowing or other obligation of any Crown corporation.

(2) A Crown corporation may, on such terms as the Governor in Council determines, guarantee the payment of any borrowing or other obligation of any Crown corporation and may borrow the money necessary to discharge the liability resulting from any such guarantee. 2010, c. 2, s. 73.

### Requests to borrow

74 (1) Any government business enterprise or governmental unit with the authority to borrow may submit to the Minister a request to borrow.

(2) A request to borrow pursuant to subsection (1) must

(a) be in such form and contain information as required by the Minister;

(b) propose the borrowing on terms that are within its authority to borrow and that are satisfactory to the Minister; and

(c) be made by the minister responsible for the government business enterprise or governmental unit, or a person authorized in writing by the responsible minister.

(3) Where a government business enterprise or governmental unit submits a request under subsection (2), the Minister may, at the Minister's discretion, request approval from the Governor in Council to lend money to the enterprise or unit.

(4) The Governor in Council may authorize the Minister to lend money to a government business enterprise or a governmental unit, stating the maximum amount and the currency of the money that may be loaned under the authorization, and otherwise on terms and conditions as specified by the Governor in Council or determined by the Minister.

(5) The Minister may pay out of the General Revenue Fund amounts to be loaned under this Section.

(6) In respect of a loan under this Section, the Minister may charge such fees as the Minister considers appropriate and may deduct such fees from the proceeds of the loan.

(7) The Minister may vary the terms of a loan under this Section as the Minister considers necessary, other than the maximum amount and the currency of the loan. 2010, c. 2, s. 74.

## AGREEMENTS

### Terms

75 The Governor in Council may authorize the Minister, on behalf of the Province or any member of the Government Reporting Entity, to enter into agreements with the Government of Canada or any of its corporations, bodies or agencies concerning

- (a) borrowing;
- (b) the guaranteeing of the payment of any obligation;
- (c) the transferring of any money;
- (d) taxation, fiscal or other monetary or financial matters;
- (e) any financial assistance program. 2010, c. 2, s. 75.

## FINANCIAL OVERSIGHT AND CONTROL

### Prior approval

76 (1) Notwithstanding any enactment, power or authority that authorizes the entering into of a financial transaction, the Governor in Council may make an order

- (a) requiring that a member of the Government Reporting Entity obtain the prior approval of the Governor in Council with respect to the financial transaction or a class or classes of financial transactions;
- (b) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Section.

(2) Where the Governor in Council requires a member of the Government Reporting Entity to obtain its prior approval pursuant to clause (1)(a), that member shall prepare a report and recommendation setting out the terms, conditions and rationale for the financial transaction and requesting approval to enter into the financial transaction and forward its report and recommendation to the Minister.

(3) Where the Minister receives a report and recommendation pursuant to subsection (2), the Minister shall provide a report to the Governor in Council with respect to the following:

- (a) whether the cost of the proposed financial transaction is within the authorized limits for the member of the Government Reporting Entity for the fiscal year;

(b) the effect of the proposed financial transaction on the consolidated financial statements of the Province for the current and future fiscal years;

(c) the reasonableness and prudence of the proposed financial transaction for the purpose of avoiding undue risk of loss;

(d) such other information as considered appropriate by the Governor in Council or the Minister.

(4) The Minister shall forward the Minister's report and the report and recommendation of the member for the consideration of the Governor in Council. 2010, c. 2, s. 76.

### Report and recommendation

77 (1) Notwithstanding any enactment, power or authority, no member of the Government Reporting Entity is authorized to enter into a net debt obligation, directly or indirectly, without first forwarding to the Minister

(a) a report and recommendation setting out the terms, conditions and rationale for the net debt obligation and requesting approval to enter into the net debt obligation; and

(b) any other information the Minister requires to prepare the Minister's report referred to in subsection (2).

(2) Upon receipt of the report and recommendation, the Minister shall prepare a report on the following:

(a) the monetary limits of the net debt obligation in the current and future fiscal years;

(b) the effect of the proposed net debt obligation on the consolidated financial statements of the Province for the current and future fiscal years;

(c) the reasonableness and prudence of the proposed net debt obligation for the purpose of avoiding undue risk of loss; and

(d) any other information the Minister considers appropriate.

(3) The Minister shall, on the basis of the report and recommendation referred to in subsection (1),

(a) approve the net debt obligation if the person authorized or empowered to enter into the net debt obligation does not require the approval of the Governor in Council to do so; or

(b) forward the report and the report and recommendation for the consideration of the Governor in Council.

(4) The Governor in Council may authorize the entering into of the net debt obligation referred to in subsection (1). 2010, c. 2, s. 77.

**Treasury Board approval**

**78** Notwithstanding any enactment, power or authority, no appropriated entity is authorized to enter into an operating obligation, directly or indirectly, without first obtaining Treasury Board approval. 2010, c. 2, s. 78.

## GENERAL

**Construction and maintenance of highways**

**79** Notwithstanding Section 54 or any other enactment, the Estimates must include, for each fiscal year, an amount respecting the construction and maintenance of highways that is not less than the total of

- (a) all revenues received under Part I of the *Revenue Act*; and
- (b) all fees and fines collected under the *Motor Vehicle Act* net of all costs associated with the collection of those fees and fines. 2010, c. 2, s. 79.

**Student loans**

**80 (1)** The Minister may, subject to the regulations, make loans to students enrolled in educational programs designated in the manner and on such terms and conditions as provided by the regulations.

**(2)** The Minister may pay out of the General Revenue Fund amounts to be loaned pursuant to this Section. 2010, c. 2, s. 80.

**Interpretation of Sections 81 to 86**

**81** In this Section and Sections 82 to 86,

“Fund” means the Municipal Fund;

“municipal enterprise” means any body corporate the borrowings of which are or may be guaranteed by a municipality, any body corporate to which a municipality may lend money and any body corporate the deficit of which is or may be paid by a municipality, and includes an education entity as defined in the *Education Act*, but does not include a hospital;

“Municipal Finance Corporation” means the Nova Scotia Municipal Finance Corporation established under the former *Municipal Finance Corporation Act*;

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

“service commission” means a board, commission or corporation created by or under the authority of any Act and having power to

(a) provide, for an area or the residents of an area, services similar to one or more of those that may be provided by a municipality for its residents; and

(b) levy rates and taxes, or require a municipality or an official of a municipality to levy rates and taxes, other than or in addition to water or electricity rates fixed or approved under the *Public Utilities Act*,

and includes fire protection commissioners incorporated under the *Rural Fire District Act* or to whom that Act applies by virtue of Section 37 thereof

but does not include a municipality or an education entity as defined in the *Education Act*. 2022, c. 38, s. 15.

### **Municipal Fund**

**82 (1)** A fund to be known as the Municipal Fund is established.

**(2)** The Governor in Council may authorize the Minister to make available such sums of money from the General Revenue Fund as the Governor in Council considers necessary for the purpose of the Fund.

**(3)** All outstanding loans owing to the Municipal Finance Corporation as of August 1, 2020, are deemed to have been paid out of the Fund.

**(4)** All repayments and recoveries of principal made with respect to any transaction out of the Fund must be paid or credited to the Fund.

**(5)** A loan guarantee made under the former *Municipal Finance Corporation Act* or clause 83(b) is a charge upon the Fund in the amount of the guarantee authorized. 2022, c. 38, s. 15.

### **Powers of Minister respecting Fund**

**83** The Minister may, subject to this Act and the regulations,

(a) lend money from the Fund to municipalities and municipal enterprises and accept and receive therefrom any securities on terms acceptable to the Minister;

(b) guarantee the payment of any debt or obligation of a municipality or municipal enterprise;

(c) enter into agreements that seem conducive to lending to municipalities and municipal enterprises, including agreements with any government or authority, be it municipal, local or otherwise;

(d) sell or otherwise dispose of notes, bonds, debentures or securities contained within the Fund on such terms and conditions as the Minister considers advisable, either at the par value thereof or at less or more than the par value thereof. 2022, c. 38, s. 15.

### **Restrictions**

**84** The Minister may not accept any note, bond, debenture or security of a municipality or municipal enterprise unless

(a) all of the requirements of the *Municipal Government Act*, the *Halifax Regional Municipality Charter* and any other governing enactment have been complied with by the issuing municipality or municipal enterprise; and

(b) the issue of the note, bond, debenture or security has been approved by the Minister of Municipal Affairs and Housing. 2022, c. 38, s. 15.

### **Municipal Sinking Fund**

**85 (1)** Where a municipality is required under the *Municipal Government Act* or the *Halifax Regional Municipality Charter* to provide a sinking

fund, the sums required therefor and the interest accruing thereon may be held and administered by the Minister in trust for the municipality.

(2) The Minister may invest the sums held in trust in investments authorised under this Act.

(3) For greater certainty, Section 9 does not apply to funds held in trust under this Section. 2022, c. 38, s. 15.

### Regulations

- 86** (1) The Governor in Council may make regulations
- (a) prescribing or prohibiting the investment of money and prescribing investments or classes of investments in which such money may be invested for the sound and efficient management of the General Revenue Fund and any trust fund;
  - (b) respecting the annual Public Accounts;
  - (c) respecting the information required to accompany a request for authorization to enter into a net debt obligation;
  - (d) exempting a program, a department, a governmental unit, a government business enterprise, a financial obligation or a class or classes of financial obligations from the application of Section 77;
  - (e) respecting terms and conditions upon which a program, a department, a governmental unit, a government business enterprise, a financial obligation or a class or classes of financial obligation may be exempted from the application of Section 77;
  - (f) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of Section 79;
  - (g) designating educational programs that qualify for loans to students;
  - (h) respecting eligibility requirements for educational programs that qualify for loans to students;
  - (i) respecting eligibility requirements for students to qualify for loans;
  - (j) respecting the terms and conditions of loans to students, including the amount of any fee to be charged in respect of the loan, the rate of interest to be charged, the method of calculating interest, the terms of repayment and any security required to secure the loan;
  - (k) respecting the requirements for a note, bond, debenture or security to be accepted by the Minister, including any guarantees that a municipality may be required to give with respect to a loan to a municipal enterprise;
  - (l) respecting the process to be followed before the Minister makes a loan to a municipality or municipal enterprise;

(m) respecting the types of transactions that the Minister may enter into under Section 83;

(n) respecting short-term lending from the Fund to municipalities and municipal enterprises;

(o) respecting fees that may be charged by the Minister to municipalities and municipal enterprises with respect to the administration of loans and other activities undertaken by the Minister under Sections 82 to 85;

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

(q) concerning anything 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*. 2010, c. 2, s. 81; 2022, c. 38, s. 16.

#### TRANSITIONAL PROVISIONS

##### **Reference to former Act**

**87** Where there is a reference in an enactment to the former Act, that reference is to this Act. 2010, c. 2, s. 82.

##### **Special fund**

**88** Any “special fund” existing pursuant to the former Act continues as either a trust fund or special purpose fund, as determined by the Minister. 2010, c. 2, s. 83.

##### **Reference to Consolidated Fund**

**89** Where there is a reference in an enactment to the “Consolidated Fund”, that reference is to the “General Revenue Fund”. 2010, c. 2, s. 84.

CHAPTER F-17

**An Act to Promote  
and Encourage Fire Safety**

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

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**Short title**

**1** This Act may be cited as the *Fire Safety Act*. 2002, c. 6, s. 1.

**Purpose**

**2** The purpose of this Act is to educate and encourage persons and communities to apply the principles of fire safety so as to prevent fires, preserve human life and avoid unwarranted property loss due to the destructive forces of fire. 2002, c. 6, s. 2.

**Interpretation**

**3** In this Act,

“alteration” means alteration as defined in the regulations made pursuant to the *Building Code Act* and, for greater certainty, includes an addition;

“appoint” means appoint in writing;

“Board” means the Fire Safety Appeal Board referred to in Section 41;

“building” has the same meaning as in the *Building Code Act* and regulations;

“building inspector” means an inspector as defined in the *Building Code Act* for the municipality in which a building is, or is to be, located;

“Council” means the Fire Safety Advisory Council established pursuant to this Act;

“deputy fire marshal” means a person appointed as a deputy fire marshal pursuant to this Act;

“designate” means designate in writing;

“division” means a division of the Board as constituted pursuant to the regulations;

“electrical installation” has the same meaning as in the *Electrical Installation and Inspection Act*;

“fire” includes an explosion;

“fire brigade” means an organization that exists to perform fire-suppression and related activities, but does not include a fire department;

“fire chief” means the senior official within, and in charge of, a fire department;

“Fire Code” means the fire code adopted pursuant to this Act;

“fire department” means an organization that provides fire-suppression services and

(a) is operated by a municipality;

(b) is registered by a municipality pursuant to Section 363 of the *Municipal Government Act*; or

(c) is designated as a fire department by the regulations;

“fire hazard” means a situation, process, material or condition that

(a) on the basis of applicable data, may cause a fire or provide a ready fuel supply to augment the spread, intensity or impact of a fire; and

(b) poses a threat to property or the health or safety of a person;

“Fire Marshal” means the person appointed as the Fire Marshal pursuant to this Act;

“fire official” means, where authorized,

(a) the Fire Marshal;

(b) a deputy fire marshal;

(c) a provincial inspector;

(d) a local assistant; or

(e) a municipal fire inspector,

as the case may be;

“fire-protection system” means a fire-alarm device, fire-alarm system or fire-extinguishing device or system, or a combination thereof, that is designed and installed for detecting, controlling or extinguishing a fire or alerting occupants, the fire-suppression service, or both, that a fire has occurred;

“fire safety” means fire safety as described in Section 17;

“fire suppression” means an organized emergency response for controlling and extinguishing fires;

“former Act” means Chapter 171 of the Revised Statutes, 1989, the *Fire Prevention Act*;

“land and premises” or “land or premises” includes a part thereof and buildings, structures and things situated on, or attached to, the land or premises;

“local assistant” means a person who is a local assistant pursuant to this Act;

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

“municipal fire inspector” means a person appointed by a municipality as a municipal fire inspector pursuant to this Act;

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

“owner” includes

(a) a person controlling land or premises or the activity on the land or premises;

(b) prima facie the assessed owner of land or premises whose name appears on the assessment roll prepared in accordance with the *Assessment Act*; and

(c) where land or premises are owned or leased by the Crown in right of the Province, prima facie the Department of Public Works;

“provincial inspector” means a person designated as a provincial inspector pursuant to this Act;

“qualified” means acceptable to the Fire Marshal. 2002, c. 6, s. 3; 2014, c. 34, s. 9.

#### **Act binds provincial and federal Crown**

**4 (1)** This Act binds the Crown in right of the Province.

**(2)** This Act applies to

(a) every agency of the Government of the Province; and

(b) all matters within the legislative jurisdiction of the Province.

**(3)** To the extent that the Crown in right of Canada submits, this Act binds the Crown in right of Canada and every agency of the Government of Canada. 2002, c. 6, s. 4.

#### **Municipal bylaws**

**5 (1)** Subject to subsection (2), nothing in this Act prevents a municipality from making and enforcing bylaws relating to matters dealt with by this Act, the regulations or the Fire Code, including bylaws that impose or prescribe higher or more stringent standards or requirements than those provided for by this Act, the regulations or the Fire Code.

**(2)** Where a bylaw of a municipality conflicts with this Act, the regulations or the Fire Code, this Act, the regulations and the Fire Code prevail to the extent of the conflict. 2002, c. 6, s. 5.

#### **Act does not affect powers and duties under other laws**

**6** Subject to Section 5, nothing in this Act affects the powers, obligations and duties of persons or bodies

- (a) to comply with, carry out or enforce any other law of the Province; or
- (b) under any other law of the Province with respect to an investigation or examination into the origin, cause or circumstances of a fire. 2002, c. 6, s. 6.

**Effect of failure to identify violation or of permits**

7 For greater certainty,

- (a) the failure of a fire official to identify or communicate a violation of this Act, the regulations, the Fire Code, or any other Act or regulations that the Fire Marshal has the power and authority to enforce; or
- (b) the issuance of a building permit or an occupancy permit pursuant to the *Building Code Act*,

with respect to land or premises, or a part thereof, does not derogate from the application to the land or premises, or part thereof, of this Act, the regulations, the Fire Code, or any other Act or regulations that the Fire Marshal has the power and authority to enforce. 2002, c. 6, s. 7.

ADMINISTRATION

**Supervision and management of Act**

8 The Minister is responsible for the supervision and management of this Act and the regulations. 2002, c. 6, s. 8.

**Personnel**

9 (1) The persons necessary for the administration and enforcement of this Act and the regulations must be appointed in accordance with the *Civil Service Act*, except where this Act provides otherwise.

(2) The Minister shall designate from among those persons appointed pursuant to subsection (1), a Fire Marshal and one or more deputy fire marshals to perform the duties and functions, and exercise the powers and authorities, imposed or conferred upon them by this Act, the regulations and the Fire Code.

(3) The Fire Marshal may delegate any or all of the duties and functions of the Fire Marshal to a deputy fire marshal, including any quasi-judicial function of the Fire Marshal.

(4) The Deputy Minister of Municipal Affairs and Housing may designate one, or more than one, deputy fire marshal to act in the place of the Fire Marshal in the Fire Marshal's absence or incapacity or where the office of the Fire Marshal is vacant.

(5) A deputy fire marshal designated pursuant to subsection (4) shall perform the functions and duties, and has the powers and authorities, of the Fire Marshal, subject to any limitation determined by the Deputy Minister of Municipal Affairs and Housing. 2002, c. 6, s. 9.

**Provincial inspectors**

**10 (1)** The Fire Marshal may designate, from among those persons appointed pursuant to subsection 9(1), qualified persons as provincial inspectors who may perform the duties and functions, and exercise the powers and authorities, imposed or conferred upon deputy fire marshals by this Act, the regulations and the Fire Code, subject to any limitations determined by the Fire Marshal.

**(2)** The Fire Marshal may designate certain provincial inspectors designated pursuant to subsection (1) as inspectors or chief inspectors for the purpose of a regulation made pursuant to this Act. 2002, c. 6, s. 10.

**Powers under Criminal Code**

**11** While acting under the authority of this Act and the regulations, the Fire Marshal, deputy fire marshals and provincial inspectors have and may exercise, in any part of the Province, all the powers, authorities and immunities of a peace officer under the *Criminal Code* (Canada). 2002, c. 6, s. 11.

**Fire Safety Advisory Council**

**12 (1)** A council to be known as the Fire Safety Advisory Council is established.

**(2)** The members of the Council are appointed by the Minister, in accordance with the regulations, for such terms as the Minister determines.

- (3)** The Council may advise the Minister regarding
- (a) the administration or reform of this Act, the regulations and the Fire Code;
  - (b) promotion and support of fire safety, the fire-suppression service and fire prevention;
  - (c) matters arising from the functioning of non-profit organizations with mandates that relate to the purpose of this Act;
  - (d) any other matter, as determined by the Minister.

- (4)** The Minister, in consultation with the Council, may
- (a) create one or more subcommittees of the Council;
  - (b) appoint the members to the subcommittee; and
  - (c) determine the mandate of the subcommittee.

**(5)** For greater certainty, a person who is not a member of the Council may be a member of a subcommittee of the Council.

**(6)** The members of the Council and any subcommittees must be reimbursed for such expenses as the Minister determines. 2002, c. 6, s. 12.

**Powers and duties of Fire Marshal**

- 13 (1)** The Fire Marshal may
- (a) promote, encourage and co-operate with any body or person interested in developing and promoting the principles and prac-

tices of fire prevention and the protection of life and property against fire, including promoting, encouraging and delivering public fire-safety education programs and training and supporting and assisting others to provide public fire-safety education programs and training;

(b) advise persons or organizations interested in developing or promoting the principles and practices of fire suppression, fire prevention, fire-safety education, emergency services and related communication systems, and the delivery of those services and systems;

(c) investigate conditions under which fires occur;

(d) require such reports as the Fire Marshal considers necessary from persons authorized or required to inspect, investigate or examine;

(e) maintain in the Fire Marshal's office a statistical record of all fires reported to the Fire Marshal;

(f) collect and disseminate information with respect to fires in the Province;

(g) study methods of fire safety;

(h) make recommendations, including guidelines, respecting

(i) fire suppression, fire prevention, fire protection and the training of persons involved in the provision of these services as well as rescue and emergency services and the delivery of these services and matters related to any of them,

(ii) the establishment of fire departments and fire brigades,

(iii) the provision of adequate water supply, and

(iv) fire-hose couplings and connections for fire-fighting equipment.

(2) The Fire Marshal shall exercise such other powers and perform such duties as are assigned to the Fire Marshal

(a) pursuant to this Act, the regulations or the Fire Code;

or

(b) by the Minister.

(3) The Fire Marshal shall submit, annually to the Minister, a detailed report for the 12 months ending on March 31st, in such form as the Minister may prescribe.

(4) The Fire Marshal has the power and authority to enforce compliance with

(a) this Act, the regulations and the Fire Code; and

(b) all other Acts of the Province relating to the prevention and suppression of fires and all regulations and bylaws made thereunder, including any codes and enactments incorporated by reference therein.

(5) With the approval of the Minister, the Fire Marshal, or a person on the staff of the Fire Marshal, may

- (a) sit as a member of a board or committee of a non-profit organization with a mandate that relates to the purpose of this Act; and
- (b) represent the interests of the office of the Fire Marshal on such a board or committee.

(6) With the approval of the Minister, the Fire Marshal may assist, including providing administrative support for, the work of a non-profit organization with a primary mandate that relates to

- (a) fire prevention or fire safety;
- (b) critical incident stress debriefing provided to members of fire-suppression services and emergency personnel;
- (c) training or certification of members of fire-suppression services, fire investigators, municipal fire inspectors or local assistants, or accreditation of such training or certification programs; or
- (d) any other mandate prescribed by the regulations.

(7) The Fire Marshal may, with the approval of the Minister, contract to provide services to a municipality or other body or person.

(8) The Fire Marshal may charge a fee for the services contracted out pursuant to subsection (7) and the fee is a debt due to the Crown in right of the Province and may be recovered in the same manner as any debt due to the Crown. 2002, c. 6, s. 13.

#### **Local assistant to Fire Marshal**

**14** (1) The Fire Marshal may appoint as a local assistant to the Fire Marshal a qualified fire chief or, with the consent of the fire chief, another qualified member of the fire chief's fire department.

- (2) A fire chief shall notify the Fire Marshal, in writing, of
  - (a) the fire chief's name, mailing address and telephone number and such other information as the Fire Marshal may request; and
  - (b) the name and address of the fire department of which the person is the fire chief,

as soon as possible after the person becomes fire chief.

(3) In a municipality or part thereof for which no fire department is established, the mayor or warden, as the case may be, of the municipality is, by virtue of that person's office, deemed to be a local assistant to the Fire Marshal.

(4) Local assistants to the Fire Marshal shall, within their territorial jurisdiction and, subject to the directions of the Fire Marshal, assist in administering this Act, the regulations and the Fire Code.

(5) The Fire Marshal may appoint additional local assistants for a territorial jurisdiction, with or without restrictions, who

- (a) must be qualified persons who
  - (i) have consented to the appointment, and
  - (ii) are recommended for the appointment by a local assistant referred to in subsection (1) or (3); and
- (b) shall act on behalf of or, to the extent requested by the Fire Marshal or a local assistant referred to in subsection (1) or (3), assume the responsibility of a local assistant referred to in subsection (1) or (3).

**(6)** Where a local assistant appointed pursuant to subsection (5)

- (a) has been employed by or otherwise associated with a fire department or municipality for the purpose of assuming a role as a local assistant and the employment or association ends;
- (b) is, in the opinion of a local assistant referred to in subsection (1) or (3), no longer able to fulfill the role of a local assistant; or
- (c) has indicated an intention to resign from the office of local assistant and has not communicated this fact, in writing, to the Fire Marshal,

a local assistant referred to in subsection (1) or (3) for the territorial jurisdiction shall provide the information referred to in clause (a), (b) or (c) to the Fire Marshal, in writing, as soon as practicable.

**(7)** The Fire Marshal may revoke the appointment of a local assistant appointed pursuant to subsection (1) or (5). 2002, c. 6, s. 14.

#### MEDAL IN RECOGNITION

##### Medal for long service

**15 (1)** In recognition of a significant contribution to the protection of persons and property by a firefighter or other person involved in the provision of fire services, the Minister or a person designated by the Minister, on the recommendation of the Fire Marshal, 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 Fire Marshal, may issue a bar for further service to accompany the medal.

**(3)** A medal or bar for long service issued by the Fire Marshal before February 28, 2003, is deemed to have been issued pursuant to this Section. 2007, c. 10, s. 3.

#### FIRE SAFETY

##### Fire Code

**16 (1)** Unless otherwise provided in the regulations, the 1995 edition of the *National Fire Code of Canada* issued by the National Research Council of Canada, as amended from time to time, is adopted as the Fire Code.

vide, (2) Notwithstanding subsection (1), where the regulations so provide,

- (a) a later edition of the *National Fire Code of Canada*, published by the National Research Council of Canada;
- (b) an edition of another fire code issued by a national or international organization concerned with fire safety or an aspect of it; or
- (c) the edition of the fire code adopted in subsection (1),

in whole or in part, with or without such modifications or additions as may be specified in the regulations, as the edition adopted is amended from time to time, may be adopted by regulation as the Fire Code.

(3) Unless otherwise provided in the regulations, a reference in the Fire Code to the *National Building Code of Canada*, issued by the National Research Council of Canada, is to be read as a reference to the Nova Scotia Building Code adopted pursuant to the *Building Code Act* and regulations. 2002, c. 6, s. 15.

### Fire safety

17 Fire safety is achieved when the circumstances at land or premises are such that, through a combination of

- (a) compliance with enactments having an impact on the protection of persons and property from the occurrence or consequences of a fire;
- (b) behaviour, training and informing of persons in relation to
  - (i) the prevention of fire, and
  - (ii) measures to lessen its consequences, including the egress from, or protection of persons at, the land or premises in the event of a fire;
- (c) fire-protection systems and measures for confining fire and smoke and delaying the progress of a fire;
- (d) physical arrangements for egress or a place of safe refuge for persons to use in the event of a fire; and
- (e) emergency preparedness,

a well-informed person, taking into account the nature of the occupancy at the land or premises and the capacity of the fire department and available fire-suppression services to deal with an emergency, would have reasonable grounds to believe that

- (f) a fire that would harm a person or cause unwarranted damage to property is not likely to occur;
- (g) where a fire does occur, a person threatened by the fire, including a firefighter, will be able to survive the occurrence without physical harm, unless the person is harmed immediately by the initiation of the fire due to the person's proximity to the point of initiation; and
- (h) where a fire does occur, it will not cause unwarranted damage to property. 2002, c. 6, s. 16.

**Duty to take fire safety precautions**

**18** Unless this Act or the regulations otherwise prescribe, every owner of land or premises, or a part thereof, and every person shall take every precaution that is reasonable in the circumstances to achieve fire safety and to carry out the provisions of this Act, the regulations and the Fire Code. 2002, c. 6, s. 17.

**Submission of plans and specifications**

**19 (1)** Where required by the regulations, before the commencement of construction of a building or alterations or repairs to an existing building, an owner of the building shall submit the plans and specifications to the Fire Marshal for review for the purpose set out in subsection (2).

**(2)** Unless otherwise prescribed by the regulations, the purpose and scope of a review required pursuant to subsection (1) is to provide the Fire Marshal with an opportunity to advise

- (a) an owner; and
- (b) a building inspector,

of an apparent contravention of this Act, the regulations or the Fire Code, where the Fire Marshal recognizes in the plans or specifications that there would be a contravention if the construction, alterations or repairs were to proceed without a change in the plans or specifications. 2002, c. 6, s. 18.

**Duties of a municipality**

**20 (1)** A municipality shall

- (a) establish a system of fire-safety inspections of land and premises situate within its jurisdiction, as required by the regulations, to provide for compliance with this Act, the regulations and the Fire Code;
- (b) appoint a municipal fire inspector who shall carry out the inspections; and
- (c) ensure that the Fire Marshal is notified, in writing, of the appointment of the municipal fire inspector and the revocation of any such appointment.

**(2)** A municipality that is required to establish and conduct a system of inspections pursuant to subsection (1) shall ensure that

- (a) a record is made of every inspection undertaken by the municipality;
- (b) the records are made available, on request, to the Fire Marshal or a deputy fire marshal; and
- (c) unless otherwise prescribed by the regulations, the records are kept for at least five years. 2002, c. 6, s. 19.

**System of inspections**

**21 (1)** In this Section,

“education entity”, “private school” and “public school” have the same meaning as in the *Education Act*;

“Nova Scotia Community College” means the Nova Scotia Community College established pursuant to the *Community Colleges Act*;

“university” means a university described in the regulations.

(2) The following persons or bodies shall establish and conduct a system of inspections to provide for fire safety, assess the adequacy of fire-prevention measures and ensure compliance with this Act, the regulations and the Fire Code:

(a) an education entity, in respect of the premises of the public schools for which it is responsible;

(b) a person who operates a private school, in respect of the premises of the private school;

(c) the Nova Scotia Community College, in respect of the premises of the Nova Scotia Community College, and the Collège de l’Acadie, in respect of the premises of the Collège de l’Acadie;

(d) a university, in respect of the premises of the university;

(e) a person who owns, operates, manages or controls a plant or equipment used primarily for the production, transmission, delivery or furnishing of electric power or energy for sale, in respect of the plant or equipment; and

(f) where the regulations so prescribe, other persons or bodies, or classes of persons or bodies.

(3) A person who, or body that, is required to establish and conduct a system of inspections pursuant to subsection (2) shall ensure that

(a) a record is made of every inspection undertaken;

(b) the records are immediately

(i) provided to the workplace joint occupational health and safety committee as referred to in the *Occupational Health and Safety Act*,

(ii) provided to a workplace health and safety representative as referred to in the *Occupational Health and Safety Act*, or

(iii) where no committee or representative exists, posted conspicuously in an area where it will come to the attention of the employees, until another such record is posted, and

(iv) in the case of facilities referred to in clauses (2)(a) to (d), provided upon request to a student who attends or is likely to attend the relevant school or university and to the parent or guardian of such a student, and

(v) provided to the insurer of a person or body referred to in subsection (2) in respect of the premises inspected;

(c) the records are made available, on request, to any person who is authorized to conduct an inspection pursuant to this Act; and

(d) unless otherwise prescribed by the regulations, the records are kept for at least five years.

(4) The Fire Marshal shall implement a system of on-site inspections by fire officials of the premises referred to in subsection (2) to ensure that the records referred to in subsection (3) reflect the actual conditions at those premises. 2002, c. 6, s. 20; 2018, c. 1, Sch. A, s. 111.

#### **Expenses of inspections**

22 (1) Where a person or body that is responsible for implementing a system of inspections pursuant to this Act fails to do so, the Fire Marshal may perform the inspections and may recover the expenses reasonably incurred in the performance of the work.

(2) The expenses referred to in subsection (1) are a debt due to the Crown in right of the Province and may be recovered in the same manner as any debt due to the Crown. 2002, c. 6, s. 21.

#### **Entry with consent**

23 With the consent of an owner of land or premises, a member of a fire department authorized by the fire chief may enter upon the land or premises, at a reasonable time, for the purpose of determining whether there is a condition likely to

(a) increase the risk of fire; or

(b) interfere with the escape of the occupants in the event of a fire or other emergency. 2002, c. 6, s. 22.

#### **Right of entry and inspection**

24 (1) Subject to subsection (2), for the purpose of assessing fire safety, assessing the adequacy of fire-prevention measures or ensuring compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector may, without a warrant, at any reasonable time, enter upon and inspect land or premises.

(2) A fire official shall not enter a private dwelling for a purpose specified in subsection (1) without a warrant obtained pursuant to Section 25 unless the consent of an owner is obtained.

(3) On the request of an owner or occupant of land or premises that are entered pursuant to this Section, the fire official shall

(a) give to the owner or occupant the fire official's identity; and

(b) explain the purpose of the entry.

(4) On an entry pursuant to this Section, the fire official may

(a) enter with any equipment, machinery, apparatus, vehicle or material that the fire official considers necessary for the purpose of the entry;

(b) take anyone who, or thing that, the fire official considers necessary to assist with fulfilling the purpose of the entry.

(5) Where the fire official considers it necessary for the purpose of an entry pursuant to this Section, the fire official may, by oral or written order, close the land or premises and prohibit any person from entering or remaining until the purpose of the entry is fulfilled.

(6) The fire official may, to the extent that it is relevant to the purpose of an entry pursuant to this Section,

(a) examine documents or things;

(b) use data storage, information processing or retrieval devices or systems that are normally used on the land or premises being inspected to produce a document in readable form;

(c) collect and remove data or samples;

(d) make an inspection, carry out a study or conduct a test on the land or premises or anything on the land or premises;

(e) take photographs or make videotapes or other images, electronic or otherwise;

(f) require the production of, or remove, documents or things for examination or copying;

(g) require that any machinery, equipment or device be operated, used or set in motion under specified conditions;

(h) make any reasonable inquiry of a person, either orally or in writing,

or cause any of the above to be done.

(7) Where a fire official acting pursuant to this Section demands that a document or thing be produced for inspection, the person with custody of the document or thing shall produce it and, in the case of a document, shall, on request, provide any assistance that is reasonably necessary to interpret the document or to produce it in readable form.

(8) Anything removed from land or premises by a fire official acting pursuant to this Section must

(a) on request, be made available to the person from whom it was removed

(i) subject to any requirements that might be necessary to protect its integrity as evidence in an appeal or prosecution, and

(ii) at a time and place that are convenient for the person and for the fire official; and

(b) unless it is impossible or unpractical to return it, be returned to the person within a reasonable time unless it

(i) has been lawfully seized and retained for use as evidence in a prosecution, or

(ii) is required for use in an appeal pursuant to this Act or the regulations.

(9) For the purpose of ensuring compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the fire official may summon to give evidence and administer an oath or affirmation to a person.

(10) While a fire official is acting pursuant to this Section, no person shall

(a) fail to comply with a reasonable request of the fire official;

(b) knowingly make a false or misleading statement to the fire official;

(c) unless permitted by the fire official, remove, alter or interfere in any way with anything seized, detained or removed by the fire official; or

(d) obstruct or interfere with the fire official. 2002, c. 6, s. 23.

#### Warrant for entry

25 (1) A justice of the peace may

(a) upon application by the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector; and

(b) without notice to the owner of land or premises,

issue a warrant authorizing the fire official named in the warrant to enter upon the land or premises and exercise any of the powers referred to in Section 24, if the justice of the peace is satisfied on evidence under oath that there are reasonable grounds to believe that the entry is necessary to assess fire safety, assess the adequacy of fire-prevention measures or ensure compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code and

(c) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(d) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 24 with respect to the lands or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers.

(2) A warrant issued pursuant to subsection (1)

(a) must specify the times, which may be at any time during the day or night, during which the warrant may be carried out;

(b) must state when the warrant expires; and

(c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

**(3)** A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

- (a) call upon a police officer; and
- (b) use such force as is necessary,

to make the entry or exercise the powers authorized by Section 24.

**(4)** Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 24(3), (7), (8) and (10) apply as if the fire official was acting under the authority of Section 24. 2002, c. 6, s. 24.

### Orders

**26 (1)** Where the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector believes that there is a contravention on land or premises of this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the fire official may issue to an owner of the land or premises an order that

(a) is substantially in the form set out in subsections 27(1) and (2);

(b) may direct the owner to do one or more of the following within the time limit set out in the order:

(i) remedy the contravention, including do anything in relation to the land or premises that the fire official considers necessary to remedy the non-compliance,

(ii) carry out repairs or alterations,

(iii) remove or demolish buildings or things on the land or premises, or parts of the land or premises,

(iv) replace materials used in the construction of buildings or things,

(v) remove any combustible or explosive material or anything that poses a fire hazard or compromises fire safety,

(vi) discontinue the manufacturing, production or fabrication of a material, device or thing that creates or poses an undue risk of fire or explosion,

(vii) discontinue a use or occupancy of the land or premises, or an activity or practice that creates or poses a fire hazard or compromises fire safety,

(viii) repair or replace faulty fire-protection systems, or parts thereof, or install fire-protection systems, or parts thereof,

(ix) maintain, inspect or obtain certification for a fire-protection system, or part thereof,

(x) obtain a report or assessment from a person who possesses the expert or professional knowledge or qualifications specified by the fire official in respect of fire safety,

(xi) prepare, communicate and practise an emergency-response plan for the protection of persons in the event of a fire that includes alerting the fire brigade or fire department, as the case may be, orderly evacuation of occupants and protection of those occupants who cannot easily be evacuated,

(xii) do anything respecting arrangements for fire safety, including fire prevention, the containment of a possible fire, egress, the operation of a fire-protection system, containment of, and adequate protection from, hazardous materials in the event of a fire, and the behaviour, training and informing of persons in relation to any of these matters,

(xiii) provide information respecting those matters referred to in subclause (xii).

(2) Where a fire official referred to in subsection (1) determines that there is a significant risk that a fire will occur, or a likelihood that a person will be killed or injured if a fire does occur, the fire official, with the approval of the Fire Marshal, and upon such terms and conditions as the Fire Marshal considers proper, may

(a) order that an owner of the land or premises close the land or premises and prevent persons from entering until the corrective actions ordered pursuant to subsection (1) or (3) are completed; or

(b) where the fire official is of the opinion that it is necessary for the immediate protection of persons and property that the lands or premises be closed immediately,

(i) cause the land or premises to be closed immediately,

(ii) cause persons to be removed from the land or premises, and

(iii) order that the land or premises remain closed and be vacated until the corrective actions ordered pursuant to subsection (1) or (3) are completed.

(3) Where a fire official determines, upon an inspection or investigation pursuant to this Act, that an electrical installation at land or premises may pose a risk of fire because of the inadequacy or want of repair of the electrical installation, the fire official may order that

(a) the electrical installation be inspected by an inspector appointed pursuant to the *Electrical Installation and Inspection Act*; and

(b) the costs of the inspection be paid by the owner of the electrical installation,

and the person to whom the order is directed is not in compliance with the order unless any order made pursuant to the *Electrical Installation and Inspection Act* is complied with in addition to the order made pursuant to this Act, the regulations or the Fire Code. 2002, c. 6, s. 25.

#### Form and service of order

**27 (1)** An order pursuant to subsection 26(1), clause 26(2)(a), subclause 26(2)(b)(iii), subsection 26(3) or subsection 31(3) must

- (a) identify the reasons for the order;
- (b) explain the action required by the order; and
- (c) set out the time within which the person is to comply.

**(2)** Where an order is made pursuant to subsection 26(1), clause 26(2)(a), subclause 26(2)(b)(iii) or subsection 31(3) by

- (a) the Fire Marshal, it must set out the right to appeal the order to the Fire Safety Appeal Board; or
- (b) a deputy fire marshal, a local assistant or a municipal fire inspector, it must set out the right to appeal the order to the Fire Marshal or to the Board.

**(3)** A copy of an order

- (a) made pursuant to subsection 26(1), clause 26(2)(a), subclause 26(2)(b)(iii) or subsection 31(3) must be served on the owner who is named as recipient in the order;
- (b) made pursuant to subsection 26(1), clause 26(2)(a) or subclause 26(2)(b)(iii) must be served on at least one occupant of each unit intended for separate occupancy; and
- (c) may be served on other interested persons at the discretion of the person making the order.

**(4)** Where a local assistant makes an order, other than an oral order, a copy of the order must be delivered to the Fire Marshal as soon as possible after the order is made.

**(5)** Where an order is made requiring the closure of land or premises, a copy of the order must be posted in a conspicuous place on the land or premises.

**(6)** Where an order made pursuant to Section 26 concerns a matter that is also regulated under the *Building Code Act* or the *Nova Scotia Building Code Regulations*, the fire official making the order shall furnish a copy of the order to the building inspector. 2002, c. 6, s. 26.

#### Building Code Act

**28 (1)** No order made pursuant to Section 26 may require that alterations be made to a building that, at the time an occupancy permit was issued for the building, complied with

- (a) the Building Code then established under the *Building Code Act*;
- (b) a municipal bylaw then in force that adopted an edition of the *National Building Code of Canada* issued by the National Research Council of Canada; or
- (c) where no municipal bylaw or *Building Code Act* was then in force, an edition of the *National Building Code of Canada* issued by the National Research Council of Canada that was current at the time of construction,

and is in compliance with that code, unless the order is necessary to

- (d) respond to a requirement of the Fire Code; or
- (e) ensure compliance with regulations made pursuant to this or any enactment relating to the retrofitting of existing buildings for fire safety.

(2) Notwithstanding subsection (1), where a building, at the time of its construction or occupancy, was constructed or occupied in violation of a regulation made pursuant to this Act or the former Act, an order may be made pursuant to Section 26 requiring alterations to the building.

(3) Where an order concerning a matter that is also regulated by the *Building Code Act* or the *Nova Scotia Building Code Regulations* is issued pursuant to Section 26, and a building inspector identifies a likelihood that an unsafe condition will result from an alteration or other work for which a building permit is required to implement the order,

- (a) the building inspector shall promptly contact the fire official who issued the order and those persons shall consult and review the information supplied by the owner describing the specifics of the construction; and
- (b) the building inspector and the fire official shall determine whether the order can be implemented so as to address both the potential unsafe condition and fire-safety concerns.

(4) Where

- (a) a building inspector and a fire official determine that the order can be implemented so as to address both the potential unsafe condition and fire-safety concerns;
- (b) upon consultation by a building inspector and a fire official with the Fire Marshal, the Fire Marshal determines that it is in the interest of safety that the order or an amended version of the order be implemented; or
- (c) the Board makes or confirms an order respecting an alteration or other work for which a building permit is required under the *Building Code Act*,

a building inspector shall issue a building permit upon payment of the applicable fee under the *Building Code Act* and regulations and the permit must indicate on its face that it is issued for the purpose of this Act and is sufficient to meet the requirement

under the *Building Code Act* and regulations that a building permit be obtained. 2002, c. 6, s. 27.

### Emergency entry

**29 (1)** Where the Fire Marshal, a deputy fire marshal, a local assistant or a fire chief or other officer of a fire department in charge of directing fire-suppression activities has reasonable grounds to believe that a risk of fire poses an immediate threat to the life of a person, the fire official may, without a warrant and at any time, enter upon and inspect land or premises and may

- (a) call upon a police officer;
- (b) use such force as is necessary,

to make the entry or exercise the powers authorized by this Section.

**(2)** On an entry pursuant to subsection (1), a fire official may

- (a) remove persons from the land or premises;
- (b) order orally, or in writing, that no person, other than a person permitted by the fire official making the entry, may be or be permitted to be present on the land or premises identified in the order until the fire official otherwise orders;
- (c) post a fire watch;
- (d) remove combustible or explosive material or anything that might constitute the source of the immediate threat;
- (e) eliminate ignition sources;
- (f) install temporary safeguards, including portable fire extinguishers and smoke alarms;
- (g) make minor repairs to existing fire-protection systems;
- (h) do anything that the fire official reasonably believes is required to remove or reduce the threat to life.

**(3)** On an entry pursuant to subsection (1),

- (a) subsections 24(3), (7), (8) and (10) apply; and
- (b) in addition to the powers authorized by this Section, the fire official may exercise the powers contained in subsections 24(4) and (5) and clauses 24(6)(a), (b), (d), (g) and (h), that the official has reasonable grounds to believe are required to remove or reduce the threat to life,

and the provisions of Section 24 referred to in this subsection are to be read as if they referred to an entry or activity under this Section.

**(4)** A fire official who exercises any of the powers contained in subsection (2) shall promptly thereafter

- (a) give notice in documented form to an owner, if the owner's whereabouts in the Province are known; and
- (b) post a copy of the notice in a conspicuous place on the land or premises that

- (i) describes the location of the land or premises,
- (ii) states the reason for the entry, and
- (iii) states the things done pursuant to subsection (2) to remove or reduce the threat to life. 2002, c. 6, s. 28.

**Warrant to enter**

**30 (1)** Where a justice of the peace is satisfied by evidence upon oath that a fire official described in subsection 29(1) has reasonable grounds to believe that entry on lands or premises is necessary to determine whether a risk of fire poses an immediate threat to the life of a person, and

(a) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(b) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 29 with respect to the land or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers,

the justice of the peace may, without notice to the owner, issue a warrant authorizing the fire official named in the warrant to enter the land or premises and exercise any of the powers authorized by Section 29.

**(2)** A warrant issued pursuant to subsection (1)

(a) must specify the times, which may be at any time during the day or night, during which the warrant may be carried out;

(b) must state when the warrant expires; and

(c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

**(3)** A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

(a) call upon a police officer;

(b) use such force as is necessary,

to make the entry or exercise the powers authorized by Section 29.

**(4)** Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 29(3) and (4) apply, and those provisions are to be read as if the fire official was acting under the authority of Section 29. 2002, c. 6, s. 29.

**Carrying on matters not done by owner**

**31 (1)** Subject to subsection (2), where

(a) an owner fails to comply with an order issued pursuant to Section 26;

(b) the owner is absent from the Province; or

(c) the owner cannot be located,

the Fire Marshal or, subject to subsection (2), a deputy fire marshal, a local assistant or a municipal fire inspector may carry out, or cause to be carried out,

(d) an order involving an expenditure not exceeding \$1,000;

(e) an order involving an expenditure of such amount greater than \$1,000 as may be prescribed by the regulations;

(f) where there are no regulations made pursuant to clause (e), an order involving an expenditure of such amount greater than \$1,000 as may be approved by the Minister on a case by case basis, and any further order for compliance approved by the Minister; or

(g) where there are regulations made pursuant to clause (e) prescribing an amount greater than \$1,000, an order involving an expenditure of such greater amount as may be approved by the Minister on a case-by-case basis, and any further order for compliance approved by the Minister.

(2) A deputy fire marshal, a local assistant or a municipal fire inspector may carry out, or cause to be carried out, an order referred to in subsection (1) with

(a) in the case of a deputy fire marshal or a local assistant, the approval of the Fire Marshal; and

(b) in the case of a municipal fire inspector, the approval of the Fire Marshal and the mayor or warden of, or the chief administrative officer or, where there is no chief administrative officer, the clerk of the municipality that appointed the municipal fire inspector.

(3) Where a fire official carries out, or causes to be carried out, an order referred to in subsection (1), or work or action pursuant to clause 26(2)(b), subsection 29(2) or subsection 34(3), the fire official may make an order directing the owner to pay the costs of carrying out the order, work or action, within the limits referred to in subsection (1) to

(a) the Minister if the order, work or action was carried out, or caused to be carried out, by the Fire Marshal or a deputy fire marshal; or

(b) the municipality within which the land or premises that are the subject of the order, work or action are located if the order, work or action was carried out, or caused to be carried out, by a local assistant or municipal fire inspector,

and the order to pay costs must include

(c) a description of the things done for which the costs were incurred and a statement of the authority for doing the things;

(d) a detailed account of the costs incurred; and

(e) a direction that the person to whom the order is issued pay the costs to the Minister or the municipality, as the case may be.

(4) Where the costs of carrying out an order, work or action pursuant to subsection (1) or pursuant to clause 26(2)(b), subsection 29(2) or subsection 34(3)

(a) are incurred by a local assistant or municipal fire inspector; and

(b) remain unpaid by the owner after all rights of appeal pursuant to this Act are exhausted,

the local assistant or municipal fire inspector, as the case may be, shall certify to the clerk of the municipality within which the land or premises that are the subject of the order are located, the expenses actually and necessarily incurred to carry out the order, but not exceeding the limits set out in subsection (1), and the clerk shall forthwith pay, from the ordinary revenues of the municipality, the amount so certified to the local assistant or municipal fire inspector, as the case may be. 2002, c. 6, s. 30.

**Costs, lien and enforcement**

32 (1) Where an order for payment of costs referred to in subsection 31(3) is not complied with, the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector, as the case may be, may file a copy of the order with the clerk of the municipality within which the land or premises that are the subject of the order are located and the amount of the costs

(a) is subject to interest, calculated at the rate applicable to overdue municipal rates and taxes, from the date of the original order for payment of costs; and

(b) with any interest thereupon, constitutes a lien on the property that is the subject of the order.

(2) The amount of the costs and any interest is, for the purpose of collection and recovery, a first lien on the property collectable by the municipality as municipal taxes pursuant to the *Municipal Government Act*.

(3) Where an order for payment of costs requires payment to the Minister and the amount of the costs, including interest, is collected pursuant to subsection (2), it must be remitted to the Minister.

(4) An order for payment of costs may, for the purpose of enforcement of the order, be registered with the Supreme Court of Nova Scotia and must be enforced in the same manner as a judgment of that Court.

(5) To register an order for payment of costs with the Supreme Court of Nova Scotia, the fire official who made the order may make a certified copy of the order, upon which must be made the following endorsement, signed by the fire official:

Register the within with the Supreme Court of Nova Scotia.

Dated this . . . . . day of . . . . ., 20 . . . . .

.....  
(Name of fire official)

(6) The fire official may forward the certified copy referred to in subsection (5), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia

who shall, upon receipt, enter it as a record and it must thereupon be registered with and enforceable in the same manner as a judgment of that Court. 2002, c. 6, s. 31.

#### INVESTIGATION AND REPORTING

##### Fire investigation by local assistant

**33 (1)** Subject to subsections (4) and (5), the local assistant shall immediately, and in no case later than 24 hours following a fire, investigate, or cause to be investigated, the cause, origin and circumstances of every fire by which property has been destroyed or damaged that occurs within the municipality or part thereof for which the person is a local assistant, unless otherwise directed by the Fire Marshal.

**(2)** Where

- (a) there has been a loss of human life; or
- (b) the local assistant investigating the fire believes that the fire is incendiary or of suspicious origin,

the local assistant shall notify the police immediately and the Fire Marshal within 24 hours following the fire.

**(3)** Within seven days of completing the investigation of a fire, the local assistant shall furnish to the Fire Marshal, in a form acceptable to the Fire Marshal, a documented statement of the facts relating to the cause, origin and circumstances of the fire and such further information as the Fire Marshal requires.

**(4)** Where the local assistant

- (a) requires the assistance of the Fire Marshal with an investigation of a fire; or
- (b) determines that the Fire Marshal should carry out the investigation,

the local assistant shall notify the Fire Marshal immediately or in no case later than 24 hours following the fire.

**(5)** Notwithstanding subsection (1), the local assistant is released from the duty to investigate or report pursuant to this Section

- (a) when the Fire Marshal or a deputy fire marshal arrives at the scene; or
- (b) where an appointment of an additional local assistant for the territorial jurisdiction has been made pursuant to subsection 14(5) and the local assistant referred to in subsection 14(1) or (3), or the Fire Marshal, has requested that person to assume the responsibility of the local assistant under this Section with respect to the fire,

unless otherwise directed by the Fire Marshal or deputy fire marshal. 2002, c. 6, s. 32.

##### Fire investigations

**34 (1)** Where a fire has occurred upon land or premises, the Fire Marshal, a deputy fire marshal or a local assistant may, at any reasonable time, enter upon, investigate and make an examination of the land or premises or any adjoining

or nearby land or premises without a warrant, for the purpose of ascertaining the cause, origin and circumstances of the fire or to provide for fire-safety or fire-prevention measures.

(2) The fire official referred to in subsection (1) may

(a) enter the land or premises with any equipment, machinery, apparatus, vehicle or material that the fire official considers necessary for the purpose of the investigation;

(b) take anyone who, or thing that, the fire official considers necessary to assist with fulfilling the purpose of the investigation.

(3) Where the fire official referred to in subsection (1) considers it necessary for the purpose of the investigation, the fire official may, by oral or written order, close the land or premises, prohibit any person from entering or remaining until the purpose of the investigation is fulfilled and post a security watch.

(4) The fire official referred to in subsection (1) may, to the extent that it is relevant to the purpose of the investigation,

(a) examine documents or things;

(b) use data storage, information processing or retrieval devices or systems that are normally used on the land or premises being inspected to produce a document in readable form;

(c) collect and remove data or samples;

(d) make an inspection, carry out a study or conduct a test on the land or premises or anything on the land or premises;

(e) take photographs or make videotapes or other images, electronic or otherwise;

(f) remove anything from the land or premises for the purpose of conducting a test;

(g) require the production of, remove from the land or premises, retain, copy or examine anything;

(h) make such excavations on the land or premises as the fire official considers necessary;

(i) require that any machinery, equipment or device be operated, used or set in motion under specified conditions;

(j) make any reasonable inquiry of a person, either orally or in writing,

or cause any of the above to be done.

(5) Where the fire official referred to in subsection (1) demands that a document or thing be produced for inspection, the person with custody of the document or thing shall produce it and, in the case of a document, shall, on request, provide any assistance that is reasonably necessary to interpret the document or to produce it in readable form.

(6) Anything removed from land or premises pursuant to this Section must

(a) on request, be made available to the person from whom it was removed

(i) subject to any requirements that might be necessary to protect its integrity as evidence in an appeal or prosecution, and

(ii) at a time and place that are convenient for the person and for the fire official; and

(b) unless it is impossible or impracticable to return it, be returned to the person within a reasonable time unless it

(i) has been lawfully seized and retained for use as evidence in a prosecution, or

(ii) is required for use in an appeal pursuant to this Act or the regulations.

(7) Where the fire official referred to in subsection (1) considers it necessary for the purpose of the investigation, the fire official may summons any person to give evidence and administer an oath or affirmation to that person.

(8) While a fire official is acting pursuant to this Section, no person shall

(a) fail to comply with a reasonable request of the fire official;

(b) knowingly make a false or misleading statement to the fire official;

(c) unless the fire official permits, remove, alter or interfere in any way with anything seized, detained or removed by the fire official; or

(d) obstruct or interfere with the fire official. 2002, c. 6, s. 33.

#### **Warrant for fire investigation**

**35 (1)** Where a fire has occurred at land or premises and a justice of the peace is satisfied by evidence upon oath that a fire official described in subsection 34(1) has reasonable grounds to believe that entry on lands or premises is necessary to ascertain the cause, origin and circumstances of the fire or to provide for fire-safety or fire-prevention measures, and

(a) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(b) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 34 with respect to the land or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers,

the justice of the peace may, without notice to the owner, issue a warrant authorizing the fire official named in the warrant to enter the lands or premises and exercise any of the powers referred to in Section 34.

- (2) A warrant issued pursuant to subsection (1)
- (a) must specify the times, which may be at any time during the day or night, during which the warrant may be carried out;
  - (b) must state when the warrant expires; and
  - (c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

- (a) call upon a police officer;
- (b) use such force as is necessary,

to make the entry, or exercise the powers, authorized by Section 34.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 34(5), (6) and (8) apply as if the fire official was acting under the authority of Section 34. 2002, c. 6, s. 34.

#### **Inquiry into fire**

**36** (1) The Fire Marshal, or a person appointed for the purpose by the Minister, may conduct an inquiry into the cause, origin and circumstances of a fire.

- (2) A person conducting an inquiry pursuant to subsection (1)
- (a) has all or any of the powers, privileges and immunities conferred on persons appointed as commissioners pursuant to the *Public Inquiries Act*; and
  - (b) may employ such legal, technical, scientific, clerical or other assistance as the person considers advisable.

(3) A person appointed by the Minister to conduct an inquiry pursuant to subsection (1) shall, as soon as practicable after the completion of the inquiry,

- (a) send a report to the Fire Marshal stating the opinion of the person as to the cause and origin of the fire and whether it appears to have been incendiary or of suspicious origin; and
- (b) transmit with the opinion the evidence taken at the inquiry. 2002, c. 6, s. 35.

#### **Report by fire insurance company**

**37** (1) Unless otherwise prescribed by the regulations, every fire insurance company licensed to undertake contracts of insurance in the Province shall, within seven days of the end of every month, send a report to the Fire Marshal showing, as required by the regulations, information with respect to every fire occurring in the Province in the previous month and in which the company is interested as insurer.

- (2) Unless otherwise prescribed by the regulations, an owner
- (a) who sustains a loss by fire upon an uninsured or self-insured property; or
  - (b) upon whose uninsured or self-insured property a person is killed or injured by fire,

shall, within 10 days of the occurrence of the fire and as required by the regulations, send a report to the Fire Marshal.

- (3) Unless otherwise prescribed by the regulations, where
- (a) an owner sustains or claims to have sustained a loss by fire on property that is insured wholly or partially with an insurance company that is not licensed or registered pursuant to the *Insurance Act*; or
  - (b) a person is killed or injured by fire at a property that is insured wholly or partially with an insurance company that is not licensed or registered pursuant to the *Insurance Act*,

the insured owner shall, within 10 days of complete proofs of loss being furnished to the insurance company with which the insurance is placed, send a report to the Fire Marshal, as required by the regulations.

(4) Unless otherwise prescribed by the regulations, a person who is making adjustments of a loss or damage by fire shall, within seven days of the end of every month, send a report to the Fire Marshal showing, as required by the regulations, the adjustments made by the person in the previous month.

(5) The report referred to in subsection (4) is in addition to, and not in substitution for, any other report that the company or the person adjusting the claim may be required to make by this Act, the regulations or any other enactment.

(6) Where a person who is making adjustments of a loss or damage by fire is investigating a fire and has information that indicates that the fire is or might be incendiary or of suspicious origin, the person shall immediately report that information to the police. 2002, c. 6, s. 36.

#### **Notification of sprinkler or system discharge**

**38** The owner of a sprinkler system or a fixed-pipe extinguishing system shall, subject to the regulations, notify the Fire Marshal of the activation of the system within 48 hours of the discharge. 2002, c. 6, s. 37.

### **APPEALS**

#### **Appeal to Board**

**39 (1)** A person who is affected by an order made by a deputy fire marshal, local assistant or municipal fire inspector pursuant to subsection 26(1), clause 26(2)(a), subclause 26(2)(b)(iii) or subsection 31(3) may, within 15 days after the order is served, appeal the order to

- (a) the Fire Marshal, pursuant to Section 40, by submitting a written request to the Fire Marshal for a review of the order; or
- (b) the Board pursuant to Section 42.

(2) Notwithstanding anything in this Act, where the regulations provide for it, matters in addition to those set out in subsection (1) may be the subject of an appeal, and the procedures for the appeal may be established or varied by the regulations. 2002, c. 6, s. 38.

#### **Conduct of appeal**

**40 (1)** An affected person who appeals an order pursuant to clause 39(1)(a) shall immediately serve a copy of the appeal on the fire official who made the order, unless otherwise authorized in writing by the Fire Marshal.

(2) The Fire Marshal is not required to hold a hearing when conducting an appeal pursuant to clause 39(1)(a).

(3) Subject to subsection (4), where the Fire Marshal has been previously involved in the matter that is the subject of an appeal pursuant to clause 39(1)(a), or has conferred with another fire official or other person in respect of the matter, the Fire Marshal is not disqualified from dealing with an appeal pursuant to clause 39(1)(a) provided the involvement or conference is disclosed to the appellant before the Fire Marshal proceeds with the appeal.

(4) Where the Fire Marshal discloses to an appellant a previous involvement or conference as described in subsection (3), and the appellant requests, in writing, that the Fire Marshal not decide the appeal, the Fire Marshal shall refuse to decide the appeal and shall refer the matter to the Board for a hearing pursuant to Section 42.

(5) When conducting an appeal pursuant to clause 39(1)(a), the Fire Marshal shall summarily review the information provided by the appellant and, where the Fire Marshal is not then able to determine that the order should be confirmed, may inquire into the matter and may use any information, including information that is gathered or has previously been provided by a deputy fire marshal or other person, that the Fire Marshal considers advisable to assist in determining the appeal.

- (6) On an appeal pursuant to clause 39(1)(a), the Fire Marshal may
- (a) confirm, vary or revoke the order;
  - (b) allow additional time for the person to comply with the order and may attach conditions to such compliance;
  - (c) make any order that the deputy fire marshal, local assistant or municipal fire inspector, as the case may be, could have made; or
  - (d) refuse to decide the appeal and refer the matter to the Board.

- (7) The Fire Marshal
- (a) shall notify the affected person who appealed an order pursuant to clause 39(1)(a);
  - (b) shall notify the fire official who made the order; and

(c) may notify any other persons,  
of the decision of the Fire Marshal.

(8) Subject to subsection (9), the submission of a written request to the Fire Marshal for a review of an order pursuant to clause 39(1)(a) acts as a stay of the order until the appeal has been determined, unless the Fire Marshal decides, with or without notice, after considering

(a) primarily, the degree of fire risk and the potential impact of a fire on the safety of persons; and

(b) secondarily, the degree of prejudicial harm to an owner if the appeal of the order does not operate as a stay and whether there is a strong prima facie case for a successful appeal of the order,

that the appeal of the order does not operate as a stay pending the outcome of the appeal.

(9) Subsection (8) does not apply to the submission of a written request to the Fire Marshal for a review of an order made pursuant to clause 26(2)(a) or subclause 26(2)(b)(iii), and the order appealed remains in effect pending the outcome of the appeal. 2002, c. 6, s. 39.

#### Utility and Review Board

41 Except as otherwise provided by the regulations, the Nova Scotia Utility and Review Board established pursuant to the *Utility and Review Board Act* is the Fire Safety Appeal Board for the purpose of this Act. 2002, c. 6, s. 40.

#### Appeal to Board

42 (1) Subject to the regulations, in this Section, “affected person” means a person who is affected by

(a) an order made pursuant to subsection 26(1), clause 26(2)(a), subclause 26(2)(b)(iii) or subsection 31(3); or

(b) a decision made by the Fire Marshal pursuant to subsection 40(6).

(2) An affected person may

(a) appeal the order or decision referred to in subsection (1), in writing, to the Board within 15 days after the order is served on, or the decision is received by, the affected person; or

(b) proceed with an appeal referred to the Board pursuant to clause 40(6)(d).

(3) Notwithstanding anything in this Act, where the regulations provide for it, matters in addition to those set out in subsection (1) may be the subject of an appeal, and the procedures for the appeal may be established or varied by the regulations.

(4) An affected person who initiates an appeal to the Board shall immediately serve a copy of the appeal on the fire official who made the order or decision unless otherwise authorized in writing by the Chair of the Board.

(5) Subject to subsections (6) and (7), an appeal made pursuant to subsection (2) acts as a stay of the order until the appeal has been determined.

(6) With or without notice, upon application by the fire official who made the order or decision appealed from, the Board may order, after considering

(a) primarily, the degree of fire risk and the potential impact of a fire on persons; and

(b) secondarily, the degree of prejudicial harm to an owner if the appeal of the order or decision does not operate as a stay and whether there is a strong prima facie case for a successful appeal of the order or decision,

that the appeal of the order or decision does not operate as a stay pending the outcome of the appeal.

(7) Subsections (5) and (6) do not apply to an appeal of an order made pursuant to clause 26(2)(a) or subclause 26(2)(b)(iii) and the order remains in effect pending the outcome of the appeal.

(8) On an appeal made pursuant to subsection (2), the Board may

(a) confirm, vary or revoke the order or decision appealed;

(b) allow additional time for the person to whom the order is directed, or who is the subject of the decision, to comply with the order or decision, and may attach conditions to such compliance; or

(c) make any order or decision that the fire official making the original order or decision could have made.

(9) An order of the Board may, for the purpose of enforcement of the order, be registered with the Supreme Court of Nova Scotia and must be enforced in the same manner as a judgment of that Court.

(10) To register an order of the Board with the Supreme Court of Nova Scotia, the Chair of the Board may make a certified copy of the order or decision, upon which must be made the following endorsement, signed by the Chair of the Board:

Register the within with the Supreme Court of Nova Scotia.

Dated this . . . . . day of . . . . ., 20 . . . . .

.....  
Chair of the Board

(11) The Chair of the Board may forward the certified copy referred to in subsection (10), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia who shall, on receipt of the certified copy, enter it as a record and it must thereupon be registered with and enforceable in the same manner as a judgment of that Court. 2002, c. 6, s. 41.

**Jurisdiction of Board**

43 The Board has exclusive jurisdiction to determine all questions of

(a) law respecting this Act, the regulations and the Fire Code;

- (b) fact; and
- (c) mixed law and fact,

that arise in any matter before it, and an order or decision of the Board is final and binding and not open to review except for an error of law or jurisdiction. 2002, c. 6, s. 42.

### Standing

**44 (1)** The Fire Marshal has standing as a party in an appeal made pursuant to subsection 42(2) of an order made by another fire official.

**(2)** The fire official who made the order has standing as a party in an appeal made pursuant to subsection 39(1) or 42(2).

**(3)** Notwithstanding Section 43 or any other provision of this Act, a decision or order may be rescinded or varied by the Board or the fire official that made the order or decision. 2002, c. 6, s. 43.

## GENERAL

### Offences and penalties

**45 (1)** Every person who

- (a) tampers with a device intended to enable escape by a person from an area in the event of a fire;
- (b) enters, attempts to enter or tampers with land or premises that are closed pursuant to an order made by a fire official pursuant to this Act, the regulations or the Fire Code without the approval of a fire official authorized to make the order;
- (c) removes a copy of an order or notice posted in accordance with this Act, the regulations or the Fire Code without the approval of the fire official who made or required the posting or the Fire Marshal;
- (d) provides a fire official with information on matters relevant to an inspection or investigation that the person knows, or ought reasonably to know, to be false or misleading;
- (e) hinders or obstructs a fire official acting pursuant to this Act, the regulations or the Fire Code;
- (f) refuses or neglects to attend, be sworn or give evidence before a fire official or inquiry when summoned to do so;
- (g) fails to comply with an order made pursuant to this Act, the regulations or the Fire Code; or
- (h) otherwise contravenes this Act, the regulations or the Fire Code,

is guilty of an offence.

**(2)** An individual convicted of an offence pursuant to subsection (1) is liable on summary conviction to a fine not exceeding \$25,000, or to a term

of imprisonment not exceeding six months, or to both, except where the individual knowingly commits the offence and the offence results in

- (a) loss of human life, injury or damage to the health of a person; or
- (b) a catastrophic impact on the community,

in which case the individual is liable on summary conviction to a fine not exceeding \$150,000 or to a term of imprisonment not exceeding two years, or to both.

**(3)** In addition to the fine imposed upon an individual pursuant to subsection (2), the court may impose a fine not exceeding \$5,000 for each additional day during which the offence continues.

**(4)** A corporation convicted of an offence pursuant to subsection (1) is liable on summary conviction to a fine not exceeding \$50,000, except where the corporation, with the knowledge of an officer, director, manager or agent of the corporation, commits the offence and the offence results in

- (a) loss of human life, injury or damage to the health of a person; or
- (b) a catastrophic impact on the community,

in which case the corporation is liable on summary conviction to a fine not exceeding \$250,000.

**(5)** In addition to the fine imposed upon a corporation pursuant to subsection (4), the court may impose a fine not exceeding \$10,000 for each additional day during which the offence continues.

**(6)** An officer, director, manager or agent of a corporation who directs, authorizes, assents to, acquiesces or participates in the commission of an offence pursuant to this Act is guilty of the offence and is liable on summary conviction to a fine not exceeding \$25,000 or to a term of imprisonment not exceeding one year, or to both, except where that person knowingly commits the offence and the offence results in

- (a) loss of human life, injury or damage to the health of a person; or
- (b) a catastrophic impact on the community,

in which case the offender is liable on summary conviction to a fine not exceeding \$150,000 or to a term of imprisonment not exceeding two years, or to both.

**(7)** A conviction for the offence of failing to comply with an order does not relieve the person convicted from complying with the order and the convicting judge may, in addition to a fine imposed, order the person to do any act or work to comply with the order with respect to which the person was convicted, within the time specified in the order.

**(8)** A person who fails to comply with an order made pursuant to subsection (7) within the time specified by the judge is guilty of an offence and is liable on summary conviction in the case of

- (a) an individual, to a fine not exceeding \$5,000 for each day during which the non-compliance continues; or

(b) a corporation, to a fine not exceeding \$10,000 for each day during which the non-compliance continues.

(9) The Fire Marshal, a deputy fire marshal, a provincial inspector, a local assistant or a municipal fire inspector may apply to a judge of the Supreme Court of Nova Scotia for an order enjoining a person from carrying out any activity that is contrary to this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code.

(10) On receipt of an application made pursuant to subsection (9), the judge may make any order, including an order for interim relief, that the judge considers appropriate.

(11) Except as otherwise provided in this Act or the regulations, the penalties collected pursuant to this Act must be paid to the Minister of Finance and Treasury Board for the use of the Crown in right of the Province. 2002, c. 6, s. 44.

#### **Order for payment towards fire-safety education**

46 (1) Where a person is convicted of an offence pursuant to this Act, in addition to any other punishment 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 directing the offender to pay an amount to the Minister of Finance and Treasury Board to be held in trust, in accordance with the regulations, for the purpose of public fire-safety education to be carried out by non-profit organizations, the fire-suppression service, schools or similar educational institutions.

(2) Where the court makes an order directing the offender to pay an amount to the Minister of Finance and Treasury Board pursuant to subsection (1), the total of any money payable or direct cost incurred by the offender pursuant to subsection (1) and subsection 45(2), (4) or (6), as the case may be, shall not exceed the maximum amount payable pursuant to subsection 45(2), (4) or (6), as the case may be.

(3) Where the court makes an order pursuant to subsection (1), the amount constitutes a debt due to the Crown in right of the Province and may be recovered as such in a court of competent jurisdiction.

(4) The Minister, in consultation with the Council, may designate a non-profit organization with a mandate that relates to the purpose of this Act that shall, in accordance with the regulations, direct the disbursement of amounts held in trust pursuant to subsection (1) for the purpose of public fire-safety education carried out as provided in subsection (1). 2002, c. 6, s. 45.

#### **Limitation period**

47 No prosecution for an offence pursuant to this Act, the regulations or the Fire Code may be commenced after two years from the date of the commission of the alleged offence. 2002, c. 6, s. 46.

#### **No action lies against Crown or officials**

48 No action lies or may be instituted against the Crown in right of the Province or an officer or employee of the Crown, the Fire Marshal or any person

acting under the Fire Marshal's authority, a deputy fire marshal, a provincial inspector, a local assistant or a delegate or a designate of a local assistant, a fire chief, a fire department or an officer, member or employee of a fire department, including a member empowered by that department to direct fire-suppression activities, a municipality or an officer or employee of a municipality, a municipal fire inspector, a member of the Council or a member of a committee of the Council, the Board, a division of the Board or a member of the Board, or any person acting under the authority of, or as an agent of, any person or body referred to in this Section, where the person or body is acting pursuant to the authority of this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code for any loss or damage suffered by a person because of an act or omission done in good faith by the person or body

- (a) pursuant to, or in the exercise or supposed exercise of, a power conferred by this Act, the regulations or the Fire Code; or
- (b) in the carrying out, or supposed carrying out, of a function or duty imposed by this Act, the regulations or the Fire Code. 2002, c. 6, s. 47.

#### Service of documents

**49 (1)** Subject to subsection (3), a document that is served pursuant to this Act, the regulations or the Fire Code must be served

- (a) in the case of an individual,
    - (i) personally,
    - (ii) by a form of delivery that allows proof of receipt to the individual's last address known to the person sending the document, or
    - (iii) by electronic transmission, telephone transmission of a facsimile or by some other method that allows proof of receipt; or
  - (b) in the case of a corporation,
    - (i) personally on a director, manager or officer of the corporation,
    - (ii) by a form of delivery that allows proof of receipt to the registered office of the corporation or, where the corporation is an extra-provincial corporation, to the office of its legal counsel in the Province, or
    - (iii) by electronic transmission, telephone transmission of a facsimile or by some other method that allows proof of receipt.
- (2)** Notwithstanding subsection (1), where an order is made with respect to land or premises that contain two or more units intended for separate occupancy, the order is deemed to have been served upon the occupants of the land or premises if a copy of the order is posted in a conspicuous place on the land or premises.
- (3)** Where the owner cannot be found in the Province, service of any document pursuant to this Act, the regulations or the Fire Code may be accom-

plished by posting a copy of the document in a conspicuous place on the land or premises.

(4) Any document that is served pursuant to this Act, the regulations or the Fire Code by mail, in the absence of evidence to the contrary, is deemed to have been received by the addressee 10 days after the day on which it was mailed, unless the person establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive a copy of the document until a later date than the deemed date of receipt.

(5) Service by electronic transmission or by telephone transmission of a facsimile is deemed to have been received the day after it was sent or, if that day was a Saturday or a holiday, on the next day that is not a Saturday or a holiday, unless the person being served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive a copy until a later date than the deemed date of receipt. 2002, c. 6, s. 48.

#### **Certified copy admissible in evidence**

50 A copy of a document that purports to be certified by the Fire Marshal, a deputy fire marshal, a provincial inspector, a local assistant or a municipal fire inspector as being a true copy of the original is admissible in evidence. 2002, c. 6, s. 49.

#### **Fee to be paid on insurance business**

51 (1) For the purpose of this Act and other purposes related to fire safety

(a) every company, whether upon the stock or mutual plan, transacting the business of fire insurance within the Province; and

(b) every person or organization who is a party to, enters or exchanges a reciprocal contract of indemnity or inter-insurance with others through the same legal counsel,

shall pay to the Minister of Finance and Treasury Board annually, in addition to taxes and fees now required by law to be paid by the company, such fee as is determined by the Governor in Council.

(2) The fee referred to in subsection (1) must be paid on receipts and assessments, less return premiums and cancellations, reckoned on the business as reported to the Superintendent of Insurance for the purpose of the *Insurance Act* during the preceding year. 2002, c. 6, s. 50.

#### **Regulations**

52 (1) The Governor in Council may make regulations

(a) adopting by reference in whole or in part, with or without modifications, as the edition adopted is amended from time to time, and requiring compliance with,

(i) an edition of the *National Fire Code of Canada*, issued by the National Research Council of Canada, or an edition of a fire code issued by a national or international organization concerned with fire safety or an aspect of it,

- (ii) a code or standard respecting materials, equipment or appliances used or installed upon land or premises,
  - (iii) a code or standard relating to an explosive, flammable or combustible liquid, solid or gas or equipment, apparatus or procedures related to the use, carriage, storage, handling or disposal of any of them;
- (b) exempting, including exemptions that are subject to terms or conditions,
- (i) land or premises, or a part thereof,
  - (ii) a class of land or premises or a part thereof, or
  - (iii) any person or a class of persons,
- from complying with all or part of the Fire Code or any code or standard adopted or incorporated by regulation pursuant to this Act;
- (c) exempting, including exemptions that are subject to terms or conditions,
- (i) land or premises, or a part thereof,
  - (ii) a class of land or premises or a part thereof, or
  - (iii) any person or thing, or class of person or thing,
- from all or part of this Act or the regulations;
- (d) respecting the approval, sale, installation, permitting, servicing, maintenance, testing or repair of fire-protection systems, or parts thereof, and lightning rods;
- (e) respecting the manufacture, carriage, storage, handling or disposal of any explosive, flammable or combustible solid, liquid or gas or the carriage, storage, handling or disposal of any gas, whether or not of such a type;
- (f) respecting the training or qualifications of persons selling, installing, servicing, maintaining, testing or repairing the products, equipment, apparatus or systems mentioned in clause (d), requiring those persons to be licensed, registered or certified in a prescribed manner and providing a system for the issuance, expiry, suspension and revocation of such licences, registrations or certifications;
- (g) requiring persons installing, servicing or testing equipment, apparatus or systems mentioned in clause (d) to obtain insurance or performance bonds from a financial institution approved by the Minister in any amount the Minister considers necessary to cover damage that might result from such activities;
- (h) respecting the dealing in, possession, disposition or giving of fireworks;
- (i) prescribing
- (i) the classes of buildings,
  - (ii) the land or premises or classes thereof,
  - (iii) the structures or occupancies or classes thereof,

for which plans and specifications for construction, repairs or alterations or other information, as the case may be, must be submitted to the Fire Marshal for review, the procedures that must be undertaken in reviews and the purpose and scope of reviews;

(j) respecting arrangements by owners to ascertain the attainment of fire safety

(i) upon land or premises, or

(ii) as reflected in plans and specifications submitted for review by the Fire Marshal,

including a requirement for owners to obtain certificates from independent competent persons evidencing compliance with the requirements of this Act, the regulations and the Fire Code;

(k) respecting fire-hose couplings and connections for fire-fighting equipment and fire-protection systems to ensure continued standardization and compatibility of fire-hose connections to the water supply;

(l) respecting any matter that was regulated pursuant to Chapter 439 of the Revised Statutes, 1989, the *Standard Hose Coupling Act*, immediately before February 28, 2003;

(m) respecting fire prevention or fire safety upon lands or premises, or any part thereof;

(n) respecting elements of a system of inspection and requiring persons or bodies, or classes thereof, to establish and conduct a system of inspections to provide for fire safety, assess the adequacy of fire-prevention measures and ensure compliance with this Act, the regulations and the Fire Code;

(o) changing the period of time for which records of inspections are kept;

(p) respecting the scope, content and record-keeping requirements regarding a system of inspections for which a municipality is responsible, including

(i) the classes of places that require mandatory inspection,

(ii) the minimum frequency for inspections of each class of place,

(iii) the requirement for a municipal council to consider the need for inspection of other classes of places and the adoption and implementation of a policy on inspections for any such classes of places;

(q) respecting the composition, structure, role and functioning of the Council and its subcommittees, if any;

(r) establishing a Fire Safety Appeal Board other than the Nova Scotia Utility and Review Board, constituting the Board into divisions and prescribing the classes of matters to be heard by the divisions of the Board;

(s) where the Board or a division of the Board is established by regulation, prescribing the qualifications for membership on the Board or on a division of the Board and the terms of appointment to the Board;

(t) where the Board or a division of the Board is established by regulation, respecting the quorum of the Board and the powers, privileges and immunities of the Board or a member of the Board;

(u) where the Board or a division of the Board is established by regulation, respecting the appointment by the Governor in Council of the Chair and Vice-chair of the Board and a division of the Board, if any, and respecting the roles of the Chair and Vice-chair;

(v) prescribing non-profit organizations or classes thereof that may be assisted pursuant to this Act;

(w) respecting procedures and affected persons on an appeal to the Fire Marshal or to the Board and prescribing additional matters that may be the subject of an appeal;

(x) respecting appeals with respect to matters dealt with by the former Act on February 28, 2003;

(y) respecting the collection or calculation of the fee imposed pursuant to Section 51;

(z) prescribing that orders involving expenditures of stated amounts greater than \$1,000 may be carried out or caused to be carried out by a fire official pursuant to this Act, and the amount of such orders;

(aa) prescribing charges to recover the costs of activity contemplated pursuant to this Act or the regulations or fees in relation to reports, appeals, registrations, certifications, examinations, licences, permits, approvals, inspections, training services, submission of documents or review of documents;

(ab) respecting funds held in trust to be used for public fire-safety education carried out pursuant to this Act, including payment, receipt and disbursement of the funds;

(ac) respecting reports, including requiring the making of reports, the form and content of reports and procedures regarding reports;

(ad) requiring provision to the Fire Marshal of such information, including statistical information, as the Fire Marshal considers necessary;

(ae) designating as a fire department a fire-suppression organization other than one operated by or registered by a municipality;

(af) establishing a committee to determine whether a particular material, component, method of construction or design satisfies a performance requirement of the Fire Code;

(ag) prescribing forms;

- (ah) defining any word or expression used but not defined in this Act;
- (ai) further defining or expanding the meaning of any word or expression defined in this Act;
- (aj) respecting any 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*, 2002, c. 6, s. 51; 2008, c. 10, s. 53.

#### **Continuation of matters under existing law**

**53 (1)** Every licence, permit, registration, certificate, approval, appointment or order given, made or issued pursuant to the former Act, or regulations made pursuant to that Act, that was subsisting and in force immediately before February 28, 2003, is deemed to have been given, made or issued pursuant to this Act, is enforceable as such and continues in force until it has expired or been varied, rescinded, suspended or revoked in accordance with this Act and the regulations.

(2) Every licence, permit, registration, certificate, approval, appointment or order given, made or issued pursuant to

- (a) Chapter 172 of the Revised Statutes, 1989, the *Fireworks Act*, or regulations made pursuant to that Act;
- (b) Chapter 257 of the Revised Statutes, 1989, the *Lightning Rod Act*, or regulations made pursuant to that Act; or
- (c) Chapter 439 of the Revised Statutes, 1989, the *Standard Hose Coupling Act*,

that was subsisting and in force immediately before February 28, 2003, is deemed to have been given, made or issued pursuant to this Act, is enforceable as such and continues in force until it has expired or been varied, rescinded, suspended or revoked in accordance with this Act and the regulations. 2002, c. 6, s. 52.

CHAPTER F-18

**An Act Respecting a Memorial Day  
to Honour First Responders**

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**Short title**

**1** This Act may be cited as the *First Responders Day Act*. 2023, c. 13, s. 1.

**Interpretation**

**2** In this Act,

“first responder” means a volunteer or professional who, during the early stages of an emergency, is responsible for the protection and preservation of life, property, evidence and the environment, and includes a police officer, a firefighter, military personnel, an auxiliary coast guard member, a ground search and rescue volunteer, a medical evacuation pilot, a dispatcher, a paramedic, a nurse, a physician, a mental health provider, an emergency manager, a tow truck driver and such other volunteers or professionals the regulations prescribe;

“Minister” means the member of the Executive Council charged with the responsibility for this Act. 2023, c. 13, s. 2.

**Regulations**

**3 (1)** The Minister may make regulations prescribing volunteers or professionals as first responders for the purpose of this Act.

**(2)** The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2023, c. 13, s. 3.

**First Responders Day**

**4** Throughout the Province, in each and every year, May 1st shall be kept and observed under the name of First Responders Day. 2023, c. 13, s. 4.

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CHAPTER F-19

**An Act to Establish a Day to Recognize  
First Responders Who Have Lost Their Lives  
in the Course of Their Duty**

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**Short title**

**1** This Act may be cited as the *First Responders Road Safety Awareness Day Act*. 2018, c. 15, Sch., s. 1.

**First Responders Road Safety Awareness Day**

**2** Throughout the Province, in each and every year, September 12th shall be kept and observed under the name of First Responders Road Safety Awareness Day in honour of Constable Frank Deschênes and all first responders across the Province. 2018, c. 15, Sch., s. 2.

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CHAPTER F-20

**An Act to Provide Support  
for Fish Harvester Organizations**

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

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**Short title**

**1** This Act may be cited as the *Fish Harvester Organizations Support Act*. 2011, c. 36, s. 1.

**Purpose of Act**

**2** The purpose of this Act is to

(a) strengthen the licence-holder collectivity and the fish harvester organizations in the Province by designating accredited organizations to represent their interests in matters related to the fishery;

(b) impose mandatory dues on licence holders in regions where they have voted affirmatively for the designation of an accredited organization to represent their interests;

(c) provide a procedure for a Registrar to remit to the accredited organizations mandatory dues collected from licence holders; and

(d) encourage the development of a strong accredited organization structure that will evolve and assume responsibility for the licence-holder collectivity including the appointment by the Minister of Registrars for specified organizations. 2011, c. 36, s. 2.

**Interpretation**

- 3** In this Act,
- “accredited organization” means an organization designated by the Minister that meets the accreditation requirement set out by the regulations;
- “Department” means the Department of Fisheries and Aquaculture;
- “fish harvester organization” means an organization of licence holders;
- “licence holder” means a person who holds a fishing licence issued pursuant to the *Fisheries Act* (Canada) and is recognized as a core or an independent core fish harvester by the Department of Fisheries and Oceans (Canada);
- “licence holder in a region” means a licence holder who customarily returns from fishing to a place in that region;
- “Minister” means the Minister of Fisheries and Aquaculture;
- “region” means an area in the Province designated by the Minister;
- “Registrar” means the person appointed as a Registrar by the Minister. 2011, c. 36, s. 3.

**Application of Act**

- 4** This Act applies to licence holders, fish harvester organizations and the accredited organizations that represent them. 2011, c. 36, s. 4.

**Supervision and management of Act**

- 5** (1) The Minister is responsible for the supervision and management of this Act and the regulations.
- (2) The Minister may enter into agreements with the Government of Canada, the government of a province of Canada or any body or persons on matters relating to the collection and sharing of information, the management and administration of this Act and the regulations. 2011, c. 36, s. 5.

**Regions**

- 6** The Minister may establish areas of the Province to be regions for the purpose of this Act. 2011, c. 36, s. 6.

**Representation by accredited organization**

- 7** (1) The Minister may establish by regulation the process and requirements for designation of an accredited organization.
- (2) A licence holder or fish harvester organization may ask the Minister to be represented by an accredited organization that will represent the interests of the licence holder or organization and concerns that may include, but are not, fishery science, management, regulatory and safety issues.
- (3) Upon receiving the request at subsection (2), the Minister may conduct a vote among licence holders in a region to determine whether there are

sufficient numbers who wish to be represented by an accredited organization. 2011, c. 36, s. 7.

### **Voting**

**8 (1)** The Minister, in the manner prescribed by the regulations, shall set the threshold of required eligible votes for the designation of one or more accredited organizations in a region to represent the licence holders.

**(2)** Where the threshold of required eligible votes is attained and the Minister designates one or more accredited organizations to represent the region, the licence holders in that region shall pay annual dues as directed by the accredited organization and as prescribed by the regulations.

**(3)** Where the prescribed threshold of licence holders in a region vote to be represented by an accredited organization, the Minister, in the manner prescribed by the regulations, shall

- (a)** give public notice of the results of the vote; and
- (b)** invite organizations who meet the criteria prescribed by the regulations to apply to the Minister for accreditation to represent the licence holders in the region. 2011, c. 36, s. 8.

### **Accreditation**

**9 (1)** Every fish harvester organization that applies for accreditation pursuant to subsection 8(3) and that meets the criteria prescribed by the regulations must be accredited by the Minister to represent licence holders in the region.

**(2)** An accredited organization may apply to be accredited in more than one region. 2011, c. 36, s. 9.

### **Power to change accreditation status**

**10 (1)** Where an accredited organization does not comply with the accreditation criteria established by the regulations, the Minister may, at any time, suspend, cancel or revoke the accreditation of the organization or, for a period, designate another accredited organization to represent the interests of the licence holders in a region.

**(2)** The Minister's decision to suspend, cancel or revoke an organization's accreditation may be appealed in accordance with the regulations.

**(3)** Where the Minister designates a replacement accredited organization pursuant to subsection (1), the dues payable to the suspended accredited organization must be paid to the replacement accredited organization for the period of the suspension. 2011, c. 36, s. 10.

### **Duties of accredited organization**

- 11 (1)** An accredited organization shall
- (a)** keep records of its operation;
  - (b)** appoint an agent to have custody and control of the operational records; and

(c) provide the name of the agent and the location of the operational records to the Minister.

(2) At the request of the Minister, the agent appointed pursuant to clause (1)(b) shall immediately make the records of the accredited organization available to the Minister or to the Minister's delegate. 2011, c. 36, s. 11.

#### **Examination, inspection or audit of accredited organization**

12 (1) The Minister may appoint a person to examine, inspect or audit documents, records or any other information or thing relating to the operation of an accredited organization, including anything under the control of the accredited organization.

- (2) A person appointed by the Minister pursuant to subsection (1)
- (a) has the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*;
  - (b) may make any inquiries the person thinks appropriate; and
  - (c) shall report their findings to the Minister in a timely manner.

(3) The Minister may act on the findings in the report made pursuant to clause (2)(c) or on any other information the Minister may receive to improve the administration and operational capacity of the accredited organization. 2011, c. 36, s. 12.

#### **Registrar**

13 The Minister may appoint a person to perform the duties and functions and exercise the powers and authorities of Registrar as imposed or conferred upon that person by this Act and the regulations made pursuant to this Act. 2011, c. 36, s. 13.

#### **Annual dues**

14 (1) Where the Minister has designated one or more accredited organizations to represent licence holders pursuant to subsection 9(1), each licence holder in a region shall pay annual dues as required under subsection 8(2) to the Registrar unless exempted by the regulations.

(2) A licence holder may, at the time of payment, direct the mandatory annual dues to a specific accredited organization.

(3) Where a licence holder has not selected an accredited organization pursuant to subsection (2), the Minister may

- (a) fix the dues payable as the maximum annual dues owing in the region;
- (b) assign dues pursuant to clause (a) to the nearest accredited organization; and
- (c) direct the Registrar to pay the dues to the accredited organization designated pursuant to clause (b).

(4) The Registrar shall transfer the dues collected pursuant to this Section to the accredited organization identified under either subsection (2) or clause (3)(b). 2011, c. 36, s. 14.

#### **Purpose of dues**

15 Dues remitted by the Registrar to an accredited organization must be used to support representation of member licence-holder interests on matters relating to the inshore fishery in addition to administrative and operational costs of the accredited organization as prescribed by the regulations. 2011, c. 36, s. 15.

#### **Offence and penalty**

16 (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to

- (a) for a first offence, a fine of not less than \$1,000; and
- (b) in the case of a second or subsequent offence, a fine of not less than \$2,500.

(2) No proceeding for an offence under this Act or the regulations may 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 the Minister. 2011, c. 36, s. 16.

#### **Inspectors**

17 (1) No person may act as an inspector for the purpose of this Act and the regulations unless the person is appointed as a special constable under the *Police Act*.

(2) The Minister of Natural Resources and Renewables may recommend individuals to the Minister of Justice for appointment as special constables under the *Police Act* for the purpose of this Act and the regulations.

(3) The Minister of Natural Resources and Renewables may recommend the revocation of the appointment by the Minister of Justice of any individual as special constable pursuant to subsection (1). 2011, c. 36, s. 17.

#### **Powers and duties of inspectors**

18 For the purpose of ensuring compliance with this Act and the regulations, an inspector may

- (a) do any or all of the things enumerated in subsections 89(1) and (2) of the *Fisheries and Coastal Resources Act*; and
- (b) exercise such other powers as may be prescribed by the regulations. 2011, c. 36, s. 18.

#### **Regulations by Minister**

- 19 (1) The Minister may make regulations
- (a) respecting the designation of regions;

(b) prescribing the process and requirement for establishing and maintaining an accredited organization as well as becoming a member of an accredited organization;

(c) prescribing the eligibility criteria for licence holders in a region to vote on the establishment of an accredited organization;

(d) prescribing the required threshold of eligible voters for the establishment of an accredited organization;

(e) prescribing mandatory payment of dues and exemptions from paying dues;

(f) respecting deadlines for the payment of annual dues and the designation, by the Minister, of the accredited organization to receive the annual dues where the licence holder fails to select an accredited organization to receive the dues;

(g) respecting the appointment, duties and functions of the Registrar;

(h) respecting persons appointed as inspectors;

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

(j) generally respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2011, c. 36, s. 19.

#### Regulations by Governor in Council

20 (1) The Governor in Council may make regulations

(a) prescribing penalties;

(b) respecting appeals of the Minister's decision to revoke an organization's accreditation.

(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. 36, s. 20.

CHAPTER F-21

**An Act to Establish  
the Fish Harvesters Registration  
and Certification Board**

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**Short title**

**1** This Act may be cited as the *Fish Harvesters Registration and Certification Board Act*. 2012, c. 5, s. 1.

**Purpose of Act**

- 2** The purpose of this Act is to create a board to
- (a) register and certify fish harvesters in the Province;
  - (b) establish certification criteria based on the knowledge, skills and experience of fish harvesters;
  - (c) fund and coordinate training opportunities to improve the safety and knowledge of fish harvesters; and
  - (d) promote the sustainability and economic viability of the fishing industry. 2012, c. 5, s. 2.

**Interpretation**

- 3 In this Act,
- “Board” means the Fish Harvesters Registration and Certification Board;
  - “directors” means the elected members of the Board;
  - “fish harvester” means a person registered by the Board and engaged in commercial fisheries;
  - “fish harvester organization” means an organization of licence holders;
  - “fleet sector” means a group of fish harvesters authorized to fish
    - (a) using the same gear or vessel type;
    - (b) the same species or stock;
    - (c) in the same area; or
    - (d) during the same season;
  - “Minister” means the Minister of Fisheries and Aquaculture. 2012, c. 5, s. 3.

**Fish Harvesters Registration and Certification Board**

- 4 A body corporate to be known as the Fish Harvesters Registration and Certification Board is established. 2012, c. 5, s. 4.

**Not a Crown corporation**

- 5 Notwithstanding Sections 70 and 71 of the *Finance Act*, the Board is not and may not be designated as a Crown corporation under the *Finance Act* or otherwise. 2012, c. 5, s. 5.

**Objects**

- 6 The objects of the Board are to
- (a) operate and maintain a fish harvester registration system;
  - (b) issue registration certificates to fish harvesters who meet the registration criteria and who pay the applicable fee;
  - (c) develop, fund and coordinate training courses for fish harvesters;
  - (d) issue written confirmation of individual fish harvester training and skill development courses;
  - (e) identify and access funding sources to assist fish harvesters with training and skills development;
  - (f) advise the federal and Provincial governments regarding
    - (i) training and skills development,
    - (ii) the safety of fish harvesters,
    - (iii) product value return to participants, and

- (iv) the improvement of the capacity of fish harvesters to support, and optimize fish quality improvement;
  - (g) improve the image of fish harvesting as a viable career option;
- and
- (h) adopt a Code of Ethics for fish harvesters. 2012, c. 5, s. 6.

**Composition of Board and term of appointment**

- 7 (1) The Board consists of
- (a) not fewer than eight directors representing geographical areas and industry fleet sectors, elected by fish harvester organizations and other fish harvester groups recognized by the Minister, in accordance with the bylaws of the Board;
  - (b) one non-voting member from each of
    - (i) the Department of Fisheries and Aquaculture;
    - (ii) the Department of Labour, Skills and Immigration;
    - (iii) the Department of Transport (Canada); and
    - (iv) the post-secondary education training institutions; and
  - (c) two non-voting members from the Department of Fisheries and Oceans (Canada).
- (2) The directors are elected during the annual general meeting of the Board for a term of three years and may be re-elected.
- (3) No director may serve more than two consecutive terms.
- (4) Notwithstanding subsection (3), directors hold office until such time as they are re-elected, or their successors are elected, even if such election or re-election occurs after the expiry of their specified term of office. 2012, c. 5, s. 7.

**Quorum**

8 A majority of the directors of the Board elected under clause 7(1)(a) constituted under subsection 7(5) constitutes a quorum of the Board. 2012, c. 5, s. 8.

**Executive**

- 9 (1) The directors shall annually elect from among its members an Executive consisting of a Chair, a Vice-chair, a Secretary, a Treasurer and one other member.
- (2) The Executive may exercise all the powers and shall perform all of the duties of the Board with respect to any matters that the Board may in the bylaws delegate to it. 2012, c. 5, s. 9.

**Expenses of directors**

- 10 (1) The directors serve without any remuneration.

(2) The directors must be reimbursed for reasonable expenses necessarily incurred in the performance of their duties. 2012, c. 5, s. 10.

**Executive Director**

- 11 (1) The Board shall appoint an Executive Director.
- (2) The Executive Director shall
- (a) be paid such remuneration as the Board determines and be reimbursed for reasonable expenses necessarily incurred in the performance of the duties of the Executive Director;
  - (b) perform the duties and responsibilities assigned by the Board; and
  - (c) attend and participate in Board and Executive meetings without the right to vote. 2012, c. 5, s. 11.

**Employees**

- 12 (1) The Board may employ such other employees as are necessary for the proper conduct and management of the affairs of the Board.
- (2) The employees of the Board must be paid such salary and receive such benefits as are determined by the Board.
- (3) The Board may engage the services of professional persons and experts upon such terms and conditions as the Board determines. 2012, c. 5, s. 12.

**Limit on liability**

13 A member or an employee of the Board is not personally liable for anything done or omitted to be done or for any neglect or default in the bona fide exercise or purported exercise of a power conferred upon that member or employee, as the case may be, pursuant to this Act. 2012, c. 5, s. 13.

**Annual general meeting**

14 The Board shall hold a general meeting annually in accordance with the bylaws of the Board. 2012, c. 5, s. 14.

**Bylaws**

- 15 The Board may make bylaws
- (a) regulating its proceedings, including the calling and conduct of its meetings;
  - (b) respecting the election and term of office of its directors;
  - (c) respecting the conduct of its directors;
  - (d) respecting the expenses of the Board and its directors;
  - (e) determining the powers and duties of its employees, including its Executive Director;
  - (f) respecting the engagement of persons whom the Board may employ;

- (g) respecting the management of the Board;
- (h) respecting the procedure for enacting, amending or revoking any bylaw of the Board;
- (i) respecting the establishment and maintenance of a fish harvester registration system;
- (j) prescribing annual fish harvester registration fees payable and designating, where required, different registration categories and prescribing different fees for different categories;
- (k) establishing certification criteria and levels;
- (l) establishing criteria for continuation of registration at the coming into force of this Act;
- (m) respecting the issuance of registration certificates and certification records;
- (n) establishing procedures for the conduct of appeals;
- (o) any other matter necessary or desirable for the attainment of its objects. 2012, c. 5, s. 15.

**Annual report**

**16 (1)** The Board shall annually prepare and submit to the Minister an annual report of the activities and operations for the Board during the preceding fiscal year and the report must include the audited financial statements of the Board, the financial projections for the following year and any other information that the Minister requests.

**(2)** Upon receipt of the annual report referred to in subsection (1), the Minister shall table the report in the House of Assembly within 15 sitting days following receipt thereof or, if the Assembly is not then sitting, within 15 days of the commencement of the ensuing sitting. 2012, c. 5, s. 16.

**Fiscal year**

**17** The fiscal year of the Board is determined by the directors. 2012, c. 5, s. 17.

**Auditor**

**18** The Board shall appoint an auditor for the Board and the auditor shall annually audit and prepare audited financial statements of the Board. 2012, c. 5, s. 18.

**Registration of fish harvesters**

**19 (1)** The Board shall establish and keep a register of all fish harvesters who meet the registration criteria and pay the applicable annual fee as set out in the Board bylaws.

**(2)** The Board may establish different registration categories of fish harvesters.

**(3)** Upon a fish harvester being registered, the Board shall issue to the fish harvester a certificate as set out in the bylaws.

(4) Where a fish harvester does not comply with the registration criteria or pay the applicable annual fee established by bylaw, the Board may, at any time, suspend, cancel or revoke the registration. 2012, c. 5, s. 19.

**Certification criteria and certification levels**

20 (1) The Board shall establish certification criteria and certification levels for registered fish harvesters as set out in the Board bylaws.

(2) The Board may consider the following in establishing certification criteria and certification levels:

- (a) educational requirements;
- (b) training requirements;
- (c) experience as a fish harvester;
- (d) the licence status of a person harvesting fish, shellfish, marine plants or marine mammals as a livelihood; and
- (e) specific fleet sector involvement. 2012, c. 5, s. 20.

**Certification of registered fish harvesters**

21 (1) Every registered fish harvester who applies for certification and meets the criteria as set out in the Board bylaws must be certified at the appropriate certification level.

(2) Upon request from the fish harvester, the Board shall issue a record of certification as set out in the bylaws.

(3) Where a fish harvester does not maintain current certification criteria established by bylaw, the Board may, at any time, suspend, cancel or revoke the fish harvester's certification. 2012, c. 5, s. 21.

**Appeals**

22 An aggrieved person may appeal any Board decision relating to registration and certification pursuant to Sections 19 and 20 in accordance with the bylaws. 2012, c. 5, s. 22.

**Appeal panel**

23 (1) Where an appeal is filed pursuant to Section 22, the Minister shall appoint an appeal panel to conduct a hearing.

- (2) The appeal panel consists of three persons, selected from
- (a) the Department of Fisheries and Aquaculture;
  - (b) the Department of Labour, Skills and Immigration;
  - (c) the Department of Transport (Canada);
  - (d) the Department of Fisheries and Oceans (Canada); and
  - (e) fish harvesters who are not directors.

**c. F-21            fish harvesters registration and certification board            7**

(3) The appeal panel is governed by the principles of natural justice, this Act and the bylaws in the conduct of a hearing.

(4) The decision of the appeal panel is final and binding.

(5) The members of the appeal panel shall serve without remuneration.

(6) The members of the appeal panel must be reimbursed for reasonable expenses necessarily incurred in the performance of their duties. 2012, c. 5, s. 23.

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CHAPTER F-22

**An Act Respecting  
Fisheries and Coastal Resources  
and to Encourage and Promote Programs  
to Sustain and Improve the Fishery**

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

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### Short title

**1** This Act may be cited as the *Fisheries and Coastal Resources Act*.  
1996, c. 25, s. 1.

## PART I

### INTRODUCTION

#### Purpose of Act

- 2** The purpose of this Act is to
- (a) consolidate and revise the law respecting the fishery;
  - (b) encourage, promote and implement programs that will sustain and improve the fishery, including aquaculture;
  - (c) service, develop and optimize the harvesting and processing segments of the fishing and aquaculture industries for the betterment of coastal communities and the Province as a whole;
  - (d) support the sustainable growth of the aquaculture industry;
  - (e) expand recreational and sport-fishing opportunities and ecotourism;
  - (f) foster community involvement in the management of coastal resources;
  - (g) provide training to enhance the skills and knowledge of participants in the fishery, including aquaculture;
  - (h) increase the productivity and competitiveness of the processing sector by encouraging value-added processing and diversification. 1996, c. 25, s. 2; 2015, c. 19, s. 1.

#### Interpretation

- 3 (1)** In this Act,
- “aquaculture” means the farming for commercial purposes of aquatic plants and animals over which the Minister exercises control but does not include raising or breeding in tanks, nets, pens or cages of aquatic plants and animals either as aquarium species, in laboratory experiments or by individuals on their own property as food for their own use;
  - “aquaculturist” means a person who practises aquaculture;
  - “Department” means the Department of Fisheries and Aquaculture;
  - “fish products” includes fishery resources and any parts, products or by-products derived from fishery resources, including, for greater certainty, processed fish;

“fishery resources” includes all vertebrate and invertebrate animals and all plants that spend all or part of their life in the aquatic and marine environment;

“Government” means the Crown in right of the Province;

“inspector” means an inspector appointed pursuant to this Act;

“marketing” means offering or advertising for sale;

“Minister” means the Minister of Fisheries and Aquaculture;

“processing” includes cleaning, filleting, icing, packing, canning, freezing, smoking, salting, cooking, pickling, drying or preparing fish for market in any other manner;

“solum” means the soil or land lying under the tidal water and extending seaward from mean high water mark and includes the foreshore;

“veterinary medical record” means

(a) a record of medical services, including examination, diagnosis, care or treatment; or

(b) any information pertaining to medical history,

provided by or to a professional veterinarian in relation to the health of an aquatic animal, and may include documents, data or images produced by any means.

(2) For the purpose of this Act,

(a) a person is in possession of a thing when it is in that person’s personal possession or when that person knowingly

(i) has it in the actual possession or custody of another person, or

(ii) has it in any place, whether or not that place belongs to or is occupied by that person, for the use or benefit of that person or of another person; and

(b) when one of two or more persons, with the knowledge and consent of the rest has anything in that person’s custody or possession, it is in the possession of each of them. 1996, c. 25, s. 3; 1999, c. 2, s. 1; 2010, c. 51, s. 1; 2012, c. 22, s. 1; 2015, c. 19, s. 2.

## PART II

### ADMINISTRATION

#### Personnel

4 The officers and employees necessary for the administration of this Act must be appointed in accordance with the *Civil Service Act*. 1996, c. 25, s. 4.

#### Supervision and management of Act

5 The Minister is responsible for the general supervision and management of this Act. 1996, c. 25, s. 5.

**Powers of Minister**

6 The Minister, for the purpose of the administration and enforcement of this Act, may

- (a) establish and administer policies, programs and guidelines pertaining to the administrative development and protection of the fishery and coastal zone aquatic resources;
- (b) consult with and coordinate the work and efforts of other departments and agencies of the Province respecting any matter relating to the maintenance and development of fishery resources;
- (c) enter into agreements with the Government of Canada or the government of any other province on matters relating to the management or development of fishery resources;
- (d) develop scientific databases, especially with respect to determining the impact of various geotypes on the fisheries environment and engage in consultations with the Government of Canada to ensure equitable access to fishery resources;
- (e) gather, compile, publish and disseminate information, including statistical data, relating to the maintenance and development of fishery resources;
- (f) establish and assist demonstration programs that are consistent with the intent of this Act;
- (g) conduct economic analyses to determine the costs and benefits of proposed alterations to traditional harvesting and processing of fisheries resources and aquaculture;
- (h) convene conferences and conduct seminars and educational programs relating to the development, management and protection of fisheries resources;
- (i) give financial assistance to any person, group, society or association for purposes related to the promotion and enhancement of the fishery;
- (j) establish fees for the provision, registration or filing of any information, documents, returns and reports, any application for, processing and issuance of an approval, certificate, licence or lease, any inspection or investigation and any services or material provided in the course of the administration of this Act;
- (k) prescribe forms for the purpose of this Act. 1996, c. 25, s. 6.

**Committees**

7 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, and
  - (ii) any policies, programs, standards, guidelines or other matters under the administration of the Minister;

(b) specify the functions 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 advisory committees;

(d) provide for the issue of summonses requiring the attendance of witnesses, the production of documents and things and the payments of fees to witnesses. 1996, c. 25, s. 7.

### Public registry

**8 (1)** The Minister may establish a public registry containing

(a) procedures, standards, codes of practice or guidelines established pursuant to this Act;

(b) all trust agreements entered into between fish harvesters and corporations;

(c) information or documents required by regulation to be included in the registry;

(d) any other information or document considered appropriate by the Minister.

**(2)** The Minister shall ensure public access to the information and documents contained in the public registry during business hours of the Department.

**(3)** Subject to subsection (4) and to the *Freedom of Information and Protection of Privacy Act*,

(a) all information under the control of the Department is accessible to the public; and

(b) the Minister shall ensure that information under the control of the Department is shared with other government departments and agencies.

**(4)** A veterinary medical record under the control of the Department is to be kept in confidence and may only be disclosed in accordance with subsection (5).

**(5)** A veterinary medical record may only be disclosed

(a) for the protection of human health;

(b) if so required by the laws of the Parliament or Government of Canada;

(c) to enable the enforcement of this Act or the regulations;

(d) in the form of summary health data that reveals no identifiable personal information; or

(e) if the owner of the animal that is the subject of the record has consented. 1996, c. 25, s. 8; 2005, c. 19, s. 1; 2015, c. 19, s. 3.

**Alternative dispute resolution**

**9 (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 must strive to achieve consensus to resolve procedural and substantive issues throughout the process.

**(4)** Where a form of alternative dispute resolution is being used to resolve a dispute, and where an independent party or neutral third party has been chosen to facilitate, mediate or arbitrate, at the conclusion of the process that person shall file a report with the Minister and with the parties 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 the issuance, cancellation or suspension of a licence or lease;
- (b) in case of a dispute over an approval;
- (c) as a substitute for a hearing; or
- (d) generally, for conflict resolution. 1996, c. 25, s. 9.

**Development of objectives and standards**

**10 (1)** In order to further the protection and wise use of fishery and coastal zone aquatic resources the Minister may develop and adopt quality objectives in qualitative or quantitative terms for all or part of the Province.

**(2)** The Minister may develop other policies, standards, guidelines and objectives to meet goals and purposes towards which fishery and coastal zone aquatic resource development and protection efforts of the Government are directed, including procedures, practices and methods for monitoring and analysis. 1996, c. 25, s. 10.

**Delegation by Minister**

**11 (1)** The Minister may, in writing, delegate to

- (a) an employee of the Department;
- (b) any employee of the Government or a Government agency;
- (c) any employee of the Government of Canada or an agency of that government; or
- (d) any person,

who has the qualifications and experience, any power or duty conferred or imposed on the Minister pursuant to this Act.

(2) Before making a delegation to a person pursuant to clause (1)(b), (c) or (d), the Minister shall consult with and obtain the consent of the person or, where applicable, the employer of the person.

(3) The Minister may revoke a delegation made pursuant to this Section.

(4) The Minister, with the approval of the Governor in Council, may utilize the facilities and personnel of other Government agencies or departments in furtherance of the objectives of this Act. 1996, c. 25, s. 11.

#### **Transfer of administration and control**

12 (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; or

(b) 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. 1996, c. 25, s. 12.

#### **Agreements**

13 The Minister may enter into agreements with

(a) any person relating to any matter pertaining to the fishery and coastal zone aquatic resources; or

(b) the Government of Canada with respect to the administration of this Act, the *Fisheries Act* (Canada) or any other federal enactment for the purpose of protection of the fishery and coastal zone aquatic resources. 1996, c. 25, s. 13.

#### **Purchase and disposal of real property**

14 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. 1996, c. 25, s. 14.

#### **Inspectors**

15 (1) The Minister of Natural Resources and Renewables may appoint as an inspector a person who has the qualifications and experience to be an inspector for the purpose of all or part of this Act.

(2) Where a person appointed pursuant to subsection (1) is not an employee of the Department of Natural Resources and Renewables, the Minister of

Natural Resources and Renewables, before making the appointment, shall consult with and obtain the consent of the person or, where applicable, the employer of the person.

(3) An appointment under subsection (1) may direct that the authority of the inspector be exercised subject to any terms and conditions that the Minister of Natural Resources and Renewables prescribes in the appointment, including limitations on the scope of the appointment. 1996, c. 25, s. 15; O.I.C. 2016-230; O.I.C. 2022-77.

#### Identification of inspectors

16 On entering any place, an inspector shall, on request, produce an identification card provided by the Department of Natural Resources and Renewables and provide reasons for the entry. 1996, c. 25, s. 16; O.I.C. 2016-230; O.I.C. 2022-77.

#### Laboratory analyses

17 (1) Before accepting results from any laboratory, the Minister may require proof of acceptable certification of the laboratory.

(2) The Minister may prescribe standards and procedures for any sampling or analysis that is required pursuant to this Act or the regulations. 1996, c. 25, s. 17.

#### Mode of serving documents

18 (1) Where any notice, request, order, 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 unpractical 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 of Nova Scotia 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. 1996, c. 25, s. 18.

**Regulations**

- 19** (1) The Governor in Council may make regulations
- (a) respecting information or documentation to be filed in the public registry established pursuant to this Part;
  - (b) respecting the manner in which reports of advisory or ad hoc committees are made public;
  - (c) respecting alternative dispute-resolution mechanisms;
  - (d) defining any word or expression used but not defined in this Act;
  - (e) for the effective administration 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;
  - (f) 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*, 1996, c. 25, s. 19.

## PART III

## TRAINING, TECHNOLOGY AND DEVELOPMENT

**Fisheries training**

**20** (1) The Minister is responsible for fisheries training in the Province and for the operation of any fisheries training school or facility operated by the Province and may, in the Minister's discretion, make provision for the standards and mode of admission, course of study, curriculum and apprenticeship in each branch in which instruction is given, and may authorize diplomas, certificates of proficiency, scholarships or other awards to be given after evaluation in any such subjects.

(2) For greater certainty, nothing in subsection (1) affects a fisheries training program offered by the private sector. 1996, c. 25, s. 20.

**Undertaking of projects by Minister**

- 21** (1) The Minister may undertake projects
- (a) for the exploration, development and enhancement of fisheries resources;
  - (b) for the more efficient harvesting and utilization of fishery resources;
  - (c) for the introduction and demonstration to fish harvesters and aquaculturists and others of new types of fishing and aquaculture vessels, gear, equipment, methods, techniques and operations;
  - (d) respecting the encouragement of the aquaculture industry, including the provision of financial or technical assistance, or a combination thereof, to persons engaged in aquaculture or in the

applied research and development or applied technology related to aquaculture;

(e) for the introduction of more efficient methods in landing, handling, transporting, processing and storing fish;

(f) for the training, education and career planning of fish harvesters and processing plant workers;

(g) for the promotion and marketing of fishery products;

(h) for the more efficient processing of fishery products;

(i) for the improvement of the quality of fish products and for the encouragement of value-added processing;

(j) for the improvement of fishing ports and aquaculture landing sites under Provincial jurisdiction, and their facilities and services;

(k) for the development of aquaculture;

(l) for the enhancement of fishing communities;

(m) to collect and disseminate statistics related to the fishery, including aquaculture.

(2) Without restricting the generality of subsection (1), the Minister may undertake economic studies to assist in the effective formulation of policies relating to the fishery and coastal zone aquatic resources. 1996, c. 25, s. 21.

#### **Establishment of programs by Minister**

22 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 fishery and coastal zone aquatic resources and for the purpose of achieving quality objectives in a cost-effective manner, including, without limiting the generality of the foregoing,

(a) user charges;

(b) resource pricing and physical resource accounts;

(c) deposit refund systems;

(d) product charges;

(e) charges on inputs or materials;

(f) tax incentives and tax differentiation;

(g) subsidies, loans and grants. 1996, c. 25, s. 22.

#### **Regulations**

23 (1) The Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively 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*. 1996, c. 25, s. 23.

## PART IV

LENDING FOR FISHERIES AND  
AQUACULTURE DEVELOPMENT**Interpretation of Part**

**24** In this Part,

“Board” means the Nova Scotia Fisheries and Aquaculture Loan Board;

“fishing industry” includes the catching, harvesting, raising, handling, processing, marketing and distributing of fisheries resources and products, and includes aquaculture;

“Fund” means the Fisheries and Aquaculture Development Fund. 1996, c. 25, s. 24.

**Board continued**

**25 (1)** The body corporate known as the Nova Scotia Fisheries Loan Board is continued under the name Nova Scotia Fisheries and Aquaculture Loan Board and is responsible for the administration of this Part.

**(2)** The Board consists of such members as are appointed to it by the Governor in Council.

**(3)** The Governor in Council may designate one member of the Board to be Chair and one member to be Vice-chair. 1996, c. 25, s. 25.

**Remuneration and reimbursement of members**

**26 (1)** The members of the Board must receive such remuneration and allowances as may be determined by the Governor in Council.

**(2)** The members of the Board must be paid such reasonable expenses incurred by them in the performance of their duties as are determined by the Governor in Council. 1996, c. 25, s. 26.

**Quorum and term of office**

**27 (1)** A majority of members constitutes a quorum of the Board.

**(2)** A vacancy on the Board does not impair the right of the remaining members to act.

**(3)** Each member of the Board holds office for a term, not exceeding three years, prescribed in the member’s appointment, unless the member’s appointment is sooner revoked by the Governor in Council, and is eligible for reappointment to the Board.

**(4)** The Governor in Council may appoint persons to fill vacancies occurring on the Board. 1996, c. 25, s. 27.

**Object of Board**

**28** The object and purpose of the Board is to make loans and guarantees of loans to fish harvesters, aquaculturists, companies, co-operatives, associations or other persons in order to encourage, sustain, improve and develop the fishing industry in the Province. 1996, c. 25, s. 28.

**Powers and duties of Board**

**29** The Board

(a) shall administer, in accordance with the regulations, the Fund and any other fund or money as comes under the control of the Board;

(b) with the approval of the Governor in Council, may enter into agreements with the Government of Canada or another province, or with any person or any organization, whether public or private, or any combination of them, for the better carrying out of this Part on such terms and conditions as may be approved by the Governor in Council notwithstanding the provisions of this Part;

(c) subject to the regulations, may receive, take, hold, mortgage, sell, convey or otherwise dispose of real or personal property;

(d) shall perform such duties and exercise powers as may be approved or determined by the Governor in Council;

(e) has power to do all such matters and things as may be necessary for or incidental to the attainment of its object and purpose and the exercise of its powers. 1996, c. 25, s. 30.

**Board subject to Ministerial directions**

**30** In the exercise and performance of its functions, powers and duties under this or any other enactment, the Board shall act in accordance with any general directions of the Minister. 1996, c. 25, s. 31.

**Personnel**

**31** The Minister may, in accordance with the *Civil Service Act*, appoint from the staff of the Department such officers, assistants, supervisors, clerks and other staff and employees as may be necessary to carry on the work of the Board or to carry out the provisions of this Part. 1996, c. 25, s. 32.

**Fisheries and Aquaculture Development Fund**

**32** For the purpose of this Part, there is established in the office of the Minister of Finance and Treasury Board a special account to be known as the Fisheries and Aquaculture Development Fund. 1996, c. 25, s. 34.

**Transfers to Fund**

**33** The Governor in Council, upon the recommendation of the Minister, may transfer to the Fund such amounts as are considered necessary for the purpose of this Part and may charge the same to Capital Account, Special Reserve Account or Revenue of the Province for any year or years. 1996, c. 25, s. 35.

**Use of Fund**

**34** Subject to the regulations, the Board may, out of the Fund or other money under its control, make loans and guarantees of loans to or on behalf of fish harvesters, aquaculturists, companies, co-operatives, associations or other persons engaged directly in the fishing industry or to or on behalf of any person for any purpose that, in the opinion of the Governor in Council, will encourage, sustain, improve or develop the fishing industry in the Province. 1996, c. 25, s. 29.

**Guarantees as charges**

**35** All guarantees of loans made pursuant to this Part or pursuant to any other Act are a charge upon the Fund to the amount of the guarantees outstanding. 1996, c. 25, s. 36.

**Administration expenses**

**36** The administration expenses of the Minister and the Board pursuant to this Part are administration expenses of the Department and are not a charge upon the Fund. 1996, c. 25, s. 33.

**Treatment of repayments and recoveries**

**37** All repayments and all recoveries made in respect of any transaction out of the Fund must be credited to the Fund. 1996, c. 25, s. 37.

**Approval for certain guarantees**

**38** The Board may not make a loan or guarantee of loan in excess of the amount prescribed by the regulations without the approval of the Governor in Council. 1996, c. 25, s. 38; 2005, c. 50, s. 1.

**Execution of documents**

**39** All deeds, mortgages, transfers, assignments, discharges, releases, agreements, securities or other documents of whatsoever nature or kind must be executed by officers of the Board as designated by the members of the Board and approved by the Deputy Minister of the Department. 2019, c. 31, s. 2.

**Finances and fiscal year**

**40 (1)** The system of accounting and the books and records of the Board are subject to the approval and supervision of the Minister of Finance and Treasury Board and subject to audit by the Auditor General or any person designated by the Auditor General.

**(2)** The fiscal year of the Board is the same as the fiscal year of the Province. 1996, c. 25, s. 40.

**Annual statements**

**41** The Board shall, not later than January 31st in each year, prepare and submit to the Minister a financial statement setting forth the assets and liabilities of the Board, the receipts and expenditures of the Board for the previous year, together with a report concerning the work of the Board during the previous year, and the report must be tabled by the Minister at the next ensuing session of the Legislature. 1996, c. 25, s. 41.

**Regulations**

**42 (1)** The Governor in Council, on the recommendation of the Minister, may make such regulations as the Governor in Council considers necessary or advisable for the more effective carrying out of the provisions of this Part and for dealing with matters for which no express provision has been made and, without restricting the generality of the foregoing, may make regulations

(a) prescribing the manner in which applications for loans or guarantees of loans may be made;

(b) prescribing the terms and conditions on which loans or guarantees of loans may be made;

(c) prescribing the manner and conditions on which fish harvesters, aquaculturists, companies, co-operatives, associations or other persons may sell or transfer any asset, boat, equipment or product in respect of which a loan has not been fully repaid;

(d) prescribing or limiting the size or type of assets, boats, equipment or products for or in respect of which loans or guarantees of loans may be made;

(e) limiting the amount of any loan or guarantee of loan;

(f) prescribing the fees and expenses payable with respect to loans or guarantees of loans;

(g) prescribing the terms, conditions or circumstances under which the Board, in its discretion, may extend, defer, adjust or compromise

(i) the repayment of a loan, or

(ii) the terms and conditions of any loan or guarantee of loan;

(h) fixing rates of interest on loans;

(i) providing for the commuting of any payment due to the Board;

(j) prescribing the amount and nature of the security to be required before a loan or guarantee of loan is made;

(k) prescribing the form of any mortgage and the manner of its execution;

(l) prescribing or regulating the form and contents of any agreement between a fish harvester, aquaculturist, company, co-operative, association or other person and a boat builder for the construction of a boat;

(m) respecting the design, plans and specifications for fishing boats;

(n) prescribing the purposes for which loans or guarantees of loans may be made;

(o) prescribing the manner in which meetings of the Board must be called, the time and place of such meetings and the manner in which business must be conducted at the meetings;

(p) respecting records to be kept by fish harvesters, aquaculturists, companies, co-operatives, associations or other person to or for whom any loan or guarantee of loan has been made;

(q) for the examination and audit of records and accounts and for the inspection of any premises, plant, boat, assets, products or equipment in respect of which a loan or guarantee of loan has been made;

(r) notwithstanding the definition of “fishing industry”, prescribing commercial, business or other activities that are deemed to be included in the definition of “fishing industry” for the purpose of this Part and the regulations;

(s) defining any word or expression used but not defined in this Part;

(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*, 1996, c. 25, s. 42; 2019, c. 31, s. 3.

## PART V

### AQUACULTURE

#### Interpretation of Part

43 In this Part,

“adjudicative amendment” means an amendment to an aquaculture licence or to an aquaculture lease approved by the Review Board on the hearing of an application to amend pursuant to clause 52(b) or (c);

“aquacultural operation” means the practice of aquaculture at a site;

“aquacultural produce” means aquatic plants and animals farmed or being farmed as part of an aquacultural operation;

“aquaculture lease” means an aquaculture lease issued pursuant to this Part;

“aquaculture licence” means an aquaculture licence issued pursuant to this Part;

“aquaculture registry” means a public registry of Provincial aquaculture licences and leases and information related to sites available for reallocation in the Province;

“aquatic” refers to fresh, brackish or marine water;

“aquatic plants and animals” means plants and animals that during all stages of their development or life cycles have water as their natural habitat;

“brackish water” means water situated in tidal areas where fresh water mixes with marine water;

“experimental licence” means an experimental licence issued pursuant to this Part;

“farming” means the culture, husbandry, production, development or improvement of aquatic plants and animals;

“feed stock” includes any form of flora or fauna given or intended to be given as food to aquacultural produce;

“finfish” means any cultured cold-blooded aquatic vertebrate possessing fins and gills;

“prescribed” means prescribed by the regulations;

“Review Board” means the Nova Scotia Aquaculture Review Board established pursuant to this Act;

“seed stock” includes eggs, alevins, parr, smolt, juvenile and adult fish, crustaceans and shellfish, seeds, spat, seedlings and other forms of aquatic plants and animals used or intended to be used as the primary source of the aquacultural produce;

“shellfish” means any cultured mollusc or crustacean, at any stage of its life cycle;

“sub-aquatic land” means the bed of a natural body of water including the solum of the sea;

“water column” means the aqueous medium superjacent to a defined area of sub-aquatic land. 1996, c. 25, s. 43; 2015, c. 19, s. 4; 2018, c. 8, s. 1.

#### **Purpose of Part**

44 The purpose of this Part is to

(a) recognize that aquaculture is a legitimate and valuable use of the Province’s coastal resources;

(b) ensure aquaculture is conducted under conditions and in accordance with controls that protect the environment;

(c) provide a predictable and efficient regulatory environment for business and public confidence;

(d) ensure equity, fairness and compatibility in access to, and utilization of, public water resources for aquaculture;

(e) ensure that members of the public have access to information with respect to the regulatory process and an opportunity to participate in the process;

(f) ensure that regulations governing aquaculture are achievable, contain incentives for compliance and are enforceable;

(g) ensure that coastal communities derive positive social and economic benefits from aquaculture;

(h) ensure that aquaculture is conducted with due regard to the health, well-being and recovery of species at risk; and

(i) ensure that the regulation of aquaculture contributes to the productive development of the Province’s coastal resources. 2015, c. 19, s. 5.

**Licences**

**45** (1) No person shall carry on aquaculture without an aquaculture licence.

(2) No person shall carry on aquaculture on Crown land without an aquaculture licence and an aquaculture lease.

(3) Unless otherwise restricted by this Part or the terms of the lease, the granting of an aquaculture lease carries with it the exclusive right, for aquacultural purposes, to possession of the water column and sub-aquatic land described in the lease. 1996, c. 25, s. 44; 2015, c. 19, s. 6.

**Proposals for options to lease undesignated Crown land**

**46** (1) The Minister may issue a call for proposals for options to lease a tract of Crown land chosen by the Minister that is not designated as an aquaculture development area.

(2) A person may submit a proposal within such time and in such manner as the Minister determines.

(3) A proposal must include such information as the Minister determines.

(4) Upon review of a proposal, the Minister may issue an option to lease for an area within the tract.

(5) An option to lease must

(a) convey the exclusive right, for the duration of the option, to apply for an aquaculture lease for a site within the area;

(b) be for a prescribed duration; and

(c) be subject to a prescribed fee.

(6) Where there are competing proposals of equivalent and acceptable stature, the Minister shall issue an option to lease to the proponent who, in the opinion of the Minister, is the best overall proponent based on the information available to the Minister under this Section. 2015, c. 19, s. 7; 2018, c. 8, s. 2.

**Application for licence or lease**

**47** (1) A person may apply to the Minister, in the manner prescribed by the Minister, for an aquaculture licence.

(2) Where the site at which aquacultural activities are proposed to be carried on is on Crown land, the applicant shall, in addition to applying for a licence pursuant to subsection (1), apply to the Minister, in the manner prescribed by the Minister, for an aquaculture lease.

(3) Where the site at which aquacultural activities are proposed to be carried on is on private land, an aquaculture licence may only be issued to the owner or lessee of the land. 1996, c. 25, s. 45; 2015, c. 19, s. 8.

**Contents of application**

**48 (1)** An application for an aquaculture licence or aquaculture lease must be accompanied by the information stipulated by the Minister.

**(2)** The Minister may require an applicant for an aquaculture licence or aquaculture lease 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. 1996, c. 25, s. 46.

**Procedure upon receipt of application**

**49 (1)** Upon receipt of an application referred to in Section 47 for an aquaculture licence or aquaculture lease, the Minister shall refer the application to the Administrator.

**(2)** Upon the receipt of an application for an aquaculture licence or aquaculture lease for an area not designated as an aquaculture development area, the Minister shall appoint an employee of the Department to consult with

(a) other departments or agencies of the Government or the Government of Canada, as may be required under the laws of the Province or of Canada; and

(b) any person, group of persons or organization that the Minister considers necessary or advisable in the circumstances,

and shall refer the application, along with a report on the outcome of the consultation described in clauses (a) and (b), to the Review Board for decision. 2015, c. 19, s. 9.

**Proposal to advance application**

**50 (1)** The holder of an aquaculture licence or an aquaculture lease may submit a proposal to the Minister to advance an application before the Review Board for an adjudicative amendment to the licence or lease.

**(2)** The proposal must be submitted within such time and in such manner as the Minister determines.

**(3)** The proposal must include such information as the Minister determines.

**(4)** Upon review of the proposal, the Minister may issue an approval to advance the application for an adjudicative amendment before the Review Board.

**(5)** The approval to advance the application

(a) must convey the exclusive right, for the duration of the approval, to apply for the adjudicative amendment to the Review Board;

(b) must be for a prescribed duration; and

(c) is subject to a prescribed fee.

(6) Where the Minister grants an approval pursuant to subsection (4) and the Review Board could approve an increase of the area of an existing aquaculture site under that application, the Minister shall not, pending the Review Board's determination, grant an option to lease or approve another proposal to advance an application relating to the area that may be added to the existing aquaculture site.

(7) Where there are competing proposals of equivalent and acceptable stature, the Minister shall issue an approval to advance an application for an adjudicative amendment to the proponent who, in the opinion of the Minister, is the best overall proponent based on the information available to the Minister under this Section. 2018, c. 8, s. 3.

### **Review Board**

**51** (1) A board to be known as the Nova Scotia Aquaculture Review Board is established, consisting of not more than 10 members appointed by the Minister for such terms as the Minister may determine.

(2) The Minister shall appoint one member of the Review Board to be its Chair and another member to be its Vice-chair.

(3) The Minister shall appoint an employee of the Department to act as the clerk of the Review Board.

(4) The Chair of the Review Board shall assign three or more of its members to constitute a panel to hear an application before the Review Board.

(5) The Chair of the Review Board shall determine a quorum of the Review Board or of a hearing panel.

(6) Members of the Review Board must be paid such remuneration as the Minister determines.

(7) Members of the Review Board must be reimbursed as the Minister determines for reasonable travelling and other expenses incurred by them in accordance with the work of the Board.

(8) A vacancy on the Review Board does not impair the ability of the Board to act.

(9) The Review Board may make rules of procedure for the conduct and management of its affairs.

(10) The Review Board and each member of it has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment. 2015, c. 19, s. 9; 2021, c. 31, s. 1.

### **Review Board's duties with respect to undesignated marine areas**

**52** The Review Board shall, with respect to marine areas not designated as aquaculture development areas, make decisions with respect to

- (a) an application for an aquaculture licence or aquaculture lease;

(b) where an existing aquaculture licence or aquaculture lease authorizes the production of shellfish or aquatic plants but not finfish species, an application to amend the aquaculture licence or aquaculture lease to authorize the production of a finfish species; and

(c) an application to amend an aquaculture licence or aquaculture lease to change the boundaries of an existing aquaculture site if the change results in an increase in the area of the aquaculture site. 2015, c. 19, s. 9.

#### **Review Board decision**

**53** Where a panel is constituted to hear an application before the Review Board, a decision of a majority of the panel is the decision of the Review Board but, where there is no majority, a decision of the chair of the panel is the decision of the Review Board. 2021, c. 31, s. 2.

#### **Appeal**

**54 (1)** A party to an application may appeal a Review Board decision to the Supreme Court of Nova Scotia, upon any question as to the jurisdiction of the Board or upon any question of law, upon filing with the Court a notice of appeal within 30 days after the decision is issued.

**(2)** An appeal made pursuant to subsection (1) does not operate as a stay of the Review Board decision pending the outcome of the appeal. 2015, c. 19, s. 9; 2018, c. 8, s. 4.

#### **Public hearing**

**55** Where the Minister refers an application to the Review Board, it shall hold a public hearing as prescribed. 2015, c. 19, s. 9.

#### **Review Board decision**

**56 (1)** Upon receiving a decision of the Review Board made pursuant to Section 52, the Minister shall, in accordance with the decision,

- (a) issue the aquaculture licence or aquaculture lease;
- (b) issue the aquaculture licence or aquaculture lease, subject to any conditions the Review Board considered appropriate;
- (c) reject the application for the aquaculture licence or aquaculture lease; or
- (d) amend the aquaculture licence or aquaculture lease.

**(2)** The Minister shall make publicly available a decision of the Review Board upon implementation pursuant to subsection (1). 2015, c. 19, s. 9.

#### **Prohibition**

**57** No person shall introduce a species of aquatic plants or animals foreign to the area where it is intended to introduce them without having first obtained an aquaculture licence authorizing such introduction. 1996, c. 25, s. 54; 2015, c. 19, s. 10.

**Administrator**

**58 (1)** The Minister shall appoint an employee of the Department to act as Administrator and make decisions with respect to

- (a) applications for aquaculture licences or aquaculture leases in designated aquaculture development areas only;
- (b) applications for aquaculture licences for land-based aquaculture sites;
- (c) applications to amend aquaculture licences or aquaculture leases except those applications referred to in clauses 52(b) and (c);
- (d) applications to renew aquaculture licences or aquaculture leases;
- (e) applications to assign aquaculture licences or aquaculture leases;
- (f) applications with respect to an aquaculture site for which the licence or lease has been revoked; and
- (g) applications to amalgamate two or more aquaculture licences or aquaculture leases and their associated aquaculture sites.

**(2)** In making a decision under subsection (1), the Administrator shall follow the process prescribed by the regulations. 2015, c. 19, s. 11; 2018, c. 8, s. 5.

**Special experimental licence or lease**

**59** Notwithstanding anything contained in this Part, the Administrator may grant a special experimental licence or special experimental lease upon such terms and conditions as the Administrator considers necessary or advisable. 2015, c. 19, s. 12.

**Institutional licence or lease**

**60** Notwithstanding anything contained in this Part, the Administrator may grant an institutional licence or institutional lease, upon such terms and conditions as the Administrator considers necessary or advisable, to a person who is carrying out public fishery enhancement and research activities that are not for the purpose of commercial gain. 2018, c. 8, s. 6.

**Powers of Minister respecting aquaculture development areas**

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

- (a) designate as an aquaculture development area sub-aquatic lands under marine or brackish waters and their water columns;
- (b) impose conditions and restrictions on the conduct of aquaculture and other activities in an aquaculture development area;
- (c) change any designation, condition, restriction or determination pursuant to clause (a) or (b);

(d) designate as a provisional aquaculture development area sub-aquatic lands under marine or brackish waters and their water columns not otherwise designated as an aquaculture development area or a closed area;

(e) designate as a closed area sub-aquatic lands under marine or brackish waters and their water columns that, in the opinion of the Minister, are not suitable for aquaculture development;

(f) determine when aquaculture development areas may be designated.

(2) Before designating an aquaculture development area or imposing conditions or restrictions to be applicable thereto, the Minister shall consult with

(a) other departments or agencies of the Government or the Government of Canada, as may be required by the laws of the Province or of Canada; and

(b) any person, group of persons or organization that the Minister considers necessary or advisable in the circumstances.

(3) When

(a) an aquaculture development area has been designated;

(b) conditions and restrictions are imposed on the conduct of aquaculture or of other activities in an aquaculture development area; or

(c) there have been changes in those matters outlined in clause (a) or (b),

the Minister shall cause a copy of the plan and description of the area designated and the conditions or restrictions imposed to be registered in the registry of deeds for the county or district in which the area is located and the Minister shall cause a notice to be published on the Department's website and in the Royal Gazette.

(4) Property is deemed not to be injuriously affected by reason of the exercise, pursuant to subsection (1), by the Minister of the authority conferred upon the Minister by that subsection. 1996, c. 25, s. 56; 2015, c. 19, s. 13.

### Consequences of designation

62 (1) Where the Minister has designated an area as an aquaculture development area, a person may apply to the Administrator for an aquaculture licence or an aquaculture lease and the Administrator may issue an aquaculture licence or aquaculture lease in the aquaculture development area on such terms and conditions as the Administrator considers necessary or advisable.

(2) The Minister may determine when applications in aquaculture development areas may be submitted.

(3) For greater certainty, Sections 55 and 56 do not apply to an aquaculture licence or aquaculture lease issued by the Administrator pursuant to subsection (1). 1996, c. 25, s. 57; 2015, c. 19, s. 14.

**Powers of Administrator**

- 63 (1)** The Administrator may
- (a) issue aquaculture licences for land-based aquaculture sites;
  - (b) amend aquaculture licences and aquaculture leases except those applications referred to in clauses 52(b) and (c);
  - (c) renew aquaculture licences and aquaculture leases;
  - (d) approve applications to assign aquaculture licences and aquaculture leases;
  - (e) issue in accordance with the regulations aquaculture licences and aquaculture leases with respect to aquaculture sites for which the licence or lease has been revoked; and
  - (f) amalgamate aquaculture licences and aquaculture leases and their associated aquaculture sites.

**(2)** The Administrator may assign any conditions that the Administrator considers necessary or advisable to an aquaculture licence or aquaculture lease referred to in subsection (1). 2015, c. 19, s. 15; 2018, c. 8, s. 7.

**Powers where licence or lease revoked**

- 64 (1)** Where an aquaculture licence or aquaculture lease has been revoked, the Administrator may
- (a) maintain use and activity information related to the aquaculture site on the aquaculture registry for a prescribed period; or
  - (b) remove use and activity information related to the aquaculture site from the aquaculture registry.

**(2)** A person may apply to the Administrator in the prescribed manner for an aquaculture licence or aquaculture lease to a site for which the licence or lease has been revoked. 2015, c. 19, s. 15.

**Power to revoke licence or lease**

**65** An aquaculture licence or aquaculture lease issued pursuant to this Part may be revoked by the Administrator if

- (a) the holder is in breach of this Part, the regulations or any term or condition of the licence or lease;
- (b) in the opinion of the Administrator, the aquaculture activities authorized by the licence or lease are detrimental to or interfere with previously licensed or leased aquaculture sites;
- (c) the holder is found by a court of competent jurisdiction to be in violation of any law of the Province or of the Parliament or Government of Canada relating to fishery activities; or
- (d) the holder requests revocation of the licence or lease. 2015, c. 19, s. 15.

**Title to plants and animals**

**66** All aquatic plants and animals of the species specified in an aquaculture licence or aquaculture lease in or on the licensed or leased area, except free-swimming or drifting flora or fauna not enclosed by a net, pen, cage or enclosure, are the exclusive property of the holder of the licence or lease. 1996, c. 25, s. 60.

**Exclusive property of holder**

**67 (1)** All aquatic animals owned by the holder of an aquaculture licence or aquaculture lease remain the exclusive property of the licence or lease holder while within the licensed or leased area boundaries.

**(2)** Notwithstanding subsection (1), where the aquatic animals owned by the holder of an aquaculture licence or aquaculture lease escape from the licensed or leased area, the holder of the licence or lease retains the exclusive property right to those aquatic animals while within 100 metres of the boundaries of the licensed or leased area. 1996, c. 25, s. 61.

**Certain provisions prevail**

**68** Where there is a conflict between Section 45, 54 or 62 of this Part and any other enactment, those Sections prevail. 1996, c. 25, s. 63; 2015, c. 19, s. 17.

**Regulations**

- 69 (1)** The Governor in Council may make regulations
- (a) for the proper development, management and control of aquaculture;
  - (b) respecting the forms and information required upon an application;
  - (c) respecting the application process for the reallocation of an aquaculture site;
  - (d) respecting options to lease, including, without limiting the generality of the foregoing, their duration and the payment of fees required for their issuance;
  - (e) respecting the term and conditions under which an aquaculture lease or aquaculture licence may be issued;
  - (f) respecting the issuance of an aquaculture licence or aquaculture lease for an aquaculture site that is being reallocated pursuant to clause 63(1)(e);
  - (g) respecting fees for aquaculture licences and aquaculture leases;
  - (h) respecting the environmental monitoring, conservation and protection of licensed or leased areas;
  - (i) respecting the introduction of new species or strains of aquatic plants and animals;
  - (j) respecting the health of aquacultural produce, including, without limiting the generality of the foregoing,

- (i) the isolation, quarantining, gathering, disposal and destruction of aquacultural produce, seedstock and feedstock,
- (ii) payments to the Minister for costs incurred, and
- (iii) the payment of compensation;
- (k) respecting methods of handling, marketing and maintaining the quality of aquacultural produce;
- (l) providing for the use, control or prohibition of feedstock and seedstock;
- (m) providing for inspection of feedstock and seedstock;
- (n) respecting the manner and methods of marking the boundaries of licensed areas, leased areas or aquaculture development areas;
- (o) respecting the marking of aquacultural operations so as to provide notice to mariners;
- (p) respecting information to be submitted to the Minister by the holder of a lease or licence concerning the productivity and obligations in respect of the area leased or licensed;
- (q) respecting the exemption of persons or classes of persons or activities from all or part of this Part;
- (r) determining whether or not compensation for anything done pursuant to this Part is payable and where payable, the circumstances in which, the extent to which, by whom and to whom such compensation is payable and the manner in which and the person by whom the amount of such compensation is to be determined;
- (s) respecting the requirement for security bonds in connection with the issuance of licences or leases;
- (t) prescribing the powers and duties of the Review Board;
- (u) prescribing the procedures of the Review Board for conducting hearings, public consultations, investigations and issuing decisions;
- (v) prescribing procedures and fees payable for making an application to the Administrator;
- (w) respecting applications to the Administrator for the granting, renewing, amending, assigning or revoking of aquaculture licences and aquaculture leases;
- (x) defining any word or expression used but not defined in this Part;
- (y) 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*. 1996, c. 25, s. 64; 2015, c. 19, s. 18.

## PART VI

## SEA PLANTS HARVESTING

**Interpretation of Part**

**70** In this Part,

“lease” means a lease issued pursuant to this Part;

“sea plant” means all fucoids (commonly known as rock weeds) and laminarians (commonly known as kelp) but does not include *chondrus crispus* (commonly known as Irish moss), dulse or eel grass. 1996, c. 25, s. 65.

**Leases**

**71 (1)** The Minister may issue a lease to an individual, corporation or other entity to harvest sea plants from an area or areas of the solum, based on commercialization of harvest.

**(2)** No lease may be issued in respect of an area for which a lease is in force.

**(3)** No lease may be issued for a period, or combined extension of periods, in excess of 15 years. 1996, c. 25, s. 66.

**Exclusion from lease**

**72** No lease may include any part of the solum that has been granted or leased under the *Beaches and Foreshores Act*. 1996, c. 25, s. 67.

**Application for lease**

**73 (1)** Application for a lease must be made to the Minister on the form or forms provided by the Minister and must contain the information required by the Minister or by the regulations.

**(2)** The Minister, where the Minister is satisfied that it is in the best interests of the Province, may adjourn, reject or allow the application for a lease.

**(3)** A lease is subject to the regulations and other relevant enactments.

**(4)** The Minister may extend the term of a lease for periods not to exceed 15 years.

**(5)** The Minister may terminate a lease at any time if the lessee breaches any of the terms or conditions of the lease. 1996, c. 25, s. 68.

**Notice of application and objection**

**74 (1)** Notice of an application for a lease must be served on the Minister not less than 20 days before the application is made.

**(2)** The notice referred to in subsection (1) must contain

(a) the name and residence of the applicant;

- (b) a description of the area in respect of which the application is made;
- (c) the date of the application; and
- (d) a detailed management and commercialization plan.

(3) The notice must be published in a newspaper having a general circulation in the county or counties to which the area is contiguous and in the Royal Gazette not fewer than 10 days before the date of the application.

(4) Any person who objects to the issuance of a lease in respect of the area referred to in the notice shall notify the Minister, in written form, not more than seven days after the date of publication of the later of the two notices required by subsection (3).

(5) Upon receipt of a notice of objection to the issuance of a lease, the Minister may hold a public hearing at a time and place determined by the Minister and shall notify the applicant and the person or persons who have given notice pursuant to subsection (4) of the time and place of the hearing. 1996, c. 25, s. 69.

#### Permit for harvesting

75 (1) No person shall harvest sea plants in an area for which a lease is in force unless that person has applied to the Minister for a permit and been granted a permit by the Minister to harvest in the leased area.

(2) The Minister shall issue an identification card to each person granted a permit pursuant to subsection (1) and that identification card must be in the possession of that person at all times while harvesting sea plants in a leased area.

(3) A person who harvests sea plants in a leased area without a permit issued pursuant to subsection (1) is guilty of an offence. 1996, c. 25, s. 70.

#### Regulations

- 76 (1) The Governor in Council may make regulations
- (a) exempting from the application of this Part certain classes of persons who harvest sea plants for agricultural or scientific purposes and not for processing or sale;
  - (b) providing for the method by which sea plants must be harvested;
  - (c) providing for conservation of sea plants;
  - (d) prescribing the form of notice, application and lease and providing for hearings and notice of and the procedure at hearings;
  - (e) respecting the duration of leases and permits;
  - (f) prescribing the terms and conditions of leases and permits;
  - (g) providing for the payment of fees by lessees and persons applying for a permit and fixing the amount and rate of those fees;

- (h) providing for the revocation of leases and permits;
- (i) designating an area as a closed or open area;
- (j) defining any word or expression used but not defined in this Part;
- (k) 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*, 1996, c. 25, s. 71.

## PART VII

### LICENSING AND INSPECTING OF FISH PRODUCTS

#### General supervision and control

77 The Minister has the general supervision and control of processing, buying, selling, possession and marketing of fish products within the Province for the purpose of maintaining product quality, protecting the health and safety of seafood consumers and assisting in the orderly development of the fisheries industry. 1996, c. 25, s. 72; 1999, c. 2, s. 2; 2010, c. 51, s. 2; 2010, c. 22, s. 3.

#### Prohibition

78 No person shall process, buy, sell, be in possession of or market, within the Province, fish products except in accordance with the terms of a licence from the Minister unless the person is exempt pursuant to the regulations. 1996, c. 25, s. 73; 1999, c. 2, s. 3; 2010, c. 51, s. 3; 2012, c. 22, s. 4.

#### Licences

79 (1) A person may apply to the Minister, in the manner required by the Minister, for a licence to

- (a) process fish products; or
- (b) buy fish products.

(2) An application for a licence must be accompanied by the information stipulated by the Minister.

(3) The Minister may require an applicant for a licence to submit any additional information the Minister considers necessary.

(4) Where the Minister considers an application to be incomplete, the application may not be processed until the information required is submitted. 1996, c. 25, s. 74; 1999, c. 2, s. 4; 2010, c. 51, s. 4; 2012, c. 22, s. 5.

#### Grounds for refusing licence

80 The Minister may refuse to issue a licence to process or buy fish products if the Minister is not satisfied that it is in the public interest to issue the licence having regard to the supply of fisheries resources available, the presence of existing under-utilized processing capacity or any other factor that, in the opinion of

the Minister, is relevant to determining the public interest. 1996, c. 25, s. 75; 1999, c. 2, s. 5; 2010, c. 51, s. 5; 2012, c. 22, s. 6.

#### **Particulars respecting licence**

- 81 (1)** A licence issued pursuant to this Part
- (a) must be granted for a period prescribed by the regulations, with a right of renewal by the licensee at the Minister's option;
  - (b) may specify what fees are payable; and
  - (c) is subject to any terms and conditions prescribed by the Minister.
- (2)** A licence may be varied or amended by the Minister at any time as may be reasonably necessary to carry out the purpose of this Part.
- (3)** A licence may be terminated by the Minister at any time if
- (a) the application for a licence is false in any material particular;
  - (b) the holder of the licence fails to pay, within 30 days, any fee or charges pursuant to this Part;
  - (c) the holder of the licence fails to meet any requirement placed on the licence holder by the regulations;
  - (d) the holder of the licence fails to comply with this Part.
- (4)** The holder of a licence shall submit to the Minister such information as is prescribed by the regulations. 1996, c. 25, s. 76; 1999, c. 2, s. 6; 2010, c. 51, s. 6.

#### **Certain powers of Governor in Council and Minister**

- 82 (1)** Notwithstanding anything contained in this Act or any other enactment, the Minister may, with the approval of the Governor in Council,
- (a) authorize any action or invoke any measure to encourage the development and protection of fishery resources in the Province;
  - (b) authorize any action or invoke any measure relating to fish products considered necessary by the Minister to effect the purpose of this Act.
- (2)** Notwithstanding anything contained in this Part, the Governor in Council may make regulations on any matter relating to fishing, the fishing industry, fishery resources and fish products, and so as not to limit the generality of the foregoing, may make regulations
- (a) exempting a person or class of persons from this Part;
  - (b) prescribing fees for the purpose of this Part;
  - (c) prescribing information to be submitted to the Minister by the holder of a licence issued pursuant to this Part;

(d) prescribing information to be submitted to the Minister by a person processing, buying, selling, in possession of or marketing fishery products who is exempt pursuant to the regulations;

(e) governing the licensing of intra-provincial trade in fish products;

(f) respecting the licensing of persons involved in the processing or buying of fish products;

(g) providing for financial contributions by the lobster industry for use in the promotion and development of that industry, including the designation of those members of that industry required to make the contributions, the determination of the amount of the contributions, the designation of an organization to receive and disburse the contributions and the enforcement of the payment of the contributions;

(h) respecting the inspection of premises or facilities used in the processing, buying, selling, possession or marketing of fish products and vehicles used for the transportation of fish products;

(i) limiting the number and the kind or type of licences issued pursuant to this Part;

(j) defining any word or expression used but not defined in this Part;

(k) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

**(3)** A regulation made pursuant to subsection (2) may be of general application or may apply to such classes of persons, matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of persons, matters or things.

**(4)** The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1996, c. 25, s. 77; 1999, c. 2, s. 7; 2010, c. 51, s. 7; 2012, c. 22, s. 7; 2015, c. 18, s. 1.

#### Existing regulations

**83** For greater certainty, regulations made prior to February 28, 1997, respecting those matters referred to in clauses 82(2)(f), (h) and (i) are ratified and confirmed and have the force of law on, from and after the day those regulations were made until varied in accordance with this Part. 1996, c. 25, s. 78.

## PART VIII

### RECREATIONAL FISHING

#### Requirement for licence

**84 (1)** In this Part, “Provincial waters” means such of the waters upon any shore or land, or on or in any lake, river, stream or watercourse, wholly or partially within the Province, over or in respect of which the Province has authority to legislate with respect to fishing.

(2) No person shall angle or fish in Provincial waters without a valid licence issued pursuant to the *Wildlife Act* or the regulations made pursuant to that Act.

(3) Every person is guilty of an offence who is found in possession of a fish that is not tagged in the manner prescribed by the regulations made pursuant to the *Wildlife Act*. 1996, c. 25, s. 79.

#### Permit for fishing event

**85** (1) The Minister may establish a competitive fishing policy respecting fishing derbies, tournaments, competitive fishing events and fund raising events involving fishing.

(2) An individual, person, group or organization that intends to conduct an event covered by the competitive fishing policy shall apply to the Minister, at the time and in the manner prescribed by the Minister, for a permit to conduct the event.

(3) The Minister may grant the permit if

(a) the requirements of the competitive fishing policy have been complied with; and

(b) the event is consistent with the goals of the Department with respect to the management of the fishery resource.

(4) The Minister may attach terms and conditions to a permit issued pursuant to this Section.

(5) Where an individual, person, group or organization to whom a permit is issued fails to comply with the permit, the permit is revoked.

(6) No individual, person, group or organization shall conduct a fishing derby, tournament, competitive fishing event or fund raising event involving fishing unless the individual, person, group or organization has been issued a permit pursuant to this Section. 1996, c. 25, s. 80.

#### Regulations

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

(a) exempting persons or classes of persons from this Part or the regulations;

(b) respecting the angling for fish in the Province;

(c) respecting a competitive fishing policy;

(d) fixing fees for a permit and prescribing the manner of their collection and persons entitled to collect them;

(e) respecting permits for competitive fishing events;

(f) respecting the non-authorized introduction of fish into Provincial waters;

(g) respecting the possession and transport of live fish;

(h) defining any word or expression used but not defined in this Part;

(i) 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*. 1996, c. 25, s. 81; 2010, c. 51, s. 8.

## PART IX

### ENFORCEMENT, INVESTIGATIONS AND PENALTIES

#### Powers of inspector

**87** An inspector, in carrying out duties pursuant to this Act or 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). 1996, c. 25, s. 82.

#### Seizure of fish or other thing

**88** Where an inspector believes on reasonable grounds that an offence against this Act or the regulations has been committed, the inspector may seize any fish or other thing by means of or in relation to which the inspector reasonably believes the offence was committed. 1996, c. 25, s. 83.

#### Further powers of inspector

**89 (1)** In the course of exercising powers pursuant to this Act or the regulations, an inspector may do any or all of the following:

(a) enter any place for the purpose of carrying out an inspection pursuant to this Act or the regulations;

(b) require that any thing be operated, used or set in motion under conditions specified by the inspector;

(c) use any machine, structure, material or equipment in the place the inspector is inspecting in order to carry out the inspection;

(d) take samples of any substance;

(e) conduct tests or take measurements;

(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 printout 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;

(1) make reasonable inquiries of any person, orally or in writing.

(2) 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.

(3) An inspector who exercises the power set out in clause (1)(1) may exclude from the questioning any person, except counsel for the person being questioned.

(4) Upon request, an inspector who exercises a power set out in subsection (1) shall produce an identification card and explain the purpose of the inspection. 1996, c. 25, s. 84.

#### **Requirement to stop vehicle or vessel**

**90** The operator of a vehicle or vessel shall stop the vehicle or vessel when required to do so by an inspector who is readily identifiable as such, or who has self-identified as an inspector. 1996, c. 25, s. 85.

#### **Seizure of evidence**

**91** (1) An inspector may, without a court order or a search warrant, seize any thing that is produced to the inspector or that is in plain view during an inspection pursuant to Section 89 if the inspector has reasonable grounds to believe that there has been an offence committed under this Act or the regulations and that the thing will afford evidence as to the commission of the offence.

(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. 1996, c. 25, s. 86.

#### **Persons accompanying inspector**

**92** An inspector, in carrying out duties or exercising powers pursuant to this Act or the regulations, may be accompanied by any person considered by the inspector to be necessary to enable the inspector to carry out those duties and exercise those powers. 1996, c. 25, s. 87.

#### **Requirement to assist inspector and furnish information**

**93** The owner of and every person found in any place in respect of which an inspector is exercising powers or carrying out duties pursuant to this Part 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. 1996, c. 25, s. 88.

**Custody of fish or thing seized**

**94 (1)** An inspector who seizes any fish or other thing pursuant to this Act may retain custody of it or deliver it into the custody of any person the inspector considers appropriate.

**(2)** A person who is given custody of any fish or other thing pursuant to subsection (1) shall, on the request of an inspector at any reasonable time, make the fish or thing available for inspection by or deliver it into the custody of the inspector.

**(3)** An inspector who has custody of any fish or other perishable thing seized pursuant to this Act may dispose of it in any manner the inspector considers appropriate and any proceeds realized from its disposition must be paid to the Crown in right of the Province. 1996, c. 25, s. 89.

**Treatment of seized fish or thing**

**95 (1)** Subject to this Section, any fish or other thing seized pursuant to this Act, or any proceeds from its disposition, may be detained until the fish or thing or proceeds are forfeited or proceedings relating to the fish or thing are finally concluded.

**(2)** Subject to subsection 97(4), a court may order any fish or other thing seized pursuant to this Act to be returned to the person from whom it was seized if security is given to the Crown in right of the Province in a form and amount that is satisfactory to the Minister.

**(3)** Subject to subsection 97(4), where proceedings are not instituted in relation to any fish or other thing seized pursuant to this Act, the fish or thing or any proceeds realized from its disposition must be returned to the person from whom it was seized

(a) on the Minister's decision not to institute proceedings;  
or

(b) on the expiration of 90 days after the day of the seizure or any further period that may be specified in an order made pursuant to subsection (4).

**(4)** Where a court is satisfied, on the application of the Minister within 90 days after the day on which any fish or other thing is seized, that detention of the fish or thing for a period greater than 90 days is justified in the circumstances, the court may, by order, permit the fish or thing to be detained for any further period that may be specified in the order. 1996, c. 25, s. 90.

**Order to pay compensation**

**96 (1)** Where a person is convicted of an offence under this Act, the court may, in addition to any punishment imposed, order the person to pay the Minister an amount of money for compensation for any costs incurred in the seizure, storage or disposition of any fish or other thing seized pursuant to this Act by means of or in relation to which the offence was committed.

**(2)** Where a court orders a person to pay an amount of money as compensation pursuant to subsection (1), the amount and any interest payable on

that amount constitute a debt due to the Crown in right of the Province and may be recovered as such in any court of competent jurisdiction. 1996, c. 25, s. 91.

#### **Power of court**

**97 (1)** Where a person is convicted of an offence under this Act, the court may, in addition to any punishment imposed, order that any thing seized pursuant to this Act by means of or in relation to which the offence was committed, or any proceeds realized from its disposition, be forfeited to the Crown in right of the Province.

**(2)** Where a person is convicted of an offence under this Act that relates to fish seized, the court shall, in addition to any punishment imposed, order that the fish, or any proceeds realized from its disposition, be forfeited to the Crown in right of the Province.

**(3)** Where a person is charged with an offence under this Act that relates to fish seized and the person is acquitted but it is proved that the fish was caught in contravention of this Act or the regulations, the court may order that the fish, or any proceeds realized from its disposition, be forfeited to the Crown in right of the Province.

**(4)** Where the ownership of any fish or other thing seized pursuant to this Act cannot be ascertained at the time of the seizure, the fish or thing is thereupon forfeited to the Crown in right of the Province. 1996, c. 25, s. 92.

#### **Disposal of seized fish and property**

**98 (1)** Subject to Sections 101 to 103, any fish or other thing forfeited to the Crown in right of the Province pursuant to subsection 97(1), (2) or (3) must be disposed of after the final conclusion of the proceedings relating to the fish or thing, as the Minister directs.

**(2)** Subject to Sections 101 to 103, any fish or other thing forfeited to the Crown in right of the Province pursuant to subsection 97(4) must be disposed of after the expiration of 30 days from the day of forfeiture, as the Minister directs.

**(3)** Notwithstanding subsection (2), where any fishing gear or equipment is forfeited pursuant to subsection 97(4), it may be disposed of immediately on its forfeiture, as the Minister directs. 1996, c. 25, s. 93.

#### **Treatment of unforfeited property**

**99 (1)** Subject to subsection (2), any fish or other thing seized pursuant to this Act, or any proceeds realized from its disposition, that are not forfeited to the Crown in right of the Province pursuant to Section 97 shall, on the final conclusion of the proceedings relating to the fish or thing, be delivered to the person from whom the fish or thing was seized.

**(2)** Subject to subsection 97(4), where a person is convicted of an offence relating to any fish or other thing seized pursuant to this Act and the court imposes a fine but does not order forfeiture,

- (a) the fish or thing may be detained until the fine is paid;

- (b) it may be sold under execution in satisfaction of the fine; or
- (c) any proceeds realized from its disposition may be applied in payment of the fine. 1996, c. 25, s. 94.

#### **Return of fish to water**

**100** Notwithstanding anything contained in Sections 94 to 99, an inspector who seizes any fish pursuant to this Act may, at the time of the seizure, return to the water any fish that the inspector believes to be alive. 1996, c. 25, s. 95.

#### **Holders of interests in forfeited property**

**101 (1)** Where any thing other than fish is forfeited to the Crown in right of the Province pursuant to subsection 97(1) or (4), any person who claims an interest in the thing as owner, mortgagee, lienholder or holder of any like interest, other than a person convicted of the offence that resulted in the forfeiture or a person from whom the thing was seized may, within 30 days after the forfeiture, apply in writing to a judge of the Supreme Court of Nova Scotia for an order pursuant to subsection (4).

**(2)** The judge to whom an application is made pursuant to subsection (1) shall fix a day not fewer than 30 days after the date of filing of the application for the hearing thereof.

**(3)** The applicant shall serve a notice of the application and of the hearing on the Minister at least 15 days before the day fixed for the hearing.

**(4)** Where, on the hearing of an application made pursuant to subsection (1), it is made to appear to the satisfaction of the judge that the applicant

(a) is innocent of any complicity in the offence or alleged offence that resulted in the forfeiture and of any collusion in relation to that offence with the person who was convicted of, or who may have committed the offence; and

(b) exercised all reasonable care in respect of the person permitted to obtain the possession of the thing in respect of which the application is made to satisfy the applicant that the thing was not likely to be used contrary to this Act or the regulations, or, in the case of a mortgagee or lienholder, that the mortgagee or lienholder exercised such care with respect to the mortgagor or the liengiver,

the applicant is entitled to an order declaring that the applicant's interest is not affected by the forfeiture and declaring the nature and extent of the applicant's interest. 1996, c. 25, s. 96.

#### **Appeal**

**102 (1)** The applicant or the Minister may appeal to the Nova Scotia Court of Appeal from an order made pursuant to subsection 101(4) and the appeal must be asserted, heard and decided according to the ordinary procedure governing appeals to the Court of Appeal from orders or judgments of a judge.

(2) The Minister shall, on application made to the Minister by any person who has obtained a final order pursuant to this Section or Section 101, except in the case of any thing disposed of pursuant to subsection 94(3), direct that

(a) the thing to which the interest of the applicant relates be returned to the applicant; or

(b) an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant. 1996, c. 25, s. 97.

#### **Exception from application of Sections 101 and 102**

**103** Sections 101 and 102 do not apply to

(a) any fishing gear or equipment that has been disposed of pursuant to subsection 98(3); or

(b) any fish that have been returned to the water pursuant to Section 100. 1996, c. 25, s. 98.

#### **Prohibition of retaliation**

**104 (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 or the regulations.

(2) Any person who wilfully or intentionally provides false or misleading information pursuant to subsection (1) is guilty of an offence. 1996, c. 25, s. 99.

#### **Ministerial order**

**105** Where the Minister believes on reasonable and probable grounds that a person has contravened or will contravene this Act or the regulations, 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) undertake remedial action to control, reduce, eliminate or mitigate an adverse affect;

(c) carry out clean-up, site rehabilitation or management, site security and protection or other remedial actions in accordance with directions set out in the order;

(d) provide security in an amount and form specified by the Department during a clean-up and afterwards for monitoring or other purposes;

(e) do all things and take all steps necessary to comply with this Act, to repair any injury or damage or to control, eliminate or manage an adverse effect. 1996, c. 25, s. 100.

#### **Permitted contents of order**

**106** 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 fishery;
- (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 in which the order or any portion of the order is to be complied with. 1996, c. 25, s. 101.

#### **Persons bound by order**

**107** An order issued 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. 1996, c. 25, s. 102.

#### **Enforcement of order**

**108 (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 costs, expense or charge is admissible in evidence and is, in the absence of evidence to the contrary, proof of the amount of the cost, expense or charge set out in the certificate.

(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 of Nova Scotia and, when so filed,

- (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 which 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 of Nova Scotia in civil proceedings.

(8) The lien referred to in subsection (7) is not a charge against a parcel registered pursuant to the *Land Registration Act* until a certificate evidencing the lien has been recorded in the register of the parcel. 1996, c. 25, s. 103; 2001, c. 6, s. 108.

#### **Additional penalty**

**109** Where a person is guilty of an offence under subsection 108(1), a court may, in addition to any other penalty it may impose, order the person to comply with subsection 108(1), the violation for which that person has been convicted. 1996, c. 25, s. 104.

#### **Persons liable under order**

**110 (1)** Where an order pursuant to 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 pursuant to this Part.

**(2)** Subsection (1) does not apply to an order if the Minister and the persons responsible have agreed to an apportionment of costs. 1996, c. 25, s. 105.

**Duty of insurer**

**111** 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 this Part. 1996, c. 25, s. 106.

**Conviction as evidence of negligence**

**112** 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. 1996, c. 25, s. 107.

**Immunity from liability**

**113** 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;
- (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 person who has been retained or employed to serve on any board, or committee;
- (f) a person referred to in Section 92,

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 or the regulations 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. 1996, c. 25, s. 108.

**Recovery of costs and expenses**

**114** 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 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. 1996, c. 25, s. 109.

#### **Limitation period**

**115** A prosecution for an offence under this Act may not be commenced more than two years after

- (a) the date on which the offence was committed; or
- (b) the date on which evidence of the offence first came to the attention of an inspector,

whichever is later. 1999, c. 2, s. 8.

#### **Offence**

**116** A person who

- (a) knowingly provides false or misleading information pursuant to a requirement under this Act or the regulations to provide information;
- (b) provides false or misleading information pursuant to a requirement under this Act or the regulations to provide information;
- (c) does not provide information as required pursuant to this Act or the regulations;
- (d) hinders or obstructs an inspector who is exercising powers or carrying out duties, or attempting to do so, pursuant to this Act or the regulations;
- (e) knowingly contravenes an order; or
- (f) otherwise contravenes this Act or the regulations,

is guilty of an offence. 1996, c. 25, s. 110.

#### **Defences**

**117** Unless otherwise provided in this Act, no person may 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. 1996, c. 25, s. 111.

#### **Additional fine**

**118** 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 pursuant to this Act, a fine in an amount equal to the estimation of the court of the amount of those monetary benefits. 1996, c. 25, s. 112.

#### **Proof of offence**

**119** 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. 1996, c. 25, s. 113.

#### **Effect of corporate offence on certain persons**

**120** 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. 1996, c. 25, s. 114.

#### **Powers of court on conviction**

**121 (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 post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this Section;
- (d) 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;
- (e) directing the offender to perform community services;
- (f) 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)** An order made pursuant to subsection (1) 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. 1996, c. 25, s. 115.

#### **Penalties**

**122 (1)** A person who contravenes any provision of this Act or the regulations or fails to comply with a term or condition of any licence or lease issued pursuant to this Act is guilty of an offence and liable to a fine not exceeding \$100,000 or to imprisonment for a period of not more than 90 days, or to both a fine and imprisonment.

**(2)** Where an offence under subsection (1) is committed on more than one day or continues for more than one day, it is deemed to be a separate offence for each day on which the offence is committed or continued.

(3) Notwithstanding subsection (1), a person who is guilty of a second or subsequent offence, other than by virtue of subsection (2), is liable to a fine of not less than \$100,000 nor more than \$500,000 or to imprisonment for a period of not more than six months, or to both a fine and imprisonment. 1996, c. 25, s. 116; 1999, c. 2, s. 9.

### Regulations

- 123 (1) The Governor in Council may make regulations
- (a) prescribing penalties in respect of offences created pursuant to this Act;
  - (b) respecting any matter necessary or advisable for the administration of a system of administrative penalties;
  - (c) defining any word or expression used but not defined in this Part;
  - (d) 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*. 1996, c. 25, s. 117; 1999, c. 2, s. 10.

## PART X

### APPEALS

#### Appeal to Minister

124 (1) A person who is aggrieved by a decision or order of an employee of the Department may, within 30 days of the date of the decision or order, appeal to the Minister by notice in writing, stating concisely the reasons for the appeal.

(2) A notice of appeal may be in a form prescribed by the Minister and must be accompanied by the fee, if any, prescribed by the Minister.

(3) The Minister shall notify the appellant, in writing, of the decision within 30 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 employee could have made.

(5) The employee and the appellant shall take such action as is necessary to implement the decision of the Minister disposing of the appeal. 1996, c. 25, s. 118.

#### Appeal to Supreme Court

125 (1) A person aggrieved by a decision of the Minister may, within 30 days of the decision, 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 of Nova Scotia and the decision of that judge 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) The decision of the judge pursuant to subsection (1) is final and there is no further appeal to the Nova Scotia Court of Appeal. 1996, c. 25, s. 119.

**Duty to dismiss appeal**

**126** An appeal in connection with any matter under this Act must be dismissed by a judge of the Supreme Court of Nova Scotia if the sole ground for relief established on the appeal is a defect in form or a technical irregularity. 1996, c. 25, s. 120.

**Regulations**

**127 (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*. 1996, c. 25, s. 121.

PART XI

MISCELLANEOUS

**Valid provisions severable**

**128** Where a provision of this Act is for any reason held to be beyond the legislative authority of the Province, all the remaining provisions of this Act stand and are valid and operative and have the same effect as if they had been originally enacted as an enactment separate and independent of the provisions held to be beyond the legislative authority of the Province. 1996, c. 25, s. 122.

**Prohibitions re marine renewable-electricity areas**

**129 (1)** Notwithstanding anything in this Act, no lease may be entered into and no licence, permit or other authorization may be issued under this Act in respect of any part of a marine renewable-electricity area as defined by the *Marine Renewable-energy Act*.

(2) Notwithstanding subsection 61(1), the Minister may not designate as an aquaculture development area any sub-aquatic lands situated within a marine renewable-electricity area as defined by the *Marine Renewable-energy Act*. 2015, c. 32, s. 73.

CHAPTER F-23

**An Act Respecting the Sale of Certain Items  
at a Commercial Flea Market**

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**Short title**

**1** This Act may be cited as the *Flea Markets Regulation Act*. 2000, c. 5, s. 1.

**Interpretation**

**2** In this Act,

“commercial flea market” means an event organized for the sale of goods at which an operator leases or rents or otherwise provides a table, selling space or other facility to a person for the purpose of conducting sales of goods, and includes an event commonly known as a flea market or an operation designated as a commercial flea market by regulation, but does not include an event operated by a body organized and operated exclusively for religious, educational, charitable or community-service purposes;

“operator” means a person who leases or rents or otherwise provides a table, selling space or facility to a person for the purpose of conducting sales of goods at a commercial flea market;

“vendor” means a person who sells or offers for sale goods at a commercial flea market. 2000, c. 5, s. 2; 2004, c. 6, s. 7.

**Prohibited goods**

**3 (1)** No operator shall operate a commercial flea market at which are sold or offered for sale goods designated by the regulations as prohibited goods.

**(2)** No vendor shall sell or offer for sale at a commercial flea market goods designated by the regulations as prohibited goods.

(3) This Section does not apply where the goods have been acquired directly from the producer, manufacturer, wholesaler, distributor or retailer of the goods and where the vendor provides to the operator, prior to the sale or offering for sale at a commercial flea market, proof that the vendor is an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods. 2000, c. 5, s. 3; 2004, c. 6, s. 8.

**Duty to maintain and provide information**

4 (1) No vendor shall sell or offer for sale at a commercial flea market goods designated by the regulations as prescribed goods unless information with respect to the goods is maintained by the vendor in accordance with this Section.

(2) A vendor shall maintain with respect to the prescribed goods sold or offered for sale by the vendor the information prescribed by the regulations for the period prescribed by the regulations.

(3) Before a vendor sells or offers for sale prescribed goods at a commercial flea market the vendor shall provide to the operator of the commercial flea market the information required to be maintained pursuant to subsection (2).

(4) No operator shall operate a commercial flea market at which prescribed goods are sold or offered for sale unless the information required to be maintained by a vendor pursuant to this Section has been provided to the operator.

(5) No vendor or operator shall falsify, obliterate or destroy the information required to be maintained pursuant to this Section. 2000, c. 5, s. 4.

**Duty to maintain information**

5 An operator shall maintain the information provided to the operator pursuant to this Act for the period prescribed by the regulations. 2000, c. 5, s. 5.

**Duty to peace officer**

6 A vendor or operator shall, upon request, provide the information referred to in this Act to a peace officer. 2000, c. 5, s. 6.

**Access to prescribed goods**

7 A vendor or operator shall, upon request, produce prescribed goods or provide access to prescribed goods to a peace officer. 2004, c. 6, s. 9.

**Seizure of prescribed goods**

8 Where a vendor or operator fails to provide a peace officer with information requested pursuant to Section 6 with respect to prescribed goods found at a commercial flea market or where the peace officer is satisfied on reasonable and probable grounds that the information provided is incomplete or inaccurate, the peace officer may, without laying any information or obtaining any warrant, seize and remove those goods. 2004, c. 6, s. 9.

**Seizure of prohibited goods**

9 Where a peace officer finds goods at a commercial flea market that the peace officer is satisfied, on reasonable and probable grounds, are

(a) prohibited goods; and  
(b) not being sold by an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods,  
the peace officer may, without laying any information or obtaining any warrant, seize and remove those goods. 2004, c. 6, s. 9.

#### **Application of Summary Proceedings Act**

**10** For greater certainty, Sections 19 to 29 of the *Summary Proceedings Act* apply to the seizure of goods under Section 8 or 9. 2004, c. 6, s. 9.

#### **Offence and penalties**

**11** A person who violates a provision of this Act is guilty of an offence and liable on conviction to the penalties provided for in the *Summary Proceedings Act*. 2000, c. 5, s. 7.

#### **Regulations**

- 12 (1)** The Governor in Council may make regulations
- (a) designating prohibited and prescribed goods for the purpose of this Act;
  - (b) designating classes of prescribed goods that may be subject to different information maintenance requirements for the purpose of clauses (d) and (e);
  - (c) respecting requirements for proof that a vendor is an authorized sales representative of a producer, manufacturer, wholesaler, distributor or retailer of goods for the purpose of subsection 3(3);
  - (d) prescribing the information required to be maintained by a vendor pursuant to this Act and the period for which the information is to be maintained;
  - (e) prescribing the period for which an operator is required to maintain information provided to the operator pursuant to this Act;
  - (f) designating operations or a class of operations as a commercial flea market for the purpose of this Act;
  - (g) exempting operators or a class of operators from the requirements of subsections 4(3) and (4) and Sections 5 and 6;
  - (h) redefining or further defining any word or expression defined in this Act;
  - (i) defining any word or expression used but not defined in this Act;
  - (j) 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*. 2000, c. 5, s. 8; 2004, c. 6, s. 10.

CHAPTER F-24

**An Act to Establish  
Special Places as a Memorial  
to the Passengers and Crew of Flight 111**

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

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WHEREAS on September 2, 1998, Swissair Flight Number 111 crashed off the coast of Nova Scotia;

AND WHEREAS none of the passengers or crew of Flight 111 survived the crash;

AND WHEREAS many Nova Scotians, both employees of the federal, Provincial and municipal governments and volunteers as well as others who came to help, worked together in the aftermath of this tragedy;

AND WHEREAS it is fitting that special places be established as a memorial to this tragedy:

**Short title**

**1** This Act may be cited as the *Flight 111 Special Places Memorial Act*.  
1999, c. 6, s. 1.

**Special places**

**2 (1)** To commemorate the crash of Flight 111 and the work of the employees of the federal, Provincial and municipal governments and volunteers in its aftermath, the following special places are established:

- (a) the approximate crash site in the Atlantic Ocean at 44° 24' 33" North latitude and 63° 58' 25" West longitude;
- (b) the memorial and burial site on Crown land at Bayswater, in the County of Lunenburg;
- (c) the memorial site on Crown land at Whalesback, in the County of Halifax.

(2) The supervision and management of the sites described in clauses (1)(b) and (c) are the responsibility of the member of the Executive Council assigned responsibility for this Act. 1999, c. 6, s. 2.

**Human remains**

3 Human remains, in the custody of the Chief Medical Examiner for the Province, of the passengers and crew of Flight 111 may be buried at the site described in clause 2(1)(b). 1999, c. 6, s. 3.

**Prohibition**

4 No person shall desecrate, damage or destroy a site described in clause 2(1)(b) or (c). 1999, c. 6, s. 4.

**Regulations**

5 (1) The Governor in Council may make regulations

(a) determining the boundaries of sites referred to in clauses 2(1)(b) and (c);

(b) respecting the establishment, preservation, custody, maintenance and use of the sites described in clauses 2(1)(b) and (c), including the erection of signs, plaques or markers;

(c) defining any word or expression used in this Act;

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

(2) The exercise of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1999, c. 6, s. 5.

CHAPTER F-25

**An Act to Encourage the Development  
and Management of Forest Land**

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

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**Short title**

**1** This Act may be cited as the *Forest Enhancement Act*. R.S., c. 178, s. 1.

**Purpose**

**2** The object and purpose of this Act is directed towards

- (a) developing a healthier, more productive forest capable of yielding increased volumes of high quality products;
- (b) encouraging the development and management of private forest land as the primary source of forest products for industry in the Province;
- (c) supporting private landowners to make the most productive use of their forest land;
- (d) providing more effective management of all Crown lands;
- (e) maintaining or enhancing wildlife and wildlife habitats, water quality, recreational opportunities and associated resources of the forest;
- (f) enhancing the viability of forest-based manufacturing and processing industries;
- (g) doubling forest production by the year 2025;
- (h) creating more jobs immediately and in the longer term through improved productivity. R.S., c. 178, s. 2.

**Interpretation**

**3** In this Act,

“Commissioner” means the Commissioner of Forest Enhancement appointed pursuant to this Act;

“forest management program” means a program designed to provide for more effective management of Crown lands and to encourage and assist private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;

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

“special management zone” means a special management zone designated pursuant to this Act;

“wildlife” means any species of vertebrate that is wild by nature and hence not normally dependent on humans to directly provide its food, shelter or water. R.S., c. 178, s. 3; 1993, c. 9, s. 6.

### **Commissioner of Forest Enhancement**

**4 (1)** The Governor in Council, on the recommendation of the Minister, may appoint a person to be Commissioner of Forest Enhancement.

**(2)** The Commissioner holds office for such term as the Governor in Council determines and may be reappointed.

**(3)** The Commissioner shall be paid such remuneration as is determined by the Governor in Council and may be reimbursed for reasonable travelling and living expenses incurred in the performance of the Commissioner’s duties.

**(4)** The Minister may provide the Commissioner with such professional, technical and clerical assistance as the Minister considers advisable to enable the Commissioner to effectively carry out duties pursuant to this Act. R.S., c. 178, s. 6.

### **Duties of Commissioner**

**5 (1)** The Commissioner shall

(a) facilitate the implementation of forest management programs;

(b) report annually to the Governor in Council through the Minister on the implementation of forest management programs; and

(c) perform such functions as are assigned by the Minister or the Governor in Council.

**(2)** Notwithstanding any enactment, the Commissioner may enter upon Crown lands and, upon giving reasonable notice and with the consent of the landowner or occupier, enter upon any privately owned land for the purpose of performing functions and duties pursuant to this Act and the regulations. R.S., c. 178, s. 7; 1993, c. 9, s. 6.

**Forest management programs**

6 Forest management programs in the Province must be based upon the following principles:

- (a) the desirability of scheduling harvesting so that the most appropriate stands are harvested at the optimum times;
- (b) the advantages of allocating such stands to the most beneficial end use;
- (c) the need to create a suitable environment for the orderly, more efficient marketing of forest products;
- (d) a continuing vigorous silviculture program ensuring that all species will receive appropriate attention;
- (e) the importance of protecting the forest from fire, insects, diseases and unwanted competing vegetation;
- (f) the importance of making the best economic use of all primary forest products harvested. R.S., c. 178, s. 8.

**Forest management techniques**

7 The forest management techniques to be used on Crown lands and to be recommended for use on privately owned land must

- (a) be designed to facilitate suitable natural regeneration wherever practical and involve selective cutting or the harvesting of individual trees or groups of trees within a stand and the shelterwood harvest system involving one or more partial cuts carried out a decade or two before the final harvest;
- (b) permit consideration of the size and configuration of areas to be clearcut where circumstances warrant;
- (c) ensure that planting is undertaken where sites are not expected to regenerate adequately on their own;
- (d) make provision for early spacing or cleaning where naturally regenerated stands contain too many seedlings for good diameter growth;
- (e) provide for weeding or the removal of unwanted competing vegetation in stands to be managed;
- (f) provide for commercial thinning to enhance the future sawlog harvest where stand and site conditions permit;
- (g) provide for any silviculture technique designed to promote improved growth and vigour of forest stands;
- (h) reflect prevailing hazards with respect to forest insects, diseases and fire and related protection requirements and provide appropriate information and advice to forest land owners and occupiers; and
- (i) provide for the maximum utilization of primary forest products harvested. R.S., c. 178, s. 9.

**Special management zone**

**8** The Governor in Council may designate areas of Crown lands along any river, lake or stream or any portion thereof as a special management zone. R.S., c. 178, s. 10; 1993, c. 9, s. 6.

**Regulations**

**9 (1)** The Governor in Council may give such directions and make such regulations as are considered necessary or desirable for carrying out the provisions of this Act and achieving its object and purpose and for the direction of persons engaged or retained to assist the Commissioner.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 178, s. 11; 1993, c. 9, s. 6.

**Act binds Crown**

**10** This Act binds the Crown in right of the Province. R.S., c. 178, s. 12.

**Crown lands**

**11** Without restricting the generality of Section 10, this Act applies to Crown lands that are managed by a Crown corporation and to Crown lands that are leased or under licence by or from the Crown. R.S., c. 178, s. 13.

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CHAPTER F-26

**An Act to Incorporate  
the Registered Professional  
Foresters Association of Nova Scotia**

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

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**Short title**

**1** This Act may be cited as the *Foresters Association Act*. 1999 (2nd Sess.), c. 6, s. 1.

**Interpretation**

**2** In this Act,

“Association” means the Registered Professional Foresters Association of Nova Scotia established by this Act;

“Board of Examiners” means the Board of Examiners of the Association;

“bylaw” means a bylaw of the Association;

“continuous forest education” means the completion of professional education courses or seminars to which the Council has assigned continuous forest-education credits;

“core subject areas” means those subject areas required in an accredited forestry program as listed in the Canadian Forestry Accreditation Board policy statement as prescribed by the Council;

“Council” means the Council of the Association;

“design” means those matters of a scientific or forestry nature that deal with the establishment, conservation, harvesting and access by means of rough logging roads for the purpose of management of forests and forest land, but does not include machinery, structures, works, plants, transportation systems, transmission systems or communication systems;

“forester-in-training” means an individual who has an undergraduate degree in forestry or forest engineering and is enrolled as a forester-in-training with the Association and is in good standing;

“forestry candidate” means an individual who has enrolled as a forestry candidate with the Association and is in good standing and who has at least four years of forestry-related experience prior to enrolment;

“member” means a member of the Association in good standing;

“practice of professional forestry” means performing or directing the analysis, design, organization, coordination or evaluation of those matters of the science, business and art of establishing, conserving and managing forests and forest lands for the sustainable development of their resources, material or otherwise that, because of their scope and complexity, require specialized knowledge, training and experience equivalent to the requirements for registration of a professional forester pursuant to Section 7;

“Register” means the Register of Professional Foresters;

“registered professional forester” means a member whose name is on the Register and whose registration is not suspended or cancelled;

“Registrar” means the Registrar of the Association. 1999 (2nd Sess.), c. 6, s. 2.

### Association

**3 (1)** There is established a body corporate to be known as the Registered Professional Foresters Association of Nova Scotia.

**(2)** The Association consists of those persons who are members of the Association. 1999 (2nd Sess.), c. 6, s. 3.

### Objects

**4** The objects of the Association are to

(a) establish and maintain high standards of professional ethics and excellence for members in the practice of professional forestry;

(b) assure the general public of the knowledge, skill, proficiency and competency in the practice of professional forestry of professional foresters who are members;

(c) promote and improve the knowledge, skill, proficiency and competency in all matters relating to the practice of professional forestry of professional foresters who are members; and

(d) do all such matters and things as will advance the interests of professional foresters in the practice of professional forestry. 1999 (2nd Sess.), c. 6, s. 4.

#### **Head office**

**5** The head office of the Association must be at such place as is determined by the bylaws. 1999 (2nd Sess.), c. 6, s. 5.

#### **Powers of Association**

**6** The Association may

(a) provide for the government, discipline and honour of members with respect to the practice of professional forestry within the Province;

(b) acquire, hold, dispose of or deal with real and personal property for the purpose of the Association and the furtherance of its objects;

(c) borrow money for the purpose of the Association;

(d) secure repayment of money borrowed or the performance of an obligation by way of mortgage, pledge or charge of any of its real or personal property;

(e) provide for the determination of, by examination or other means, the competency of persons seeking to become or remain members and grant certificates of registration to persons qualified to be members;

(f) develop principles of association that will facilitate cooperation with the Nova Scotia Section, Canadian Institute of Forestry and any other organization for the advancement of the practice of professional forestry;

(g) do all such matters and things as may be necessary for or incidental or conducive to the welfare of professional foresters and their usefulness to the public. 1999 (2nd Sess.), c. 6, s. 6.

#### **Membership**

**7 (1)** A person of the age of majority is entitled to become a member of the Association upon filing with the Registrar satisfactory proof that such person intends to engage in the practice of professional forestry in the Province, has tendered the fees and dues and completed the examinations, both as prescribed by the bylaws, and

(a) has obtained a degree from a recognized school, college or university whose curriculum of study in the science of forestry is approved by the Council and has completed a minimum of two years as a forester-in-training under the guidance, but not neces-

sarily under the direct supervision, of a registered professional forester subsequent to graduation;

(b) has obtained a degree from a recognized school, college or university whose curriculum of study in a science other than forestry is approved by the Council, has six years of experience in forestry, two of which are as a forestry candidate under the guidance, but not necessarily under the direct supervision, of a registered professional forester and has passed examinations as prescribed by the Council in core subject areas;

(c) is a graduate of a forest technician school, has at least six years experience in forestry under the guidance, but not necessarily under the direct supervision, of a registered professional forester as a forest technician, two of which are as a forestry candidate, and has passed examinations prescribed by the Council in core subject areas;

(d) has passed the examinations prescribed by the Council in core subject areas and fundamentals of forestry and has at least eight years of experience in forestry, four of which are as a forestry candidate under the guidance, but not necessarily under the direct supervision, of a registered professional forester; or

(e) is a registered member of an association of professional foresters that, in the opinion of the Council, is similarly constituted and has similar membership requirements to the Association and furnishes the Registrar with a certificate of membership in good standing in the other association,

and has passed examinations as prescribed by the Council respecting the practice of professional forestry in the Province, paid the prescribed fees and meets any further requirements in the bylaws.

(2) The Council shall admit an applicant who satisfies the requirements specified by the bylaws for enrolment as a forester-in-training or as a forestry candidate.

(3) The Council may establish such additional classes of membership as it considers necessary and establish their criteria in the bylaws. 1999 (2nd Sess.), c. 6, s. 7.

#### **Corporate seal**

8 The Association must have a corporate seal. 1999 (2nd Sess.), c. 6, s. 8.

#### **Meetings**

9 The Association shall, in the manner provided by the bylaws, hold an annual general meeting in each calendar year and such other meetings as the Council may determine. 1999 (2nd Sess.), c. 6, s. 9.

#### **Council**

10 (1) There is a Council of the Association consisting of  
(a) a President;

- (b) a Vice-president; and
- (c) three other members,

who must be elected by the members in accordance with the bylaws, and

- (d) a member of the public appointed by the Governor in Council; and
- (e) the immediate past-president.

(2) The President shall preside at the meetings of the Council and the Association and has such other powers and duties as the bylaws may provide.

(3) The Vice-president has all the powers and duties of the President in the absence of the President.

(4) The President, or other person presiding over a meeting of the Council or Association in place of the President, shall not vote except in the case of a tie. 1999 (2nd Sess.), c. 6, s. 10.

**Duties of Council**

11 (1) 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.

Association (2) The Council shall annually appoint from the members of the

- (a) a Registrar;
- (b) a Secretary;
- (c) a Treasurer; and
- (d) such other officers as the bylaws may provide. 1999 (2nd Sess.), c. 6, s. 11.

**Bylaws**

12 (1) Subject to subsection (2), the Council may make bylaws

- (a) establishing or adopting and providing for the publication of a Code of Ethics respecting the practice of professional forestry, the maintenance of the dignity and honour of the profession of forestry and the protection of the public interest;
- (b) determining the requirements for awarding continuous forest-education credits, the number of continuous forest-education credits to be assigned to each course or seminar for which credit is sought and the number of continuous forest-education credits required annually to fulfill the requirements of subsection 15(2);
- (c) respecting the enrolment of forester-in-training or forestry candidates, including the conditions of eligibility for registration as a forester-in-training or forestry candidate, and prescribing the rights, privileges and obligations of foresters-in-training or forestry candidates;

(d) respecting the nomination, election and term of office of Council members and officers of the Council and the Association;

(e) governing, subject to this Act, the appointment of the Board of Examiners, the designation of a Chair, the appointment of acting members and the procedures for filling vacancies on the Board and the appointment of ex officio members to the Board and prescribing their powers, duties and functions;

(f) establishing classes or categories of membership in the Association in addition to registered professional forester, forester-in-training and forestry candidate, establishing conditions of eligibility for registration and prescribing the rights, privileges and obligations of the members of each class or category;

(g) providing for the appointment of an individual as an Acting Registrar who has all the powers and duties of the Registrar pursuant to this Act and the bylaws when the Registrar is absent or unable to act or when there is a vacancy in the office of Registrar;

(h) respecting the fees, dues and levies payable to the Association by a registered professional forester, forester-in-training, forestry candidate or any other class or category of member in the Association and by applicants for registration;

(i) respecting all matters that are considered necessary for, or beneficial to, the attainment of the objects of the Association;

(j) respecting all things that are considered necessary or advisable for the government of the Association and the efficient conduct of the business of the Association.

(2) A bylaw pursuant to subsection (1) does not come into force until the bylaw has been approved by a majority of the registered professional foresters

(a) voting in person or by proxy at a general meeting; or

(b) voting in a mail vote in accordance with the bylaws.

1999 (2nd Sess.), c. 6, s. 12.

### **Board of Examiners**

13 There is a Board of Examiners consisting of three members who

(a) must be appointed annually by the Council as provided in the bylaws; and

(b) shall set and conduct the examinations of applicants for membership and file the results of the examinations. 1999 (2nd Sess.), c. 6, s. 13.

### **Registrar of Professional Foresters**

14 (1) The Registrar shall keep a register to be known as the Register of Professional Foresters.

(2) The Registrar shall enter in the Register the names of all persons who are members.

(3) The Register must be open for public inspection at all reasonable times without charge.

(4) Upon entering the name of a person in the Register, the Registrar shall issue a certificate of registration to that person. 1999 (2nd Sess.), c. 6, s. 14.

#### **Fees and certificates**

15 (1) A registered professional forester, forester-in-training, forestry candidate and all other class of member shall pay the annual fee prescribed by the bylaws to the Registrar or to any person authorized by the Registrar to accept payment of that fee.

(2) The Registrar shall issue an annual certificate in accordance with the bylaws to a registered professional forester whose registration is not under suspension or cancellation, who has paid the annual fee and who has completed the continuous forest education requirements.

(3) An annual certificate certifies the registration of a registered professional forester during the year for which the annual certificate is issued.

(4) An annual certificate expires on the date prescribed in the bylaws. 1999 (2nd Sess.), c. 6, s. 15.

#### **Suspension or cancellation of registration**

16 (1) The registration of a registered professional forester is cancelled or suspended when the decision to cancel or suspend the registration is made in accordance with this Act.

(2) The Registrar shall enter a memorandum of the cancellation or suspension of the registration in the Register indicating

- (a) the date of the cancellation or suspension;
  - (b) in the case of a suspension, the period of suspension;
- and
- (c) the reason for the cancellation or suspension.

(3) The Registrar shall not remove from the Register any memorandum made pursuant to subsection (2), except in accordance with the bylaws.

(4) The Registrar shall not cancel the registration of a registered professional forester at that person's request unless the request for the cancellation has been accepted by the Council.

(5) Where a request for the cancellation of a registration is accepted by the Council,

- (a) the Registrar shall cancel the registration; and
- (b) the registered professional forester requesting the cancellation shall, upon being notified of the approval, surrender to the Registrar the certificate of registration.

(6) The Council may direct the Registrar to suspend or cancel the registration of a registered professional forester who is in default of payment of annual fees, penalties or costs or any other fees, dues or levies payable by the registered professional forester pursuant to this Act, the continuous forest-education requirements or the bylaws after the expiration of 30 days following service on the registered professional forester of a written notice by the Council, unless the notice has been complied with.

(7) The notice pursuant to subsection (6) shall state that the Registrar may suspend or cancel the registration unless the fees, penalties, costs, dues or levies are paid, or the continuous forest-education requirement is met, as indicated in the notice.

(8) The Council may direct the Registrar to cancel the registration of a person entered in the Register in error.

(9) Where a registration is suspended or cancelled pursuant to subsection (6) or (7), the Council may, subject to the bylaws, direct the Registrar to reinstate the registration in the Register and reissue the certificate.

(10) Where a registration is suspended or cancelled pursuant to subsection (6) or (7), the member may appeal the decision as provided in the bylaws. 1999 (2nd Sess.), c. 6, s. 16.

#### **Interpretation of Sections 18 to 27**

17 In Sections 18 to 27,

“Chair” means the Chair of the Discipline Committee, and includes a Vice-chair;

“conduct” includes any act or omission;

“investigated person” means a registered professional forester, forester-in-training or forestry candidate with respect to whose conduct an investigation or hearing is held, or may be held, pursuant to Sections 18 to 27. 1999 (2nd Sess.), c. 6, s. 17.

#### **Discipline Committee**

18 There is established a Discipline Committee as prescribed in the bylaws. 1999 (2nd Sess.), c. 6, s. 18.

#### **Conduct subject to disciplinary action**

19 Any conduct of a registered professional forester, forester-in-training or forestry candidate that, in the opinion of the Discipline Committee,

- (a) constitutes negligence;
- (b) contravenes this Act or the bylaws;
- (c) harms or tends to harm the standing of the profession of forestry generally; or
- (d) displays a lack of knowledge of or lack of skill or judgement in the practice of professional forestry,

whether or not that conduct is disgraceful or dishonourable, constitutes either professional misconduct or the unskilled practice of forestry, whichever the Discipline Committee determines, and may be the subject of a disciplinary action. 1999 (2nd Sess.), c. 6, s. 19.

### Complaints

**20 (1)** A person who has a complaint about the conduct of a registered professional forester, forester-in-training or forestry candidate may take a complaint in writing to the Registrar and the Registrar shall forthwith refer the complaint to the Chair to be dealt with by the Discipline Committee in accordance with the bylaws.

**(2)** A complaint respecting the conduct of a registered professional forester, forester-in-training or forestry candidate whose registration was cancelled or suspended pursuant to this Act may, notwithstanding the cancellation or suspension, be dealt with within two years following the date of the cancellation or suspension as if the cancellation or suspension had not occurred.

**(3)** Upon receiving a complaint, the Discipline Committee shall proceed in accordance with the bylaws. 1999 (2nd Sess.), c. 6, s. 20.

### Suspension pending decision

**21** Notwithstanding anything contained in this Act, the Chair may suspend the registration of an investigated person pending a decision by the Discipline Committee on the complaint. 1999 (2nd Sess.), c. 6, s. 21.

### Public Inquiries Act

**22** For the purpose of exercising jurisdiction pursuant to this Act, the Discipline Committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 1999 (2nd Sess.), c. 6, s. 22.

### Duties of Discipline Committee

**23 (1)** The Discipline Committee shall assign penalties in accordance with the bylaws.

**(2)** The Registrar shall, upon completion of the discipline hearing and the presentation of the findings of the Discipline Committee,

(a) serve any order the Discipline Committee makes, together with written reasons for making the order, on the investigated person;

(b) inform the complainant in writing of the disposition of the complaint; and

(c) impose and collect any penalties as prescribed in the decision. 1999 (2nd Sess.), c. 6, s. 23.

### Appeal

**24** An investigated person in respect to whom a decision has been made pursuant to subsection 23(2) may, within 30 days after the decision, appeal to a judge of the Supreme Court of Nova Scotia from such decision, giving 10 days

notice of the appeal to the Registrar, and may require the evidence taken to be filed with the proper officer of the Court, whereupon the judge shall decide the appeal, either on the evidence taken or by a trial *de novo*, and confirm or set aside the order and, where the order is confirmed, the costs of the appeal must be borne by the investigated person. 1999 (2nd Sess.), c. 6, s. 24.

### **Consequences of suspension or cancellation**

**25 (1)** Unless a decision of suspension or cancellation is set aside on appeal or the judge or the Discipline Committee otherwise orders, the person suspended or whose certificate of registration as a member has been cancelled shall, upon receiving the order of suspension or cancellation, surrender to the Registrar the certificate of registration.

**(2)** Where no appeal has been taken pursuant to Section 24 within the time prescribed for filing a notice of appeal, the Discipline Committee

(a) may cause notice of any order reprimanding and censuring an investigated person to be given to members of the Association by publication in such form and manner as the Committee determines;

(b) shall cause notice of an order suspending or cancelling the certificate of registration of a member or enrolment of a forester-in-training or forestry candidate to be given to the members of the Association by publication in such form and manner as the Committee determines, and the Committee may give such further public notice as it considers appropriate.

**(3)** Where an appeal from an order of the Discipline Committee is taken pursuant to Section 24, no notice pursuant to subsection (2) may be given until the order of the Discipline Committee is upheld on appeal and the periods for taking any further appeals have expired. 1999 (2nd Sess.), c. 6, s. 25.

### **Reinstatement**

**26 (1)** A person whose membership has been cancelled pursuant to this Act may apply to the Discipline Committee for reinstatement as a member and the Discipline Committee shall, subject to subsection (2), hear the application and make such order as the Committee considers proper.

**(2)** No application pursuant to subsection (1) may be heard before the fulfillment of the penalty assigned by the Discipline Committee or the date of the final disposition of an appeal, whichever is later.

**(3)** Upon a hearing for reinstatement as a member pursuant to subsection (1), the Discipline Committee shall follow, as far as is practicable, the procedure provided for in the case of a complaint pursuant to this Act, and a former member has the same right of appeal from an order made by the Discipline Committee as is provided pursuant to Section 24. 1999 (2nd Sess.), c. 6, s. 26.

### **Assistance to Discipline Committee**

**27** The Discipline Committee may, in the execution of its duties pursuant to this Act, employ such legal or other assistance as the Committee considers necessary. 1999 (2nd Sess.), c. 6, s. 27.

**Use of designation and seal**

**28** A member may

- (a) use the designation “Registered Professional Forester” or the abbreviation “R.P.F.”; and
- (b) use a seal as provided in the bylaws. 1999 (2nd Sess.), c. 6, s. 28.

**Prohibition**

**29** No person may use the designation “Registered Professional Forester” or the abbreviation “R.P.F.” either alone or in combination with other words, letters or descriptions to imply that that person is entitled to practise as a registered professional forester unless that person is a member. 1999 (2nd Sess.), c. 6, s. 29.

**Preservation of certain rights**

**30** Nothing in this Act affects the right of a person who is not a member to engage in the practice of professional forestry as long as that person does not use a designation referred to in Section 29. 1999 (2nd Sess.), c. 6, s. 30.

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CHAPTER F-27

**An Act Respecting Forests**

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

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**Short title**

1 This Act may be cited as the *Forests Act*. R.S., c. 179, s. 1.

**Purpose**

2 The intent and purpose of this Act is directed towards

- (a) developing a healthier, more productive forest capable of yielding increased volumes of high quality products;
- (b) encouraging the development and management of private forest land as the primary source of forest products for industry in the Province;
- (c) supporting private landowners to make the most productive use of their forest land;
- (d) providing effective management of all Crown lands;
- (e) maintaining or enhancing wildlife and wildlife habitats, water quality, recreational opportunities and associated resources of the forest;
- (f) enhancing the viability of forest-based manufacturing and processing industries;
- (g) doubling of forest production by the year 2025;
- (h) creating more jobs immediately and in the longer term through improved productivity. R.S., c. 179, s. 2.

**Interpretation**

3 In this Act,

“buyer of forest products” means a person who

- (a) is an owner or operator of a wood processing facility in the Province that processes primary forest products;
- (b) exports primary forest products from the Province;
- (c) imports primary forest products into the Province;
- (d) acts as a fuelwood dealer in accordance with the regulations; or
- (e) acquires primary forest products for producing energy;

“Chief Forester” means the Chief Forester for the Province appointed pursuant to this Act;

“conservation officer” means a conservation officer appointed pursuant to this Act, and includes a conservation officer as defined in the *Wildlife Act*;

“Crown” means the Crown in right of the Province;

“Crown lands” means all or any part of land under the administration and control of the Minister;

“Crown timber” includes trees, timber and other products of the forest in respect of which the Crown is able to demand and receive stumpage or other fees;

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

“fire season” means the period in each year prescribed by the regulations when a permit to burn is required before a fire may be set;

“forest” means a plant association consisting predominantly of trees;

“forest land” means land bearing forest growth or land from which the forest has been removed but that shows surface evidence of past forest occupancy and is not now in other use;

“forest management” means the practical application of scientific, economic and social principles to the administration of forest land for specified objectives;

“forest management program” means a program designed to provide for more effective management of Crown lands and to encourage and assist private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;

“forestry operation” means any work within or upon forest land for the purpose of forest management;

“group management venture” means a co-operative or company formed for the purpose of implementing forest management activities on land of any members of the co-operative or company;

“inventory” means a stock taking of forest-stand characteristics and volumes by means of aerial mapping and sampling on the ground to arrive at estimates of volume, growth and drain by selected categories;

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

“nursery stock” means coniferous or hardwood seedlings, transplants, grafts or trees propagated or grown in a nursery and having the roots attached, and includes cuttings having or not having roots attached;

“primary forest products” means any of the commercially valuable raw materials cut or harvested from a forest;

“producer” means a person, other than a buyer of forest products, who owns the primary forest product at the time it is cut and prepared for sale from a forest;

“public highway” means a highway to which the *Public Highways Act* applies;

“silviculture” means the science and art of cultivating forest crops and, more particularly, the theory and practice of controlling the establishment, composition, constitution and growth of forests;

“wildlife” means any species of vertebrate that is wild by nature and hence not normally dependent on humans to directly provide its food, shelter or water;

“wood processing facility” means a mill in which timber is manufactured into secondary wood products;

“woods” means forest land and rock barren, brush land, dry marsh, bog or muskeg. R.S., c. 179, s. 3; 1998, c. 29, s. 1.

**Supervision of Act**

**4 (1)** The Minister has the general supervision and management of this Act and the regulations.

**(2)** The Minister may designate persons to act on behalf of the Minister. R.S., c. 179, s. 4.

**Forest management programs**

**5 (1)** The Minister is responsible for the development and implementation of forest management programs, including

(a) encouraging and assisting private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;

(b) entering into agreements with the Government of Canada to jointly fund forest management programs;

(c) entering into agreements with group management ventures to provide for the more effective management of woodlots served;

(d) entering into agreements with buyers of forest products or producers to provide for the more effective management of forest lands in the Province;

(e) the prevention, detection and suppression of forest fires;

(f) the protection of forest land from insects and disease;

(g) providing for forest inventories and associated forest planning activities;

(h) the conduct of forest research on behalf of the Province;

(i) the development and operation of forest nurseries; and

(j) any matter assigned pursuant to this Act or the regulations.

**(2)** The Minister shall endeavour to achieve the best economic use of the forests of the Province. R.S., c. 179, s. 5; 1999, c. 29, s. 2.

**Personnel**

**6 (1)** Conservation officers and other persons required for the administration of this Act and the regulations must be appointed in accordance with the *Civil Service Act*.

**(2)** Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister considers fit, the services of such persons as the Minister considers necessary for the efficient carrying out of the intent and purpose of this Act and the regulations.

**(3)** The Minister may appoint or designate a senior employee of the Department to direct and coordinate policy and program development and the

conduct of strategic studies in support of the continuing development and utilization of the forest resources of the Province and promote more and better marketing opportunities.

(4) The Minister may appoint or designate a senior employee of the Department to be Chief Forester of the Province to direct the development of an increased forest management program including resource planning, silviculture, research and protection.

(5) The Minister may appoint or designate a senior employee of the Department to coordinate a forestry extension service that will enhance the capability to serve and support private woodlot owners and to develop communication programs to display a strong commitment to forestry to the people of the Province and promote greater public awareness of the importance of good forestry.

(6) In the exercise of duties pursuant to this Act, a conservation officer has the powers, authority, privileges and immunities of a conservation officer appointed pursuant to the *Wildlife Act*. R.S., c. 179, s. 6.

#### **Principles of forest management programs**

7 The principle of sustainable forest management forms the basis of all forest management programs in the Province, including

- (a) the desirability of scheduling harvesting so that the most appropriate stands are harvested at the optimum times;
- (b) the advantages of allocating such stands to the most beneficial end use;
- (c) the need to create a suitable environment for the orderly, more efficient marketing of forest products;
- (d) a continuing vigorous silviculture program ensuring that all species will receive appropriate attention;
- (e) the importance of protecting the forest from fire, insects, diseases and unwanted competing vegetation; and
- (f) the importance of making the best economic use possible of all primary forest products harvested. R.S., c. 179, s. 7; 1998, c. 29, s. 3.

#### **Forest management planning process**

8 (1) The Minister may undertake a forest management planning process involving the prediction of the effects of various forest management alternatives on wood supply requiring

- (a) the consideration of a wide variety of factors, including desired rotation, availability of land for forest management, eligibility and priority of harvesting, forest renewal and stand tending, and size of silviculture programs required;
- (b) full consideration of wildlife conservation requirements, potential ecological impacts and outdoor recreation opportunities and needs; and
- (c) the preparation of operational forest management plans for Crown lands and the development and implementation of compat-

ible forest management programs for privately owned lands in co-operation with the owners or occupiers of private land.

(2) To assist in this process, the Minister shall provide for a periodic inventory of the forest land carried out in accordance with good forestry practices. R.S., c. 179, s. 8.

#### **Forest management techniques**

9 The forest management techniques to be used on Crown lands and to be recommended for use on privately owned land must

(a) be designed to facilitate suitable natural regeneration wherever practical and involve selection cutting or the harvesting of individual trees or groups of trees within a stand and the shelterwood harvest system involving one or more partial cuts carried out a decade or two before the final harvest;

(b) permit consideration of the size and configuration of areas to be clearcut where circumstances warrant;

(c) ensure that planting is undertaken where sites are not expected to regenerate adequately on their own;

(d) make provision for early spacing or cleaning where naturally regenerated stands contain too many seedlings for good diameter growth;

(e) provide for weeding or the removal of unwanted competing vegetation in stands to be managed;

(f) provide for commercial thinning to enhance the future sawlog harvest where stand and site conditions permit;

(g) provide for any silviculture technique designed to promote improved growth and vigour of forest stands;

(h) provide for the maximum utilization of primary forest products harvested; and

(i) reflect prevailing hazards with respect to forest insects, diseases and fire and related protection requirements and provide appropriate information and advice to owners or occupiers of forest land. R.S., c. 179, s. 9.

#### **Wildlife management**

10 The Minister shall ensure that wildlife, wildlife habitats and the long-term diversity and stability of the forest ecosystems, water supply watersheds and other significant resources are managed. R.S., c. 179, s. 10.

#### **Regulations binding**

11 Notwithstanding Section 9, where the Governor in Council, pursuant to clause 48(m), makes regulations respecting mandatory standards for sustainable forest management practices to protect wildlife habitats, watercourses, wetlands and other significant resources, those regulations are binding on privately owned lands and lands owned by the Crown. 1998, c. 29, s. 4.

**Industrial forest operator information**

**12 (1)** An industrial forest operator shall provide such information on forest harvesting operations conducted by the operator as prescribed by the regulations.

**(2)** Subsection (1) does not apply to the owner of forest land or a producer who harvests less than 450 cubic metres solid, or such greater amount as prescribed by the regulations, or the equivalent of primary forest products in any calendar year. 1998, c. 29, s. 4.

**Forest nurseries**

**13 (1)** The Minister may authorize the establishment of forest nurseries to be operated by the Department at designated sites for the growing and production of nursery stock.

**(2)** The Minister shall ensure that tree seedlings produced in any forest nursery operated by the Department are of acceptable quality and suitable for forest planting.

**(3)** The Minister, upon application, may furnish nursery stock to any owner upon terms and conditions prescribed by the Minister.

**(4)** Except as approved by the Minister, no person shall directly or indirectly sell or offer for sale or dispose of by gift or otherwise nursery stock furnished pursuant to this Act. R.S., c. 179, s. 11.

**Selective forest research**

**14 (1)** The Minister may undertake selective forest research on the forest land to

(a) further develop growth and yield predictive capability to better estimate future harvest potentials and to evaluate various strategies;

(b) further develop and refine ecological methods of land classification, reforestation and silvicultural prescriptions, and continue to evaluate strategies for the control of competing vegetation;

(c) undertake further research on the forestry and wildlife interface and the environmental impacts of various forestry operations;

(d) investigate any matter considered essential to the execution of forest management programs.

**(2)** The Minister of Agriculture may undertake selective forest research on the forest land to undertake trials to evaluate cultural practices for Christmas tree production, provenance trials to determine the best seed sources and site suitability, and nursery trials to improve stock quality and minimize production costs. R.S., c. 179, s. 12.

**Training of silvicultural workers**

**15** The Minister may facilitate and promote appropriate training of silvicultural workers in consultation and in co-operation with various departments and agencies of government and the private sector. R.S., c. 179, s. 13.

**Private Land Directorate**

**16** The Minister may establish a Private Land Directorate staffed to assist private landowners in meeting their needs of better forest management techniques. R.S., c. 179, s. 14.

**Development of forest products sector**

**17 (1)** The Minister may undertake programs to support and encourage the further development of the forest products sector consistent with the capability of the forests to sustain a larger harvest.

**(2)** To achieve the objective set out in subsection (1), the Minister shall encourage and assist in the development of new products and new markets and in the production of higher value-added products. R.S., c. 179, s. 15.

**Agreements**

**18** With the approval of the Governor in Council, the Minister may enter into agreements with the Government of Canada or an agency thereof, with another provincial government or an agency thereof, with a municipality or an agency thereof or with any person for any purpose related to this Act or the regulations. R.S., c. 179, s. 16.

**Agreements with group management ventures**

**19 (1)** The Minister may enter into agreements with group management ventures to provide incentive assistance and professional and technical advice to manage private land included within a service area agreed upon by the Minister and the group.

**(2)** The Minister may permit a group management venture to manage Crown lands or a portion thereof situate within a service area as provided for pursuant to subsection (1). R.S., c. 179, s. 17.

**Agreements with owners of private land**

**20 (1)** The Minister may enter into agreements with owners or occupiers of privately owned land concerning forest management on that land.

**(2)** The Minister may enter into agreements with owners or occupiers of privately owned land for the integration of any aspect of the forest management of their land with the management of Crown lands.

**(3)** The Minister may provide incentive assistance and scientific and technical advice to owners or occupiers of privately owned land to assist them in improving the management of their land. R.S., c. 179, s. 18.

**Buyer of forest products**

**21 (1)** No person shall, directly or indirectly, act as a buyer of forest products in the Province unless the person

(a) maintains a registration with the Minister in accordance with the regulations;

(b) submits to the Minister the statistical information respecting primary forest products required by the regulations; and

(c) where applicable, acquires primary forest products in accordance with an approved wood acquisition plan.

**(2)** A buyer of forest products who intends to acquire primary forest products shall submit to the Minister for approval, on an annual basis and in accordance with the regulations, a wood acquisition plan setting out the manner in which the acquisition may be made on a sustainable basis.

**(3)** For the purpose of subsection (2), where it is proved that a person acquired primary forest products in a year in the Province, in an amount greater than the volume prescribed by the regulations, the acquisition is prima facie evidence that the person intended to acquire that amount of primary forest products in that year.

**(4)** A wood acquisition plan must provide such information as is required by the regulations.

**(5)** A buyer of forest products who holds an approved wood acquisition plan shall make available to the Department any information necessary for the purpose of monitoring the implementation of the wood acquisition plan.

**(6)** The Minister may revoke the registration of a buyer of forest products if the person fails to comply with the requirements of this Section or the regulations. 1998, c. 29, s. 5.

**Sustainable Forestry Fund**

**22 (1)** A fund to be known as the Sustainable Forestry Fund is established for the purpose of funding programs to encourage the sustainable use of privately owned forest land.

**(2)** There must be paid into the Sustainable Forestry Fund

(a) contributions for silviculture programs on privately owned forest lands from buyers of forest products or producers where an agreement providing for a contribution has been entered into with the Minister in accordance with an approved wood acquisition plan;

(b) income accruing to the Fund; and

(c) in accordance with the *Finance Act*, money that accrues from any programs of the Province, including programs conducted under agreements with other governments, entered into for any of the purposes for which the Fund is established.

(3) Money may only be expended from the Sustainable Forestry Fund in accordance with the *Finance Act* and only for the purpose of funding silviculture programs on privately owned lands. 1998, c. 29, s. 5; 2010, c. 2, s. 101.

#### **Timber Loan Board continued**

23 (1) The Timber Loan Board established pursuant to Chapter 7 of the Acts of 1965 is continued and the chair, members and staff thereof are the persons who are the chair, members and staff, respectively, of the Nova Scotia Farm Loan Board.

(2) The Timber Loan Board may make loans to persons for the purchase of forest land in such amounts and upon such terms and conditions as may be prescribed by regulations made pursuant to subsection (4).

(3) The authority contained in the *Agriculture and Rural Credit Act* for the provision of funds for the use of the Nova Scotia Farm Loan Board extends and is applicable to the Timber Loan Board in making loans and in defraying its expenses.

(4) The Governor in Council may make regulations

(a) prescribing the amounts of loans that may be made by the Timber Loan Board and the terms and conditions upon which such loans may be made;

(b) prescribing the procedure to be followed in any appeal to the Minister from a decision of a Board;

(c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Section. R.S., c. 179, s. 20.

#### **Protection of forests**

24 (1) The Minister shall undertake all measures that the Minister determines to be reasonable to provide for effective protection of the forests, whether Crown lands, other land vested in the Crown or privately owned land from various injurious agents, including fires, insects and diseases.

(2) The Minister shall undertake programs to ensure that the capability to detect and suppress forest fires is enhanced.

(3) In co-operation with the Canadian Forestry Service, the Minister shall monitor forest insect and disease conditions and provide appropriate information and advice to owners and occupiers of privately owned land.

(4) Except with the approval of the Governor in Council, no privately owned forest land may be treated for insects or diseases without the consent of the owner or occupier. R.S., c. 179, s. 21.

#### **Prevention and suppression of fires**

25 (1) Subject to subsection (2), the Minister has control over the prevention and suppression of fires in the woods.

(2) Every town, and every regional municipality with respect to that area of the regional municipality that was a city or town immediately prior to the incorporation of the regional municipality, shall at its own expense take reasonable steps to extinguish fires in the woods within its boundaries and, where a conservation officer considers the action being taken is not adequate, the Minister may take reasonable steps to control and extinguish the fire.

(3) Nothing in this Act imposes any obligation on the Minister to fight fires on any land or the Crown to pay compensation for any property destroyed or damaged by fire or as a result of fighting a fire. R.S., c. 179, s. 22; 1998, c. 18, s. 559.

### Fire season

**26** (1) The fire season in the various counties is as prescribed by the regulations.

(2) Notwithstanding subsection (1), where the Minister considers it advisable and in the public interest, the Minister may extend or shorten the fire season for the whole or any part of the Province.

(3) During the fire season no person shall ignite a fire or cause a fire to be ignited in the woods or within 1,000 feet of the woods without a valid permit to burn.

(4) Except when a fire proclamation is in effect, no offence is committed if a fire is ignited during the fire season

(a) by or on behalf of a person if the fire is for cooking or obtaining warmth or as a distress signal and the fire is made in a suitable place and precautions are taken against the spreading of the fire;

(b) by a conservation officer in the performance of duties;

(c) by a person for the disposal of household refuse or garbage if the fire is confined to a suitable container equipped with a spark arrester, is in an area where there is no brush or flammable material and precautions are taken against the spreading of the fire; or

(d) in woods in any federal, provincial, municipal or private campground if the fire is enclosed in grills designed for that purpose.

(5) A permit to burn must be in the form prescribed by the Minister and may be issued by a conservation officer or other person authorized by the Minister.

(6) A person authorized to issue permits to burn may impose such additional terms and conditions or may refuse to issue permits to burn as that person considers necessary.

(7) The Minister may designate certain people within the boundaries of a regional municipality, town or village to issue permits to burn.

(8) A fire permit may, by verbal or written notice, be cancelled or suspended at any time by a conservation officer and upon receiving notice of such

cancellation or suspension, the permit holder shall extinguish any fire started under the permit.

(9) The possessor of a valid burning permit or any person acting on that person's behalf who ignites or causes a fire to be ignited shall take every reasonable precaution to prevent the fire from spreading and shall not leave the fire unattended until it is extinguished. R.S., c. 179, s. 23.

### **Fire proclamation**

27 (1) Notwithstanding any other provision of this Act, the Minister may, whenever the Minister considers it necessary for the protection of woods, by proclamation, prohibit the setting of fires for any purpose in woods or within 1,000 feet of woods in any part or parts of the Province during the period specified in the proclamation.

(2) Where a proclamation is made pursuant to subsection (1), no person shall ignite or cause to be ignited a fire in the woods or within 1,000 feet of woods in a part or parts of the Province during the period specified in the proclamation.

(3) Notice of any proclamation issued pursuant to this Act must be given in such manner as the Minister considers will give the most prompt and adequate publicity.

(4) A copy of any newspaper containing the proclamation is evidence in court of the publication and the content of the proclamation without further proof of the matter. R.S., c. 179, s. 24.

### **Restricted travel zone**

28 (1) Whenever considered necessary for the protection of the woods, the Minister may at any time by proclamation set aside for any period of time a restricted travel zone in any area of woods upon which no person may enter for the purpose of travelling, camping, fishing or picnicking, or any other purpose, without a travel permit.

(2) A travel permit may be issued by the Minister, a conservation officer or other person authorized by the Minister.

(3) Subsections (1) and (2) do not apply to the owner or occupier of the woods or the servants, agents or assigns thereof, conservation officers, surveyors or any other person designated by order of the Minister.

(4) A forest travel permit may be cancelled or suspended at any time by the Minister, a conservation officer or other person authorized by the Minister. R.S., c. 179, s. 25.

### **Fire fighting**

29 (1) For the purpose of controlling and extinguishing a fire in the woods, a conservation officer may requisition the use of any privately owned equipment and encourage people to assist in extinguishing a fire.

(2) Rates of pay for persons fighting fire in the woods and remuneration for privately owned equipment used by the Department may be set by the Minister.

(3) Every person refusing the use of that person's equipment pursuant to subsection (1) is guilty of an offence.

(4) Every person who is aware that a fire has started and exists in any woods shall notify a conservation officer or the Department and any person who neglects or refuses to do so is guilty of an offence. R.S., c. 179, s. 26.

### **Fire prevention**

**30** (1) No person who is in the woods or within 1,000 feet of the woods during the fire season shall throw, drop or otherwise deposit any burning match, cigarette, cigar or smoking material, live coals, hot ashes or burning substance, or fail to extinguish any such thing.

(2) Where a person is permitted to ignite a fire pursuant to this Act, that person shall take every reasonable effort to prevent the fire from spreading and shall not leave the fire unattended until it is completely extinguished.

(3) No person shall ignite or cause to be ignited a fire on privately owned land without the permission of the owner or occupier except in an emergency situation for cooking or warmth or as a distress signal and only if the fire is made in a suitable place and precautions are taken against the spreading of the fire.

(4) Every person in charge of a forestry operation, or any other activity, conducted in the woods or within 1,000 feet of the woods shall provide and maintain at the place of the forestry operation such fire fighting equipment as is required by the regulations.

(5) No person shall operate in the woods or within 1,000 feet of the woods any burner, engine, incinerator or other spark emitting outlet that is not provided with an adequate device for arresting sparks.

(6) No person shall refuel or leave unattended a power saw or like equipment in the woods or within 1,000 feet of the woods unless the equipment has cooled to the point where it is unlikely to cause fire or has been put in a place where it is unlikely to start a fire.

(7) No person shall, in the woods, store or transport gasoline, fuel oil or a similar volatile flammable substance in a container other than one approved for the purpose by the Canadian Standards Association.

(8) During the fire season, any person in charge of a group entering the woods for any purpose shall ensure that that person and any persons under that person's charge are fully informed of the provisions of this Act and the regulations pertaining to forest fire protection. R.S., c. 179, s. 27.

### **Fire safety**

**31** (1) Every person having charge of any camp, mine, mill, wood processing facility, or garbage dump located in the woods or within 1,000 feet of the

woods shall have the area surrounding the site cleared of flammable debris for a distance of at least 100 feet or such further distance as may be required by a conservation officer.

(2) During the fire season or at any other time as directed by a conservation officer, any owner or operator or person in charge of a wood processing facility who ignites a fire or allows a fire to be ignited in any trimming, edgings, sawdust or refuse on the premises shall not leave the fire unattended.

(3) Where a fire is burning or starts in woods where a forestry operation or any other operation is being carried on, the person in charge of the operation shall take immediate action to control and extinguish the fire and for that purpose shall employ at that person's expense the necessary personnel and equipment.

(4) When the person in charge of the forestry operation or any other operation in woods is unable to control or extinguish a fire, that person shall report the same to the Department and be available, with any services under the person's control, to assist the Department. R.S., c. 179, s. 28.

#### **Removal of fire hazard**

32 (1) Where a conservation officer finds on any land, structure or equipment a condition that in the opinion of the conservation officer may cause a fire resulting in damage to any property or woods, the conservation officer may direct the owner or occupier thereof or the person who has caused the fire hazard to take such action as the conservation officer considers necessary to remove the fire hazard.

(2) Where a person has been directed to remove the fire hazard described in subsection (1) and fails to comply, a conservation officer may enter upon the land to take such action as the conservation officer considers necessary and the Minister may recover any associated costs and expenses.

(3) Any person failing to comply with subsection (1) is guilty of an offence. R.S., c. 179, s. 29.

#### **Public highways protection**

33 (1) No owner or occupier of land shall leave any slash, brush or flammable material within the boundaries of a public highway or within 50 feet of the travelled portion of any public highway for longer than 10 days.

(2) Any conservation officer, upon inspection of any such slash, brush or other flammable material may, by a statement in writing describing the same and the place where it is situated, exempt the same from the application of subsection (1) for a definite period of time to be defined in such statement.

(3) Any person who clears forest land near a public highway for any purpose shall dispose of the debris to the satisfaction of a conservation officer or, where that person intends to burn the debris, shall pile and burn the debris in accordance with a permit to burn. R.S., c. 179, s. 30.

**Prevention and control of fires by provincial railways**

**34** The provisions of any order, rule or direction of the Canadian Transport Commission or its successors and of the railway transport committee established by that Commission respecting the prevention and control of fires and the payment of costs apply with necessary changes to any railway that is subject to the legislative jurisdiction of the Province. R.S., c. 179, s. 31.

**Entry and inspection**

**35** Conservation officers, employees of the Department and such other persons as are appointed by the Minister pursuant to this Act, together with people assisting them, may, for the purpose of ensuring compliance with this Act, the regulations and any order made under this Act or the regulations,

(a) at a reasonable hour of the day, enter and inspect a forestry operation or a forest harvesting operation and make such examinations as the person considers necessary or advisable;

(b) require the production of records or documents in the possession of a buyer of forest products that relate to the registration and statistical returns required of a buyer of forest products;

(c) make any examination or inquiry as the person considers necessary to ascertain whether there is compliance with this Act and the regulations and any order made under this Act or the regulations;

(d) in an inspection or an examination, be accompanied and assisted by a person having special, expert or professional knowledge of any matter;

(e) enter upon any land for the purpose of performing the person's duties and functions pursuant to this Act and the regulations, including the monitoring of the implementation of a wood acquisition plan. 1998, c. 29, s. 6.

**Order to cease or alter activity**

**36** Where a conservation officer believes on reasonable and probable grounds that a person responsible for a forest harvesting operation has contravened or will contravene this Act or the regulations, the conservation officer may, whether or not the person has been charged or convicted in respect of the contravention, issue an order requiring the person, at that person's expense, to

(a) cease the specified activity; or

(b) alter the procedures to be followed in carrying out the activity.  
1998, c. 29, s. 6.

**Appeal of order**

**37** A person aggrieved by an order made pursuant to Section 36 may appeal to the Provincial Court of Nova Scotia and the Court may confirm, amend or vary the order. 1998, c. 29, s. 6.

**Offence respecting sign or notice**

**38** Every person who, without legal justification, removes a sign or notice posted by the Department is guilty of an offence. R.S., c. 179, s. 33.

**Arrest by conservation officer**

**39 (1)** A conservation officer may arrest a person for any offence pursuant to this Act and detain that person in custody after arrest if on reasonable and probable grounds the officer believes that the arrest and detention is necessary to

- (a) prevent the continuation or repetition of the offence; or
- (b) establish the identity of the person.

**(2)** Where a conservation officer arrests or detains a person pursuant to subsection (1), the conservation officer shall comply with the *Summary Proceedings Act*. R.S., c. 179, s. 34.

**Obstruction of conservation officer prohibited**

**40** No person shall obstruct or cause or incite another to obstruct a conservation officer in the exercise of authority pursuant to this Act or the regulations or any person assisting the conservation officer in the exercise of that authority. R.S., c. 179, s. 35.

**Offence and penalty**

**41 (1)** Every person who fails to comply with this Act or the regulations or with an order made pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term of not more than six months, or to both; or
- (b) in the case of a corporation, to a fine not exceeding \$100,000.

**(2)** 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 liable to be convicted for a separate offence for each day on which the offence is committed or continued.

**(3)** 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. 29, s. 7.

**Proof of offence**

**42 (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 may 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. 29, s. 7.

#### **Additional penalty**

43 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 effect that resulted or may result from the commission of the offence;

(c) directing the person to post a bond or to 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;

(d) requiring the person to undertake remedial action to control, reduce or mitigate the contravention. 1998, c. 29, s. 7.

#### **Limitation period**

44 (1) Proceedings by way of summary conviction in respect of an offence under this Act or the regulations 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 the Minister.

(2) A document purporting to have been issued by the Minister certifying the day on which the Minister became aware of evidence of the offence is admissible without proof of the signature or the official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified. 1998, c. 29, s. 7.

#### **Recovery of costs**

45 In addition to any penalty imposed pursuant to this Act, the court may impose the full cost or any portion of the cost or expense incurred by the Minister,

Department, regional municipality or town in controlling or extinguishing a fire, together with costs or expenses related to the loss of fibre and rehabilitation of the area burned or for removing a fire hazard. R.S., c. 179, s. 37; 1998, c. 18, s. 559.

**Civil action not affected**

**46** Nothing in this Act limits or interferes with the right of any person to bring and maintain a civil action for damages occasioned by fire. R.S., c. 179, s. 38.

**Restriction on action against Crown**

**47** No action in trespass or nuisance may be brought against the Crown or its agents for the doing of any act or the carrying out of any operation necessarily incidental to the exercise of any duty or power pursuant to this Act or the regulations except where such trespass or nuisance results in actual injury to the person or actual damage to property. R.S., c. 179, s. 39.

**Regulations**

**48** The Governor in Council may make regulations

- (a) respecting terms of employment, responsibility and authority of conservation officers;
- (b) governing the terms and conditions of issue, refusal and cancellation of permits;
- (c) designating classes of operations and activities and governing the equipment, staff and precautions to be provided or observed in respect of fire prevention or suppression by persons engaged in any class of operation or activity;
- (d) prescribing forms and providing for their use;
- (e) prescribing fees for any licence or permit issued pursuant to this Act;
- (f) respecting the Timber Loan Board;
- (g) respecting the establishment of fire seasons;
- (h) respecting procedures regarding fire proclamations and restrictions during such periods;
- (i) respecting the training, licensing and supervision of Christmas tree graders;
- (j) respecting quality requirements and standards for various grades of Christmas trees;
- (k) providing for the issuance and use of grade stamps or tags on Christmas trees;
- (l) requiring the payment of a levy on the production of Christmas trees for use in research in and promotion of the Christmas tree industry, including provisions for enforcement of the collection of the levy, requiring registration of those members of the industry designated to collect the levy, increases in the levy and refunds of the levy;
- (m) prescribing methods and standards for sustainable forest management practices to protect wildlife habitats, watercourses, wetlands and

other significant resources and requiring compliance with the prescribed methods and standards;

(n) determining the form and manner of registration of buyers of forest products in the Province;

(o) determining the statistical information respecting forest products required to be filed with the Minister by a buyer of forest products, including information respecting the volumes of forest products processed, imported, exported, sold or acquired;

(p) prescribing the categories or classes of buyers of forest products and who is required to submit a wood acquisition plan;

(q) prescribing the information required to be included in a wood acquisition plan and the monitoring of a wood acquisition plan;

(r) prescribing the options for sustainable acquisition of forest products that may be considered in approving a wood acquisition plan;

(s) prescribing records or reports to be kept or made by a buyer of forest products in the Province;

(t) respecting the operation and administration of the Sustainable Forestry Fund;

(u) prescribing information required to be provided respecting industrial forest harvesting operations;

(v) exempting persons or classes of persons from the requirements of this Act or the regulations;

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

(x) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Act. R.S., c. 179, s. 40; 1992, c. 18, s. 1; 1998, c. 29, s. 8.

#### **Public review of regulations**

**49 (1)** The Minister shall conduct a public review in each county of the Province of

(a) any new regulations; or

(b) any substantive amendments to the regulations,

before they become law.

**(2)** The Minister shall cause a public report to be prepared containing recommendations with respect to the proposed regulations. 1998, c. 29, s. 9.

#### **Regulations Act**

**50** The exercise by the Governor in Council of the authority contained in Sections 23 and 48 and the exercise by the Minister of the authority contained in subsection 29(2) is a regulation within the meaning of the *Regulations Act*. R.S., c. 179, s. 41.

**Fire season**

**51** Until a regulation is made pursuant to clause 48(g), “fire season” means, in the case of the Counties of Queens, Shelburne, Yarmouth, Digby and Annapolis, the period between April 1st and October 15th in each year and, in the case of other counties of the Province, the period between April 15th and October 15th in each year. R.S., c. 179, s. 42.

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CHAPTER F-28

**An Act Respecting the Right of Access  
to Documents of Public Bodies in Nova Scotia  
and a Right of Privacy with Respect  
to Personal Information Held  
by Public Bodies in Nova Scotia**

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

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**Short title**

1 This Act may be cited as the *Freedom of Information and Protection of Privacy Act*. 1993, c. 5, s. 1.

**Purpose of Act**

- 2 The purpose of this Act is
- (a) to ensure that public bodies are fully accountable to the public by
    - (i) giving the public a right of access to records,
    - (ii) giving individuals a right of access to, and a right to correction of, personal information about themselves,
    - (iii) specifying limited exceptions to the rights of access,
    - (iv) preventing the unauthorized collection, use or disclosure of personal information by public bodies, and
    - (v) providing for an independent review of decisions made pursuant to this Act; and
  - (b) to provide for the disclosure of all government information with necessary exemptions, that are limited and specific, in order to
    - (i) facilitate informed public participation in policy formulation,

- (ii) ensure fairness in government decision-making, and
  - (iii) permit the airing and reconciliation of divergent views;
- and
- (c) to protect the privacy of individuals with respect to personal information about themselves held by public bodies and to provide individuals with a right of access to that information. 1993, c. 5, s. 2.

### Interpretation

3 In this Act,

“background information” means

- (a) any factual material;
- (b) a public opinion poll;
- (c) a statistical survey;
- (d) an appraisal;
- (e) an economic forecast;
- (f) an environmental-impact statement or similar information;
- (g) a final report or final audit on the performance or efficiency of a public body or on any of its programs or policies;
- (h) a consumer test report or a report of a test carried out on a product to test equipment of a public body;
- (i) a feasibility or technical study, including a cost estimate, relating to a policy or project of a public body;
- (j) a report on the results of field research undertaken before a policy proposal is formulated;
- (k) a report of an external task force, advisory board or similar body that has been established to consider any matter and make reports or recommendations to a public body; or
- (l) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the head of the public body;

“employee”, in relation to a public body, includes a person retained under an employment contract to perform services for the public body;

“head”, in relation to a public body, means

- (a) where the public body is a department, branch or office of the Government, the minister who presides over it;
- (b) where the public body is a board, commission, foundation, agency, tribunal, association or other body of persons reporting directly to a minister in respect of its day-to-day operations, the minister;
- (c) where the public body is a board, commission, foundation, agency, tribunal, association or other body of persons not report-

ing directly to a minister in respect of its day-to-day operations, the chair or presiding officer of the board, commission, foundation, agency, tribunal, association or other body of persons;

(d) where the public body is a local public body, the person or group of persons designated pursuant to Section 56 as the head; or

(e) in any other case, the person designated by the regulations as the head of the public body;

“hospital” means any agency, association, board, commission, corporation, office, society or other body that is designated as a hospital pursuant to the *Hospitals Act*;

“judicial administration record” means a record containing information relating to a judge, including

- (a) a scheduling of judges and trials;
- (b) content of judicial training programs; and
- (c) statistics of judicial activity prepared by or for a judge;

“law enforcement” means

- (a) policing, including criminal-intelligence operations;
- (b) investigations that lead or could lead to a penalty or sanction being imposed; and
- (c) proceedings that lead or could lead to a penalty or sanction being imposed;

“local public body” means

- (a) a hospital;
- (b) a university;
- (c) an education entity as defined in the *Education Act*; or
- (d) the Nova Scotia Community College established by the *Community Colleges Act*;

“minister” means a member of the Executive Council;

“Minister” means the Minister of Justice;

“municipal unit” means a regional municipality, a town, a municipality of a county or district or a village and includes any agency, board or commission thereof;

“personal information” means recorded information about an identifiable individual, including

- (a) the individual’s name, address or telephone number;
- (b) the individual’s race, national or ethnic origin, colour, or religious or political beliefs or associations;
- (c) the individual’s age, sex, sexual orientation, marital status or family status;

(d) an identifying number, symbol or other particular assigned to the individual;

(e) the individual's fingerprints, blood type or inheritable characteristics;

(f) information about the individual's healthcare history, including a physical or mental disability;

(g) information about the individual's educational, financial, criminal or employment history;

(h) anyone else's opinions about the individual; and

(i) the individual's personal views or opinions, except if they are about someone else;

“public body” means

(a) a Government department or a board, commission, foundation, agency, tribunal, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which

(i) are appointed by order of the Governor in Council, or

(ii) where not so appointed, in the discharge of their duties are public officers or servants of the Crown,

and includes, for greater certainty, each body referred to in the Schedule but does not include the Office of the Legislative Counsel;

(b) the Public Archives of Nova Scotia;

(c) a body designated as a public body pursuant to clause 55(1)(f); or

(d) a local public body;

“record” includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;

“Review Officer” means the Review Officer appointed pursuant to this Act;

“third party”, in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than

(a) the person who made the request; or

(b) a public body;

“trade secret” means information, including a formula, pattern, compilation, program, device, product, method, technique or process, that

(a) is used, or may be used, in business or for any commercial advantage;

(b) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use;

(c) is the subject of reasonable efforts to prevent it from becoming generally known; and

(d) the disclosure of which would result in harm or improper benefit;

“university” means a person located in the Province, including a natural person, an association of natural persons, a partnership or a corporation, that is authorized by the *Degree Granting Act* to grant any recognition of academic achievement that is called a degree, including degrees of bachelor, master and doctorate;

“village” means a village continued under the *Municipal Government Act*. 1993, c. 5, s. 3; 1999 (2nd Sess.), c. 11, s. 1; 2018, c. 1, Sch. A, s. 112.

#### Amendment of Schedule

**4** (1) The Governor in Council may, by regulation, amend the Schedule by

(a) adding the name of a body to the Schedule;

(b) deleting the name of a body from the Schedule;

(c) changing the name of a body, as set out in the Schedule, to any other name that the body is given.

(2) For greater certainty, nothing in subsection (1) is to be construed as meaning that a school board or a university was a public body before November 23, 1999, by reason only of being referred to in the Schedule. 1999 (2nd Sess.), c. 11, s. 2; 2018, c. 1, Sch. A, s. 113.

#### Application of Act

**5** (1) This Act applies to all records in the custody or under the control of a public body, including court administration records.

(2) Notwithstanding subsection (1), this Act does not apply to

(a) published material or material that is available for purchase by the public;

(b) material that is a matter of public record;

(c) a record in a court file, a record of a judge of the Nova Scotia Court of Appeal, Supreme Court of Nova Scotia, Family Court or Provincial Court, a judicial administration record or a record relating to support services provided to the judges of those courts;

(d) a note, communication or draft decision of a person acting in a judicial or quasi-judicial capacity;

(e) a record that is created by, or is in the custody of, the Conflict of Interest Commissioner appointed pursuant to the *Conflict*

of *Interest Act*, the Ombudsman or the Review Officer and that relates to the exercise of that person's functions pursuant to an enactment;

(f) a record of a question that is to be used on an examination or test;

(g) material placed in the custody of the Public Archives of Nova Scotia by or for a person, agency or other organization, other than a public body;

(h) material placed in the archives of a public body by or for a person, agency or other organization other than the public body;

(i) a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed; or

(j) a record of each representation made on behalf of a public body to the Review Officer in the course of a review pursuant to Section 38 and all material prepared for the purpose of making the representation.

**(3)** This Act does not

(a) limit the information otherwise available by law to a party to litigation, including a civil, criminal or administrative proceeding;

(b) affect the power of any court or tribunal to compel a witness to testify or to compel the production of documents;

(c) prohibit the transfer, storage or destruction of any record in accordance with any other Act or any regulation;

(d) prevent access to records maintained in a public office for the purpose of providing public access to information; or

(e) restrict disclosure of information for the purpose of a prosecution. 1993, c. 5, s. 4; 1999 (2nd Sess.), c. 11, ss. 3, 23; 2010, c. 35, s. 36.

### Conflict with other enactments

**6 (1)** Where there is a conflict between a provision of this Act and a provision of any other enactment and the provision of the other enactment restricts or prohibits access by any person to a record, the provision of this Act prevails over the provision of the other enactment unless subsection (2) or the other enactment states that the provision of the other enactment prevails over the provision of this Act.

**(2)** The following enactments that restrict or prohibit access by any person to a record prevail over this Act:

(a) subsection 118(2) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*;

(b) subsection 5(2) of the *Child Pornography Reporting Act*;

(c) Section 21 of the *Consumer Reporting Act*;

(d) Section 51 of the *Corporation Capital Tax Act*;

(e) Section 7 of the *Emergency "911" Act*;

- (f) subsection 8(4) of the *Fisheries and Coastal Resources Act*;
  - (g) Section 21 of the *Forests Act*;
  - (h) Section 18 and subsection 106(2) of the *Health Protection Act*;
  - (i) Section 60 of the *Interjurisdictional Support Orders Act*;
  - (j) Section 21 of the *Juries Act*;
  - (k) Section 27 of the *Labour Standards Code*;
  - (l) Section 47 of the *Maintenance Enforcement Act*;
  - (m) Section 62 of the *Marine Renewable-energy Act*;
  - (n) subsection 105(2) and Sections 136 and 141 of the *Mineral Resources Act*;
  - (o) subsections 9(5), 10(8), 113(6) and 336(3) of the *Motor Vehicle Act*;
  - (p) Sections 55, 63 and 64 of the *Occupational Health and Safety Act*;
  - (q) subsection 15(3) of the *Pension Benefits Act*;
  - (r) Sections 72 and 100 of the *Petroleum Resources Regulations* made pursuant to the *Petroleum Resources Act*;
  - (s) subsection 21(4) of the *Primary Forest Products Marketing Act*;
  - (t) Section 56 of the *Public Trustee Act*;
  - (u) Section 9 of the *Statistics Act*;
  - (v) subsection 9(3) of the *Procedure Regulations* made pursuant to the *Trade Union Act*;
  - (w) subsection 39(13) and Section 47 of the *Vital Statistics Act*;
  - (x) Sections 31 and 32 of the *Youth Justice Act*.
- (3) The Governor in Council may, by regulation, amend subsection (2) by
- (a) adding to that subsection a reference to an enactment;
  - (b) deleting a reference to an enactment from that subsection.
- (4) Notwithstanding any other provision in this Act, the provisions in the *Vital Statistics Act* relating to
- (a) rights of access to personal information, including the right to request a search of personal information;
  - (b) remedial rights relating to the rights described in clause (a);

- (c) correction of personal information; and
- (d) procedures relating to the matters referred to in clauses (a) to (c), including the payment of fees and the searching of and obtaining access to personal information,

apply in place of the provisions in this Act respecting the matters in clauses (a) to (d). 1999 (2nd Sess.), c. 11, s. 4; 2004, c. 4, s. 112; 2008, c. 35, s. 10; 2010, c. 41, s. 111; 2011, c. 41, s. 143; 2011, c. 67, s. 11; 2012, c. 24, s. 25; 2012, c. 62, s. 3; 2015, c. 19, s. 19; 2015, c. 32, s. 74.

## ACCESS TO RECORDS

### Right of access

**7 (1)** A person has a right of access to any record in the custody or under the control of a public body upon complying with Section 8.

**(2)** The right of access to a record does not extend to information exempted from disclosure pursuant to this Act but, where that information can reasonably be severed from the record, an applicant has the right of access to the remainder of the record.

**(3)** Subject to subsection (4), notwithstanding anything contained in this Act, where the record is an executed contract

- (a) in which provision is made for
  - (i) in the case of an agreement executed by the Province, the Province,
  - (ii) in the case of an agreement executed by a board, commission, foundation, agency, tribunal, association or other body of persons, within the meaning of clause (a) of the definition “public body” in Section 3, the board, commission, foundation, agency, tribunal, association or other body of persons, or
  - (iii) in the case of an agreement executed by a local public body, the local public body,

to make a substantial transfer of risk to a person, including risk related to the operation or financing, or both, of government activities; and

- (b) that is, or is in a class of contracts that is designated, before or within 90 days of the execution of the contract
  - (i) by regulations by the Governor in Council, if the contract is executed by the Province,
  - (ii) by the legal decision-making authority by which a board, commission, foundation, agency, tribunal, association or other body of persons, within the meaning of clause (a) of the definition “public body” in Section 3, acts if the contract is executed by that board, commission, foundation, agency, tribunal, association or other body of persons, or
  - (iii) the legal decision-making authority by which a local public body acts if the contract is executed by that local public body,

the right of access extends to any information in the contract that, but for this subsection, would be exempted from disclosure pursuant to this Act.

(4) Subsection (3) does not apply in respect of any information in the contract, to which that subsection refers,

- (a) respecting trade secrets;
- (b) respecting the financial and business information of the person to whom that subsection refers; and
- (c) the disclosure of which may reasonably be expected to endanger the safety or health of the public, a person or a group of persons.

(5) Nothing in this Act restricts access to information provided by custom or practice prior to July 1, 1994. 1993, c. 5, s. 5; 1999 (2nd Sess.), c. 11, s. 5.

#### **Procedure for obtaining access**

**8** (1) A person may obtain access to a record by

- (a) making a request in writing to the public body that has the custody or control of the record;
- (b) specifying the subject-matter of the record requested with sufficient particulars to enable an individual familiar with the subject-matter to identify the record; and
- (c) paying any fees required pursuant to Section 13.

(2) The applicant may ask to examine the record or ask for a copy of the record. 1993, c. 5, s. 6.

#### **Duty of head of public body**

**9** (1) Where a request is made pursuant to this Act for access to a record, the head of the public body to which the request is made shall

- (a) make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately and completely; and
- (b) either
  - (i) consider the request and give written notice to the applicant of the head's decision with respect to the request in accordance with subsection (2), or
  - (ii) transfer the request to another public body in accordance with Section 12.

(2) The head of the public body shall respond in writing to the applicant, within 30 days after the application is received and the applicant has met the requirements of clauses 8(1)(b) and (c), stating

- (a) whether the applicant is entitled to the record or part of the record and

(i) where the applicant is entitled to access, stating that access will be given on payment of the prescribed fee and setting out where, when and how, or the manner in which, access will be given, or

(ii) where access to the record or to part of the record is refused, the reasons for the refusal and the provision of this Act on which the refusal is based;

(b) that the record is not in the custody or control of the public body; or

(c) where the record would contain information exempted pursuant to Section 17 if the record were in the custody or control of the public body, that confirmation or denial of the existence of the record is refused,

and stating

(d) the name, title, business address and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the decision; and

(e) that the applicant may ask for a review by the Review Officer within 60 days after the applicant is notified of the decision.

(3) The head of a public body who fails to give a written response pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

(4) The head of a public body may refuse to disclose to an applicant information

(a) that is published and available for purchase by the public; or

(b) that, within 30 days after the applicant's request is received, is to be published or released to the public.

(5) The head of a public body shall notify an applicant of the publication or release of information that the head has refused to disclose pursuant to clause (4)(b).

(6) Where the information is not published or released within 30 days after the applicant's request is received, the head of the public body shall reconsider the request as if it were a new request received on the last day of that period, but the information may not be refused pursuant to clause (4)(b). 1993, c. 5, s. 7; 1999 (2nd Sess.), c. 11, ss. 6, 23.

#### **Duties of head of public body where access given**

**10 (1)** Where an applicant is informed pursuant to subsection 9(2) that access will be given, the head of the public body concerned shall

(a) where the applicant has asked for a copy pursuant to subsection 8(2) and the record can reasonably be reproduced,

(i) provide a copy of the record or part of the record with the response, or

(ii) give the applicant reasons for delay in providing the record; or

(b) where the applicant has asked to examine the record pursuant to subsection 8(2) or where the record cannot reasonably be reproduced,

(i) permit the applicant to examine the record or part of the record, or

(ii) give the applicant access in accordance with the regulations.

(2) The head of a public body may give access to a record that is a microfilm, film, sound recording, or information stored by electronic or other technological means by

(a) permitting the applicant to examine a transcript of the record;

(b) providing the applicant with a copy of the transcript of the record;

(c) permitting, in the case of a record produced for visual or aural reception, the applicant to view or hear the record or providing the applicant with a copy of it; or

(d) permitting, in the case of a record stored by electronic or other technological means, the applicant to access the record or providing the applicant a copy of it.

(3) The head of a public body shall create a record for an applicant if

(a) the record can be created from a machine-readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise; and

(b) creating the record would not unreasonably interfere with the operations of the public body. 1993, c. 5, s. 8.

#### Extension of time for response

**11 (1)** The head of a public body may extend the time provided for in Section 9 or 29 for responding to a request for up to 30 days or, with the Review Officer's permission, for a longer period if

(a) the applicant does not give enough detail to enable the public body to identify a requested record;

(b) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body; or

(c) more time is needed to consult with a third party or other public body before the head of the public body can decide whether or not to give the applicant access to a requested record.

(2) Where the time is extended pursuant to subsection (1), the head of the public body shall tell the applicant

- (a) the reason;
- (b) when a response can be expected; and
- (c) that the applicant may complain about the extension to the Review Officer. 1993, c. 5, s. 9; 1999 (2nd Sess.), c. 11, s. 23.

#### **Transfer of request**

**12 (1)** Within 10 days after a request for access to a record is received by a public body, or such longer period as the Review Officer may determine, the head of the public body may transfer the request and, where necessary, the record to another public body if

- (a) the record was produced by or for the other public body;
  - (b) the other public body was the first to obtain the record;
- or
- (c) the record is in the custody or under the control of the other public body.

**(2)** Where a request is transferred pursuant to subsection (1),

(a) the head of the public body who transferred the request shall notify the applicant of the transfer; and

(b) the head of the public body to which the request is transferred shall respond to the applicant in accordance with this Act not later than 30 days after the request is received by that public body unless this time limit is extended pursuant to Section 11. 1993, c. 5, s. 10; 1999 (2nd Sess.), c. 11, s. 7.

#### **Fees**

**13 (1)** An applicant who makes a request pursuant to Section 8 shall pay to the public body the application fee prescribed by the regulations.

**(2)** The head of a public body may require an applicant who makes a request pursuant to Section 8 to pay to the public body fees for the following services:

- (a) locating, retrieving and producing the record;
- (b) preparing the record for disclosure;
- (c) shipping and handling the record;
- (d) providing a copy of the record.

**(3)** An applicant is not required pursuant to subsection (2) to pay a fee for the first two hours spent locating and retrieving a record.

**(4)** Subsections (1) and (2) do not apply to a request for the applicant's own personal information.

**(5)** Where an applicant is required to pay fees for services pursuant to subsection (2), the head of the public body shall give the applicant an estimate of the total fee before providing the services.

(6) The head of a public body may require the applicant to pay the estimated fee prior to providing the services pursuant to subsection (2).

(7) On request of the applicant, the head of a public body may excuse an applicant from paying all or part of a fee referred to in subsection (2) if, in the head's opinion,

(a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment; or

(b) the record relates to a matter of public interest, including the environment or public health or safety.

(8) The fees that applicants are required to pay for services pursuant to subsection (2) may not exceed the actual costs of the services. 1993, c. 5, s. 11; 2002, c. 5, s. 18; 2007, c. 9, s. 8.

## EXEMPTIONS

### Intergovernmental affairs

**14 (1)** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

(a) harm the conduct by the Government of relations between the Government and any of the following or their agencies:

(i) the Government of Canada or a province of Canada,

(ii) a municipal unit or the Conseil scolaire acadien provincial,

(iii) an aboriginal government,

(iv) the government of a foreign state, or

(v) an international organization of states;

(b) reveal information received in confidence from a government, body or organization listed in clause (a) or their agencies unless the government, body, organization or its agency consents to the disclosure or makes the information public.

(2) The head of a public body shall not disclose information referred to in subsection (1) without the consent of the Governor in Council.

(3) Subsections (1) and (2) do not apply to information in a record that has been in existence for 15 or more years. 1993, c. 5, s. 12; 1999 (2nd Sess.), c. 11, s. 8; 2018, c. 1, Sch. A, s. 114.

### Deliberations of Executive Council

**15 (1)** The head of a public body may refuse to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees.

- (2) Subsection (1) does not apply to
- (a) information in a record that has been in existence for 10 or more years;
  - (b) information in a record of a decision made by the Executive Council or any of its committees on an appeal pursuant to an Act; or
  - (c) background information in a record the purpose of which is to present explanations or analysis to the Executive Council or any of its committees for its consideration in making a decision if
    - (i) the decision has been made public,
    - (ii) the decision has been implemented, or
    - (iii) five or more years have passed since the decision was made or considered. 1993, c. 5, s. 13.

#### **Advice to public body or minister**

**16 (1)** The head of a public body may refuse to disclose to an applicant information that would reveal advice, recommendations or draft regulations developed by or for a public body or a minister.

**(2)** The head of a public body shall not refuse pursuant to subsection (1) to disclose background information used by the public body.

**(3)** Subsection (1) does not apply to information in a record that has been in existence for five or more years.

**(4)** Nothing in this Section requires the disclosure of information that the head of the public body may refuse to disclose pursuant to Section 15. 1993, c. 5, s. 14.

#### **Law enforcement**

**17 (1)** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

- (a) harm law enforcement;
- (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;
- (c) harm the effectiveness of investigative techniques or procedures currently used, or likely to be used, in law enforcement;
- (d) reveal the identity of a confidential source of law-enforcement information;
- (e) endanger the life or physical safety of a law-enforcement officer or any other person;
- (f) reveal any information relating to or used in the exercise of prosecutorial discretion;
- (g) deprive a person of the right to a fair trial or impartial adjudication;

(h) reveal a record that has been confiscated from a person by a peace officer in accordance with an enactment;

(i) be detrimental to the proper custody, control or supervision of a person under lawful detention;

(j) facilitate the commission of an offence contrary to an enactment; or

(k) harm the security of any property or system, including a building, vehicle, computer system or communications system.

**(2)** The head of a public body may refuse to disclose information to an applicant if the information

(a) is in a law-enforcement record and the disclosure would be an offence pursuant to an enactment;

(b) is in a law-enforcement record and the disclosure could reasonably be expected to expose to civil liability the author of the record or a person who has been quoted or paraphrased in the record; or

(c) is about the history, supervision or release of a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

**(3)** After a police investigation is completed, the head of the public body shall not refuse to disclose to an applicant pursuant to this Section the reasons for a decision not to prosecute if the applicant is aware of the police investigation, but nothing in this subsection requires disclosure of information mentioned in subsection (1) or (2). 1993, c. 5, s. 15.

#### **Solicitor-client privilege**

**18** The head of a public body may refuse to disclose to an applicant information that is subject to solicitor-client privilege. 1993, c. 5, s. 16.

#### **Financial or economic interests**

**19 (1)** The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the Government or the ability of the Government to manage the economy and, without restricting the generality of the foregoing, may refuse to disclose the following information:

(a) trade secrets of a public body or the Government;

(b) financial, commercial, scientific or technical information that belongs to a public body or to the Government and that has, or is reasonably likely to have, monetary value;

(c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;

(d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;

(e) information about negotiations carried on by or for a public body or the Government.

(2) The head of a public body shall not refuse to disclose pursuant to subsection (1) the results of product or environmental testing carried out by or for the public body, unless the testing was done

(a) for a fee as a service to a person, a group of persons or an organization other than the public body; or

(b) for the purpose of developing methods of testing. 1993, c. 5, s. 17.

### Health and safety

20 (1) The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant if the disclosure could reasonably be expected to

(a) threaten anyone else's safety or mental or physical health; or

(b) interfere with public safety.

(2) The head of a public body may refuse to disclose to an applicant personal information about the applicant if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health. 1993, c. 5, s. 18.

### Conservation

21 The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to result in damage to, or interfere with the conservation of,

(a) fossil sites, natural sites or sites that have an anthropological or heritage value;

(b) an endangered, threatened or vulnerable species, subspecies or race of plants, vertebrates or invertebrates; or

(c) any other rare or endangered living resources. 1993, c. 5, s. 19.

### Closed meetings of local public bodies

22 Where an enactment authorizes a meeting of the elected officials or the governing body of a local public body or a committee of the governing body of the local public body to be held in the absence of the public, the head of the local public body may refuse to disclose to an applicant any record that would reveal

(a) the draft of a resolution, bylaw or other legal instrument by which the local public body acts or the draft of a local bill that has been considered at a meeting held in the absence of the public unless the draft or legal instrument requested by the applicant has been considered at a meeting open to the public or the record has been in existence for more than 15 years; or

(b) the substance of deliberations at a meeting held in the absence of the public unless the subject-matter of the deliberations has been considered at a meeting that is open to the public or the record has been in existence for more than 15 years. 1999 (2nd Sess.), c. 11, s. 9.

#### Academic research

**23 (1)** The head of a local public body may refuse to disclose details of the academic research being conducted by an employee of the local public body in the course of the employee's employment.

**(2)** Notwithstanding subsection (1), where possible, the head of a local public body shall disclose the title and amount of funding being received with respect to the academic research referred to in subsection (1). 1999 (2nd Sess.), c. 11, s. 9; 2012, c. 3, s. 21.

#### Certain personal information

**24** The head of a university may refuse to disclose to an applicant personal information that is evaluative or opinion material compiled solely for the purpose of

- (a) determining the applicant's suitability for
  - (i) appointment, promotion or tenure as a member of the faculty of a university,
  - (ii) admission to an academic program, or
  - (iii) receipt of an honour or award; or
- (b) evaluating the applicant's research projects and materials,

if the information is provided explicitly or implicitly in confidence. 1999 (2nd Sess.), c. 11, s. 9.

#### Labour conciliation records

**25** The head of a public body may refuse to disclose

(a) any information of any kind obtained by a conciliation board, conciliation officer or mediator appointed pursuant to the *Civil Service Collective Bargaining Act*, the *Corrections Act*, the *Highway Workers Collective Bargaining Act*, the *Teachers Collective Bargaining Act* or the *Trade Union Act* or by an employee of the Department of Labour, Skills and Immigration or an employee, appointee or member of the Labour Board, the former Civil Service Employee Relations Board, the former Correctional Facilities Employee Relations Board or the former Highway Workers Employee Relations Board for the purpose of any of those Acts or in the course of carrying out duties under any of those Acts;

(b) any report of a conciliation board or conciliation officer appointed pursuant to any of those Acts;

(c) any testimony or proceedings before a conciliation board appointed pursuant to any of those Acts. 1999 (2nd Sess.), c. 11, s. 9.

## DISCLOSURE HARMFUL TO PERSONAL PRIVACY

**Personal information**

**26 (1)** The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

**(2)** In determining pursuant to subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or to promote the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable; and

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

**(3)** A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

(a) the personal information relates to a medical, dental, psychiatric, psychological or other healthcare history, diagnosis, condition, treatment or evaluation;

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(c) the personal information relates to eligibility for income assistance or social-service benefits or to the determination of benefit levels;

(d) the personal information relates to employment or educational history;

(e) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax;

(f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

(g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(h) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or

(i) the personal information consists of the third party's name together with the third party's address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

**(4)** A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

(a) the third party has, in writing, consented to or requested the disclosure;

(b) there are compelling circumstances affecting anyone's health or safety;

(c) an enactment authorizes the disclosure;

(d) the disclosure is for a research or statistical purpose and is in accordance with Section 35 or 36;

(e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(f) the disclosure reveals financial and other similar details of a contract to supply goods or services to a public body;

(g) the information is about expenses incurred by the third party while travelling at the expense of a public body;

(h) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, not including personal information supplied in support of the request for the benefit; or

(i) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of the request for the benefit or is referred to in clause (3)(c).

**(5)** On refusing, pursuant to this Section, to disclose personal information supplied in confidence about an applicant, the head of the public body shall give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.

**(6)** The head of the public body may allow the third party to prepare the summary of personal information pursuant to subsection (5). 1993, c. 5, s. 20.

**Confidential information**

**27 (1)** The head of a public body shall refuse to disclose to an applicant information

- (a) that would reveal
  - (i) trade secrets of a third party, or
  - (ii) commercial, financial, labour relations, scientific or technical information of a third party;
- (b) that is supplied, implicitly or explicitly, in confidence;
- and
- (c) the disclosure of which could reasonably be expected to
  - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,
  - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,
  - (iii) result in undue financial loss or gain to any person or organization, or
  - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour-relations dispute.

**(2)** The head of a public body shall refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.

**(3)** The head of a public body shall disclose to an applicant a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an enactment.

**(4)** Subsections (1) and (2) do not apply if the third party consents to the disclosure. 1993, c. 5, s. 21.

**Notices**

**28 (1)** On receiving a request for access to a record that the head of a public body has reason to believe contains information the disclosure of which must be refused pursuant to Section 26 or 27, the head of the public body shall, where practicable, promptly give the third party a notice

- (a) stating that a request has been made by an applicant for access to a record containing information the disclosure of which may affect the interests or invade the personal privacy of the third party;
- (b) describing the contents of the record; and
- (c) stating that, within 14 days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the public body explaining why the information should not be disclosed.

- apply if
- (2) Notwithstanding subsection (1), that subsection does not
- (a) the head of the public body decides, after examining the request, any relevant records and the views or interests of the third party respecting the disclosure requested, to refuse to disclose the record; or
- (b) where the regulations so provide, it is not practical to give notice pursuant to that subsection.
- (3) When notice is given pursuant to subsection (1), the head of the public body shall also give the applicant a notice stating
- (a) that the record requested by the applicant contains information the disclosure of which may affect the interests or invade the personal privacy of a third party; and
- (b) that the third party is being given an opportunity to make representations concerning disclosure.
- (4) For greater certainty, the time limited by subsection 9(2) for responding to a request for access to a record is not extended by reason only that a notice is given to an applicant pursuant to subsection (3) of this Section, but that time may be extended pursuant to Section 11.
- shall not
- (5) In complying with subsections (1) and (3), the public body
- (a) disclose the name of the applicant to the third party without the consent of the applicant; or
- (b) disclose the name of the third party to the applicant without the consent of the third party. 1993, c. 5, s. 22; 1999 (2nd Sess.), c. 11, s. 11.

### Decisions

- 29** (1) Within 30 days after notice is given to an applicant pursuant to Section 28, the head of the public body shall decide whether to give access to the record or to part of the record, but no decision may be made before the earlier of
- (a) 15 days after the day notice is given; or
- (b) the day a response is received from the third party.
- (2) On reaching a decision pursuant to subsection (1), the head of the public body shall give written notice of the decision to
- (a) the applicant; and
- (b) the third party.
- (3) Where the head of the public body decides to give access to the record or to part of the record, the notice must state that the applicant will be given access unless the third party asks for a review pursuant to this Act within 20 days after the day notice is given pursuant to subsection (2).

(4) Notwithstanding anything contained in this Section, the head of a public body who has, pursuant to Section 28, given notice to a third party of a request for access to a record may, with the consent of the third party, give access to the record to the person who has made the request before the expiration of the time limited by subsection (3) for the third party to ask for a review. 1993, c. 5, s. 23; 1999 (2nd Sess.), c. 11, s. 12.

PROTECTION OF PERSONAL PRIVACY:  
COLLECTION, PROTECTION, RETENTION, USE  
AND DISCLOSURE OF PERSONAL INFORMATION

**Treatment of personal information**

**30** (1) Personal information may not be collected by or for a public body unless

- (a) the collection of that information is expressly authorized by or pursuant to an enactment;
- (b) that information is collected for the purpose of law enforcement; or
- (c) that information relates directly to and is necessary for an operating program or activity of the public body.

(2) Where an individual's personal information will be used by a public body to make a decision that directly affects the individual, the public body shall make every reasonable effort to ensure that the information is accurate and complete.

(3) The head of the public body shall protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

(4) Where a public body uses an individual's personal information to make a decision that directly affects the individual, the public body shall retain that information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it. 1993, c. 5, s. 24.

**Correction of errors and omissions**

**31** (1) An applicant who believes there is an error or omission in the applicant's personal information may request the head of the public body that has the information in its custody or under its control to correct the information.

(2) Where no correction is made in response to a request pursuant to subsection (1), the head of the public body shall annotate the information with the correction that was requested but not made.

(3) On correcting or annotating personal information pursuant to this Section, the head of the public body shall notify any other public body or any third party to whom that information has been disclosed during the one-year period before the correction was requested.

(4) On being notified pursuant to subsection (3) of a correction or annotation of personal information, a public body shall make the correction or

annotation on any record of that information in its custody or under its control. 1993, c. 5, s. 25.

### **Use of personal information**

**32** A public body may use personal information only

- (a) for the purpose for which that information was obtained or compiled, or for a use compatible with that purpose;
- (b) if the individual the information is about has identified the information and has consented, in the prescribed manner, to the use; or
- (c) for a purpose for which that information may be disclosed to that public body pursuant to Sections 33 to 36. 1993, c. 5, s. 26.

### **Disclosure of personal information**

**33** A public body may disclose personal information only

- (a) in accordance with this Act or as provided pursuant to any other enactment;
- (b) if the individual the information is about has identified the information and consented in writing to its disclosure;
- (c) for the purpose for which it was obtained or compiled, or a use compatible with that purpose;
- (d) for the purpose of complying with an enactment or with a treaty, arrangement or agreement made pursuant to an enactment;
- (e) for the purpose of complying with a subpoena, warrant, summons or order issued or made by a court, person or body with jurisdiction to compel the production of information;
- (f) to an officer or employee of a public body or to a minister if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the officer, employee or minister;
- (g) to a public body to meet the necessary requirements of government operation;
- (h) for the purpose of
  - (i) collecting a debt or fine owing by an individual to the Crown in right of the Province or to a public body, or
  - (ii) making a payment owing by the Crown in right of the Province or by a public body to an individual;
- (i) to the Auditor General or any other prescribed person or body for audit purposes;
- (j) to a member of the House of Assembly who has been requested by the individual, whom the information is about, to assist in resolving a problem;
- (k) to a representative of the bargaining agent who has been authorized in writing by the employee, whom the information is about, to make an inquiry;

- (l) to the Public Archives of Nova Scotia, or the archives of a public body, for archival purposes;
- (m) to a public body or a law-enforcement agency in Canada to assist in an investigation
  - (i) undertaken with a view to a law-enforcement proceeding, or
  - (ii) from which a law-enforcement proceeding is likely to result;
- (n) if the public body is a law-enforcement agency and the information is disclosed
  - (i) to another law-enforcement agency in Canada, or
  - (ii) to a law-enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority;
- (o) if the head of the public body determines that compelling circumstances exist that affect anyone's health or safety;
- (p) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted; or
- (q) in accordance with Section 35 or 36. 1993, c. 5, s. 27.

#### **Use compatible for purpose information obtained**

**34** A use of personal information is a use compatible with the purpose for which the information was obtained within the meaning of Section 32 or 33 if the use

- (a) has a reasonable and direct connection to that purpose; and
- (b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses the information or to which the information is disclosed. 1993, c. 5, s. 28.

#### **Disclosure for research purpose**

**35** A public body may disclose personal information for a research purpose, including statistical research, if

- (a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form;
- (b) any record linkage is not harmful to the individuals that information is about and the benefits to be derived from the record linkage are clearly in the public interest;
- (c) the head of the public body concerned has approved conditions relating to
  - (i) security and confidentiality,
  - (ii) the removal or destruction of individual identifiers at the earliest reasonable time, and
  - (iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of that public body; and

(d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, this Act and any of the public body's policies and procedures relating to the confidentiality of personal information. 1993, c. 5, s. 29.

#### **Disclosure by Public Archives**

**36** The Public Archives of Nova Scotia, or the archives of a public body, may disclose personal information for archival or historical purposes if

(a) the disclosure would not be an unreasonable invasion of personal privacy pursuant to Section 26;

(b) the disclosure is for historical research and is in accordance with Section 35;

(c) the information is about someone who has been dead for 20 or more years; or

(d) the information is in a record that was in the custody or control of the archives and open for historical research as of July 1, 1994. 1993, c. 5, s. 30.

#### **Disclosure in public interest**

**37 (1)** Whether or not a request for access is made, the head of a public body may disclose to the public, to an affected group of people or to an applicant information

(a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people; or

(b) the disclosure of which is, for any other reason, clearly in the public interest.

**(2)** Before disclosing information pursuant to subsection (1), the head of a public body shall, where practicable, notify any third party to whom the information relates.

**(3)** Where it is not practicable to comply with subsection (2), the head of the public body shall mail a notice of disclosure in the prescribed form to the last known address of the third party.

**(4)** This Section applies notwithstanding any other provision of this Act. 1993, c. 5, s. 31.

### **REVIEW AND APPEAL**

#### **Requests and appeals to court**

**38 (1)** A person who makes any request pursuant to this Act for access to a record or for correction of personal information may ask for a review of any decision, act or failure to act of the head of the public body that relates to the request.

**(2)** A third party notified pursuant to Section 28 of a request for access may ask for a review of any decision made about the request by the head of the public body.

(3) Notwithstanding subsection (1), a person who makes a request pursuant to this Act for access to a record or for correction of personal information may, within 30 days after the person is notified of the decision or the date of the act or failure to act, appeal directly to the Supreme Court of Nova Scotia pursuant to Section 47 if there is no third party notified pursuant to Section 28 or any third party so notified consents to that appeal. 1993, c. 5, s. 32; 2002, c. 5, s. 19; 2007, c. 9, s. 9.

#### **Review Officer**

**39 (1)** The Governor in Council shall appoint a person to serve full-time as the Review Officer.

(2) A person appointed as the Review Officer holds that office during good behaviour for a term of not less than five years or more than seven years but may be removed by the Governor in Council on the passing by the House of Assembly of a resolution carried by a vote of a majority of the members of the House of Assembly voting thereon requiring the Governor in Council to do so.

(3) A person may be reappointed as Review Officer.

(4) The Review Officer must be paid out of the General Revenue Fund such salary as the Governor in Council determines.

(5) The officers and employees necessary to enable the Review Officer to perform the duties of that office must be appointed in accordance with the *Civil Service Act*.

(6) The Review Officer shall prepare annually an estimate of the sums required to be provided by the Legislature for the carrying out of this Act during the fiscal year, which estimate must be transmitted to the Priorities and Planning Committee for its approval and must be laid before the Legislature with the other estimates for the year.

(7) The Review Officer shall issue an annual report on the exercise of the functions of the Review Officer under this Act and shall lay the report before the House of Assembly. 1999 (2nd Sess.), c. 11, s. 14.

#### **Procedure for request for a review**

**40 (1)** To ask for a review pursuant to Section 38, a written request must be filed with the Review Officer within

(a) 60 days after the person asking for the review is notified of the decision;

(b) 60 days after the date of the act or failure to act;

(c) by a third party, 20 days after notice is given in the case of a review pursuant to subsection 29(2); or

(d) a longer period allowed by the Review Officer.

(2) The failure of the head of the public body to respond in time to a request for access to a record is to be treated as a decision to refuse access to the record, but the time limit in clause (1)(a) for filing a request for review does not apply.

(3) On receiving a request for a review, the Review Officer shall forthwith give a copy to

- (a) the head of the public body concerned; and
- (b) any other person that the Review Officer considers appropriate. 1993, c. 5, s. 34; 1999 (2nd Sess.), c. 11, s. 23.

#### Settlement through mediation

41 The Review Officer may try to settle a matter under review through mediation. 1993, c. 5, s. 35; 1999 (2nd Sess.), c. 11, s. 23.

#### Where failure to settle

42 Where the Review Officer is unable to settle a matter within 30 days through mediation, the Review Officer shall conduct a review in accordance with Section 43. 1993, c. 5, s. 36; 1999 (2nd Sess.), c. 11, s. 23.

#### Reviews

43 (1) The Review Officer may conduct a review in private.

(2) The following persons are entitled to make representations to the Review Officer in the course of a review:

- (a) the person who applies for the review;
- (b) a third party or applicant who is entitled to notice pursuant to this Act;
- (c) the head of the public body whose decision is the subject of the review; and
- (d) any other person the Review Officer considers appropriate.

(3) Where, pursuant to clause (2)(d), the Review Officer considers that a person is an appropriate person to make representations in the course of a review of a decision of the head of a public body, then, notwithstanding any other provision of this Act, that person

- (a) is entitled to
  - (i) a copy of the report of the Review Officer pursuant to Section 45,
  - (ii) appeal the decision of the head pursuant to Section 47, and
  - (iii) written notice of an appeal under subsection 47(4); and
- (b) is a party to the appeal to which the notice of appeal referred to in subclause (a)(iii) relates.

(4) The Review Officer may decide

- (a) whether the representations are to be made orally or in writing;

(b) whether a person is entitled to be present during a review or to have access to or comment on representations made to the Review Officer by any other person. 1993, c. 5, s. 37; 1999 (2nd Sess.), c. 11, ss. 15, 23.

#### **Duties and powers of Review Officer**

**44 (1)** Notwithstanding any other Act or any privilege that is available at law, the Review Officer may, in a review,

(a) require to be produced and examine any record that is in the custody or under the control of the public body named in the request made pursuant to subsection 8(1); and

(b) enter and inspect any premises occupied by the public body.

**(2)** A public body shall comply with a requirement imposed by the Review Officer pursuant to clause (1)(a) within such time as is prescribed by the regulations.

**(3)** Where a public body does not comply with a requirement imposed by the Review Officer pursuant to clause (1)(a) within the time limited for doing so by subsection (2), a judge of the Supreme Court of Nova Scotia may, on the application of the Review Officer, order the public body to do so.

**(4)** In an application made pursuant to subsection (3), a judge may give such directions as the judge thinks fit, including ordering which persons are parties to the application, which persons must be given notice of the application and the manner in which such notice must be given.

**(5)** An order made pursuant to subsection (3) may contain such provisions and such terms and conditions as the judge thinks fit. 1993, c. 5, s. 38; 1999 (2nd Sess.), c. 11, ss. 16, 23.

#### **Duties and powers on completing review**

**45 (1)** On completing a review, the Review Officer shall

(a) prepare a written report setting out the Review Officer's recommendations with respect to the matter and the reasons for those recommendations; and

(b) send a copy of the report to the head of the public body and

(i) where the matter was referred to the Review Officer by an applicant, to the applicant and to any third party notified pursuant to this Act, or

(ii) where the matter was referred to the Review Officer by a third party, to the third party and to the applicant.

**(2)** In the report, the Review Officer may make any recommendations with respect to the matter under review that the Review Officer considers appropriate. 1993, c. 5, s. 39; 1999 (2nd Sess.), c. 11, s. 23.

**Duties of head on receipt of report**

**46 (1)** Within 30 days after receiving a report of the Review Officer pursuant to subsection 45(1), the head of the public body shall

(a) make a decision to follow the recommendation of the Review Officer or any other decision that the head of the public body considers appropriate; and

(b) give written notice of the decision to the Review Officer and the persons who were sent a copy of the report.

**(2)** Where the head of the public body does not follow the recommendation of the Review Officer, the head of the public body shall, in writing, inform the persons who were sent a copy of the report of the right to appeal the decision to the Supreme Court of Nova Scotia within 30 days of making the decision.

**(3)** Where the head of the public body does not give notice within the time required by subsection (1), the head of the public body is deemed to have refused to follow the recommendation of the Review Officer. 1993, c. 5, s. 40; 1999 (2nd Sess.), c. 11, s. 23.

**Appeal to Supreme Court**

**47 (1)** Within 30 days after receiving a decision of the head of a public body pursuant to Section 46, an applicant or a third party may appeal that decision to the Supreme Court of Nova Scotia in such form and manner as may be prescribed by the *Civil Procedure Rules* or by the regulations.

**(2)** An appeal is deemed not to have been taken pursuant to this Section unless a notice of appeal is given to the Minister by the person taking the appeal.

**(3)** Where a notice of appeal is given pursuant to subsection (2), the Minister may become a party to the appeal by filing with the prothonotary of the Supreme Court of Nova Scotia a notice stating that the Minister is a party to the appeal.

**(4)** The head of a public body who has refused a request for access to a record or part of a record shall, immediately on receipt of a notice of appeal by an applicant, give written notice of the appeal to any third party that the head of the public body

(a) has notified pursuant to this Act; or

(b) would have notified pursuant to this Act if the head of the public body had intended to give access to the record or part of the record.

**(5)** The head of a public body who has granted a request for access to a record or part of a record shall, immediately on receipt of a notice of appeal by a third party, give written notice of the appeal to the applicant.

**(6)** A third party who has been given notice of an appeal pursuant to subsection (4) or an applicant who has been given notice of an appeal pursuant to subsection (5) may appear as a party to the appeal.

(7) The Review Officer is not a party to an appeal.

(8) Where the head of a public body decides to give access to a record or a part of a record after the Review Officer files a report setting out the Review Officer's recommendations respecting the matter, the head shall not give access until the time limited for a third party taking an appeal from the decision to the Supreme Court of Nova Scotia expires and

(a) no appeal has been taken by a third party from the decision within the time limited for so doing; or

(b) where an appeal has been taken within that time by a third party, it has subsequently been abandoned or withdrawn,

but, where an appeal is taken by a third party, the head shall not give access until either the decision of the head is upheld by an order of the Supreme Court and the order becomes final by lapse of time or the decision of the head is upheld by the highest authority to which any further appeal or appeals are taken. 1993, c. 5, s. 41; 1999 (2nd Sess.), c. 11, ss. 17, 23.

#### **Powers of Supreme Court**

**48 (1)** On an appeal, the Supreme Court of Nova Scotia may

(a) determine the matter *de novo*; and

(b) examine any record in camera in order to determine on the merits whether the information in the record may be withheld pursuant to this Act.

(2) Notwithstanding any other Act or any privilege that is available at law, the Supreme Court may, on an appeal, examine any record in the custody or under the control of a public body, and no information may be withheld from the Supreme Court on any grounds.

(3) The Supreme Court shall take every reasonable precaution, including, where appropriate, receiving representations *ex parte* and conducting hearings in camera, to avoid disclosure by the Supreme Court or any person of

(a) any information or other material if the nature of the information or material could justify a refusal by a head of the public body to give access to a record or part of a record; or

(b) any information as to whether a record exists if the head of the public body, in refusing to give access, does not indicate whether the record exists.

(4) The Supreme Court may disclose to the Minister or the Attorney General of Canada information that may relate to the commission of an offence pursuant to another enactment by an officer or employee of a public body.

(5) Where the head of the public body has refused to give access to a record or part of it, the Supreme Court, where it determines that the head of the public body is not authorized to refuse to give access to the record or part of it, shall

(a) order the head of the public body to give the applicant access to the record or part of it, subject to any conditions that the Supreme Court considers appropriate; or

(b) make any other order that the Supreme Court considers appropriate.

(6) Where the Supreme Court finds that a record falls within an exemption, the Supreme Court may not order the head of the public body to give the applicant access to the record, regardless of whether the exemption requires or merely authorizes the head of the public body to refuse to give access to the record. 1993, c. 5, s. 42.

#### GENERAL

##### Exercise of right or power

**49** Any right or power conferred on an individual by this Act may be exercised

(a) where the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the individual's estate;

(b) where a personal guardian or property guardian has been appointed for the individual, by the guardian if the exercise of the right or power relates to the powers and duties of the guardian;

(c) where a power of attorney has been granted, by the attorney if the exercise of the right or power relates to the powers and duties of the attorney conferred by the power of attorney;

(d) where the individual is less than the age of majority, by the individual's legal custodian in situations where, in the opinion of the head of a public body, the exercise of the right or power would not constitute an unreasonable invasion of the privacy of the individual; or

(e) by a person with written authorization from the individual to act on the individual's behalf. 1993, c. 5, s. 43.

##### Delegation of powers by head of public body

**50 (1)** The head of a public body may delegate to one or more officers of the public body a power granted to the head of the public body or a duty vested in the head of the public body.

(2) A delegation pursuant to subsection (1)

(a) must be in writing; and

(b) may contain any limitations, restrictions, conditions or requirements that the head of the public body considers necessary or advisable. 1993, c. 5, s. 44.

##### Burden of proof

**51 (1)** At a review or appeal into a decision to refuse an applicant access to all or part of a record, the burden is on the head of a public body to prove that the applicant has no right of access to the record or part.

(2) Where the record or part that the applicant is refused access to contains personal information about a third party, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

(3) At a review or appeal into a decision to give an applicant access to all or part of a record containing information that relates to a third party,

(a) in the case of personal information, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy; and

(b) in any other case, the burden is on the third party to prove that the applicant has no right of access to the record or part. 1993, c. 5, s. 45.

#### **Limitation of liability**

**52 (1)** No action or other proceeding lies against the head of a public body or any person acting on behalf of or under the direction of the head of the public body for damages resulting from

(a) the disclosure in good faith of all or part of a record pursuant to this Act or any consequences of that disclosure; or

(b) the failure to give any notice required pursuant to this Act if reasonable care is taken to give the required notice.

(2) Subsection (1) does not absolve the Crown in right of the Province or a public body from vicarious liability for an act or omission for which it would be vicariously liable if this Section were not in force. 1993, c. 5, s. 46.

#### **Offence and penalty**

**53 (1)** Every person who maliciously collects or discloses personal information in contravention of this Act or the regulations 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 both.

(2) Every person who knowingly alters a record that is subject to a request in order to mislead the person who made the request 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 both.

(3) Section 34 of the *Summary Proceedings Act* does not apply to this Act. 1993, c. 5, s. 47; 1999 (2nd Sess.), c. 11, s. 18.

#### **Directory respecting records of public bodies**

**54 (1)** The Minister shall publish a directory to assist in identifying and locating records of public bodies.

(2) The directory must include

(a) a description of the mandate and functions of each public body and its components;

(b) a description and list of the records in the custody or under the control of each public body;

(c) a subject index; and

(d) the name, title, business address and business telephone number of the head of the public body.

(3) The directory must include for each personal-information bank maintained by a public body

(a) its title and location;

(b) a description of the kind of personal information and the categories of individuals whose personal information is included;

(c) the authority for collecting the personal information;

(d) the purposes for which the personal information was obtained or compiled and the purposes for which it is used or disclosed;

(e) the categories of persons who use the personal information or to whom it is disclosed.

(4) Where personal information is used or disclosed by a public body for a purpose that is not included in the directory published pursuant to subsection (1), the head of the public body shall

(a) keep a record of the purpose and either attach or link the record to the personal information;

(b) promptly notify the Minister of the purpose; and

(c) ensure that the purpose is included in the next publication of the directory.

(5) The Minister shall

(a) provide copies of the directory to public bodies and to public libraries and other prescribed libraries in the Province; and

(b) publish and distribute, at intervals of two years or less, supplements or replacements to keep the directory up to date.

(6) The head of a public body shall ensure that copies provided pursuant to subsection (5) are available to the public at an office of the public body.

(7) This Section applies to such public bodies as are prescribed by the regulations. 1993, c. 5, s. 48.

### Regulations

55 (1) The Governor in Council may make regulations

(a) prescribing procedures to be followed in taking, transferring and processing requests for access;

(b) prescribing or limiting fees to be paid pursuant to this Act;

- (c) prescribing additional circumstances in which a head of the public body may waive the payment of all or any part of a prescribed fee;
- (d) prescribing, for the purpose of Section 21, the categories of sites that are considered to have heritage or anthropological value;
- (e) prescribing requirements to be met with respect to disclosures of information to law enforcement agencies or investigative bodies;
- (f) designating any agency, association, board, commission, corporation, office, society or other body
  - (i) any member of which is appointed by the Governor in Council or a minister,
  - (ii) a controlling interest in the share capital of which is owned by the Crown in right of the Province or any of its agencies, or
  - (iii) that performs functions pursuant to an enactment,as a public body;
- (g) designating a person as the head of a public body;
- (h) modifying any provision of this Act in respect of a public body or class of public bodies designated pursuant to clause (f);
- (i) prescribing the form and manner of a review pursuant to this Act;
- (j) prescribing the form and manner of an appeal pursuant to this Act;
- (k) prescribing any matter that is to be included in a notice that is required by this Act;
- (l) amending the Schedule to this Act to the extent permitted by subsection 4(1);
- (m) amending subsection 6(2) to the extent permitted by subsection 6(3);
- (n) designating an executed contract as a public-private partnership or a class of executed contracts as a class of public-private partnerships for the purpose of subsection 7(3);
- (o) providing that clause 28(2)(b) applies;
- (p) prescribing time limits for the purpose of subsection 44(2);
- (q) prescribing forms for the purpose of this Act;
- (r) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (s) for any purpose contemplated by this Act;

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

(u) enlarging or restricting the meaning of any word or expression defined in this Act;

(v) to carry out effectively the intent and purpose of this Act.

(2) Clause (1)(f) does not restrict the meaning of public body as defined in Section 3.

(3) A regulation may apply to all persons or bodies or to a class of persons or bodies to whom this Act applies and there may be different regulations for different classes of such persons or bodies.

(4) 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. 5, s. 49; 1999 (2nd Sess.), c. 11, s. 19.

#### Duty to designate head

**56** A local public body shall, by bylaw or other legal instrument by which the local public body acts, designate a person or group of persons as the head of the local public body for the purpose of this Act. 1999 (2nd Sess.), c. 11, s. 20.

### SCHEDULE

#### Agriculture

Crop and Livestock Arbitration Board  
 Crop Development Institute  
 Dairy Industry Advisory Committee  
 Deer Farming Advisory Committee  
 Farm Machinery Advisory Committee  
 Farm Management Institute  
 Farm Registration Appeal Committee  
 Farm Skills Advisory Committee  
 Fur Institute  
 a livestock health services board established pursuant to the Livestock Health Services Act  
 Meat Inspection Board  
 Natural Products Marketing Council  
 Nova Scotia Crop and Livestock Insurance Commission  
 Nova Scotia Farm Loan Board  
 Soil Institute  
 Weed Control Advisory Committee  
 Wild Blueberry Institute

#### Communities, Culture, Tourism and Heritage

Gaelic College Foundation  
 Nova Scotia Arts Council  
 N.S. International Tattoo Society  
 Peggy's Cove Commission  
 Schooner Bluenose Foundation  
 Upper Clements Theme Park Board

**Community Services**

an agency within the meaning of the *Children and Family Services Act*

**Service Nova Scotia**

Board of Registration of Embalmers and Funeral Directors  
Nova Scotia Credit Union Deposit Insurance Corporation  
Public Accountants Board of the Province of Nova Scotia

**Economic Development**

Build Nova Scotia  
Film and Creative Industries Nova Scotia  
Invest Nova Scotia  
Trade Council of Nova Scotia

**Education and Early Childhood Development**

Johnstone (Dr. P. Anthony) Memorial Fund Entrance Scholarship  
a university foundation established by the University Foundations Act

**Environment and Climate Change**

On-site Services Advisory Board  
Radiation Health Advisory Board

**Finance and Treasury Board**

Halifax-Dartmouth Bridge Commission  
Nova Scotia Gaming Corporation  
Nova Scotia Power Finance Corporation

**Fisheries and Aquaculture**

Nova Scotia Fisheries and Aquaculture Loan Board

**Health and Wellness**

Advisory Commission on AIDS  
Board of Dispensing Opticians  
Cape Breton Healthcare Complex  
Denturist Licensing Board  
Health Services and Insurance Commission  
Minister's Substance Abuse Advisory Board  
Seniors' Pharmacare Program Board of Directors

**Justice**

Nova Scotia Legal Aid Commission

**Labour, Skills and Immigration**

LP Gas Board of Examiners  
Occupational Health and Safety Advisory Council  
Pay Equity Commission

**Natural Resources and Renewables**

Board of Examiners appointed pursuant to the Scalpers Act  
Primary Forest Products Marketing Board  
Shubenacadie Canal Commission  
Species-at-Risk Working Group

**Premier's Office**

Election Commission

**Public Service Commission**

Long-Term Disability Trust Fund Board  
Public Sector Compensation Restraint Board

**Public Works**

Sydney Environmental Resources Limited  
Sydney Harbour Port Regional Development Commission

**Member of Executive Council, as assigned**

Nova Scotia Youth Secretariat  
Youth Advisory Council

1999 (2nd Sess.), c. 11, s. 22; N.S. Reg. 205/2009, s. 2; 2011, c. 67, s. 11; 2014, c. 32, s. 116.

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CHAPTER F-29

**An Act Respecting  
the Delivery of  
French-language Services  
by the Public Service**

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

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WHEREAS the Constitution of Canada, and in particular the *Canadian Charter of Rights and Freedoms*, recognizes French as one of Canada's two official languages;

AND WHEREAS the Acadian and francophone community of Nova Scotia has made a valuable contribution to and plays a significant role in Nova Scotia;

AND WHEREAS Nova Scotia is committed to promoting the development of its Acadian and francophone community and maintaining for future generations the French language, which contributes to the enhancement of life in Nova Scotia:

**Short title**

**1** This Act may be cited as the *French-language Services Act*. 2004, c. 26, s. 1.

CHAPITRE F-29

**Loi concernant la  
prestation par  
la fonction publique  
de services en français**

**Table des matières**

(La table des matières ne fait pas partie de la loi)

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ATTENDU :

que la Constitution du Canada, et en particulier la *Charte canadienne des droits et libertés*, reconnaît que le français est l'une des deux langues officielles du Canada;

que la collectivité acadienne et francophone de la Nouvelle-Écosse a beaucoup fait pour la Nouvelle-Écosse et joue un rôle important dans la province;

que la Nouvelle-Écosse entend bien promouvoir le développement de sa collectivité acadienne et francophone et tient à la sauvegarde pour les générations à venir de la langue française, source d'enrichissement de la vie en Nouvelle-Écosse :

**Titre abrégé**

**1** La présente loi peut être citée : *Loi sur les services en français*. 2004, ch. 26, art. 1.

**Purpose of Act**

2 The purpose of this Act is to

(a) contribute to the preservation and growth of the Acadian and francophone community; and

(b) provide for the delivery of French-language services by designated departments, offices, agencies of Government, Crown corporations and public institutions to the Acadian and francophone community. 2004, c. 26, s. 2.

**Interpretation**

3 In this Act,

“department” means a department established by or pursuant to the *Public Service Act*;

“Minister” means the Minister of Communities, Culture, Tourism and Heritage;

“office” means an office established by or pursuant to the *Public Service Act*. 2004, c. 26, s. 3; 2011, c. 9, s. 18.

**Supervision and management of Act**

4 The Minister has the general supervision and management of this Act. 2004, c. 26, s. 4.

**Objects and purposes of Office**

5 In addition to the responsibilities set out in Section 49 of the *Public Service Act*, the objects of the Department of Communities, Culture, Tourism and Heritage are to

(a) ensure that the Government is aware of the needs of the Acadian and francophone community;

**Objet de la loi**

2 La présente loi a pour objet :

a) de favoriser la préservation et l’essor de la collectivité acadienne et francophone;

b) de pourvoir à la prestation, par les ministères, offices, organismes gouvernementaux, sociétés d’État et institutions publiques désignés, de services en français destinés à la collectivité acadienne et francophone. 2004, ch. 26, art. 2.

**Interprétation**

3 Dans la présente loi :

« ministère » s’entend d’un ministère établi par la loi intitulée *Public Service Act* ou sous le régime de cette loi;

« ministre » désigne le ministre des Communautés, de la Culture, du Tourisme et du Patrimoine;

« office » s’entend d’un office établi par la loi intitulée *Public Service Act* ou sous le régime de cette loi. 2004, ch. 26, art. 3; 2011, ch. 9, art. 18.

**Application générale de la loi**

4 Le ministre est chargé de l’application générale de la présente loi. 2004, ch. 26, art. 4.

**Mission de l’Office**

5 Outre les responsabilités énumérées à l’article 49 de la loi intitulée *Public Service Act*, le ministère des Communautés, de la Culture, du Tourisme et du Patrimoine a pour mission :

a) de veiller à ce que le gouvernement demeure conscient des besoins de la collectivité acadienne et francophone;

(b) offer advice and support to departments, offices and agencies of Government and to Crown corporations for the purpose of developing and adopting or providing programs, policies and services that reflect the needs of the Acadian and francophone community;

(c) provide support for other departments for French-language services within the Government;

(d) develop partnerships with Acadian and francophone agencies at provincial, national and international levels;

(e) ensure that Acadian and francophone needs are addressed in the development of programs, policies and services; and

(f) recognize the contribution of the Acadian and francophone community. 2004, c. 26, s. 5; 2011, c. 9, s. 19.

#### Duties of Minister

**6 (1)** In consultation with the Minister of Acadian Affairs and Francophonie, the Minister shall advise the Government respecting

(a) the provision of French-language services within departments and offices; and

(b) the development and enhancement of the Acadian and francophone community.

**(2)** For the purpose of subsection (1), the Minister shall

b) de fournir aux ministères, offices et organismes gouvernementaux, tout comme aux sociétés d'État, des conseils et des mesures de soutien favorisant l'élaboration, l'adoption ou la prestation de programmes, de politiques et de services adaptés aux besoins de la collectivité acadienne et francophone;

c) de fournir des mesures de soutien aux autres ministères en matière de services en français au sein du gouvernement;

d) de nouer aux paliers provincial, national et international des partenariats avec les organismes acadiens et francophones;

e) de veiller à ce que les besoins de la collectivité acadienne et francophone soient pris en compte dans l'élaboration des programmes, des politiques et des services;

f) de reconnaître l'apport de la collectivité acadienne et francophone. 2004, ch. 26, art. 5; 2011, ch. 9, art. 19.

#### Fonctions du ministre

**6 (1)** En consultation avec le ministre des Affaires acadiennes et de la Francophonie, le ministre conseille le gouvernement dans les matières suivantes :

a) la prestation de services en français au sein des ministères et des offices;

b) le développement et l'épanouissement de la collectivité acadienne et francophone.

**(2)** Pour l'application du paragraphe (1), le ministre :

(a) prepare and recommend Government plans, programs, policies, services and priorities;

(b) coordinate and monitor the implementation of plans, programs, services and policies of the Government by the public service;

(c) make recommendations in connection with the financing of Government programs, services and policies;

(d) respond to public concerns respecting the quality of French-language programs and services; and

(e) perform such other duties as may be assigned to the Minister by the Governor in Council. 2004, c. 26, s. 6; 2011, c. 9, s. 20.

a) élabore et recommande des plans, programmes, politiques, services et priorités gouvernementaux;

b) coordonne et surveille la mise en œuvre par la fonction publique des plans, programmes, services et politiques du gouvernement;

c) formule des recommandations au sujet du financement des programmes, services et politiques gouvernementaux;

d) donne suite aux préoccupations de la population concernant la qualité des programmes et des services en français;

e) remplit les autres fonctions que lui confie le gouverneur en conseil. 2004, ch. 26, art. 6; 2011, ch. 9, art. 20.

#### Annual report

**7 (1)** The Minister shall annually prepare a report for the previous fiscal year setting out the initiatives and programs undertaken and services provided by the Government to achieve the objects set out in Section 5 and respecting access by Acadians and francophones to those services.

**(2)** The Minister shall table the annual report in the Assembly, if the Assembly is then sitting, and if the Assembly is not sitting, within 15 days of its next sitting. 2004, c. 26, s. 7; 2011, c. 9, s. 21.

#### Coordinator

**8 (1)** The deputy head of each department and the chief executive officer of each office shall appoint a French-language services coordinator to assist and advise the deputy head or chief executive officer on the implementation of this Act.

#### Rapport annuel

**7 (1)** Le ministre dresse chaque année un rapport pour l'exercice précédent dans lequel sont énoncés les initiatives et les programmes que le gouvernement a entrepris de même que les services qu'il a fournis afin de réaliser la mission énoncée à l'article 5 et est abordé l'accès des personnes acadiennes et francophones à ces services.

**(2)** Le ministre dépose le rapport annuel devant l'Assemblée si elle tient séance, sinon, dans les 15 premiers jours de sa prochaine séance. 2004, ch. 26, art. 7; 2011, ch. 9, art. 21.

#### Coordonnateur

**8 (1)** Le sous-ministre de chaque ministère et le directeur général de chaque office nomment un coordonnateur des services en français chargé de l'assister et de le conseiller dans la mise en œuvre de la présente loi.

(2) The French-language services coordinator of a department or office shall report directly to the deputy head or chief executive officer of the department or office on matters relating to the implementation of this Act. 2004, c. 26, s. 8.

#### **Coordinating Committee**

**9 (1)** There is a French-language Services Coordinating Committee consisting of

- (a) the French-language services coordinators of every department and office; and
- (b) the senior officer or employee of the Acadian Affairs Division of the Department of Communities, Culture, Tourism and Heritage, who is the Chair of the Committee.

(2) The Committee shall assist and advise the Minister on the implementation of this Act. 2004, c. 26, s. 9; 2011, c. 9, s. 22.

#### **Regulations**

**10 (1)** Upon recommendation of the Minister after consultation with the Acadian and francophone community, the Governor in Council may make regulations

- (a) respecting the development of plans for the provision of French-language services in any part of the Province;
- (b) designating the departments, offices, agencies of Government, Crown corporations and public institutions that have an obligation to provide French-language services;

(2) Le coordonnateur des services en français d'un ministère ou d'un office relève directement du sous-ministre ou du directeur général, selon le cas, sur les questions relatives à la mise en œuvre de la présente loi. 2004, ch. 26, art. 8.

#### **Comité de coordination**

**9 (1)** Est constitué le Comité de coordination des services en français, lequel se compose :

- a) des coordonnateurs des services en français de chaque ministère et office;
- b) du cadre ou de l'employé principal de la division des affaires acadiennes du ministère des Communautés, de la Culture, du Tourisme et du Patrimoine, qui assure la présidence du Comité.

(2) Le Comité assiste et conseille le ministre dans la mise en œuvre de la présente loi. 2004, ch. 26, art. 9; 2011, ch. 9, art. 22.

#### **Règlements**

**10 (1)** Sur la recommandation du ministre formulée après consultation auprès de la collectivité acadienne et francophone, le gouverneur en conseil peut prendre des règlements :

- a) concernant l'élaboration de plans visant la prestation de services en français dans tout secteur de la province;
- b) portant désignation des ministères, offices, organismes gouvernementaux, sociétés d'État et institutions publiques qui ont l'obligation de fournir des services en français;

(c) respecting the provision by departments, offices, agencies of Government, Crown corporations and public institutions of French-language services in any part of the Province;

(d) respecting standards of French-language service;

(e) assigning duties to the Minister respecting French-language services;

(f) respecting responsibilities of members of the Executive Council for the delivery of French-language services;

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

(h) 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*. 2004, c. 26, s. 10.

#### Existing language rights

11 For greater certainty, nothing in this Act limits or derogates from any existing language right of members of the Acadian and francophone community. 2004, c. 26, s. 11.

c) concernant la prestation par les ministères, offices, organismes gouvernementaux, sociétés d'État et institutions publiques de services en français dans tout secteur de la province;

d) concernant les normes applicables à la prestation de services en français;

e) attribuant au ministre des fonctions relativement aux services en français;

f) précisant les responsabilités des membres du Conseil exécutif concernant la prestation de services en français;

g) définissant des termes qu'emploie la présente loi sans les définir;

h) concernant toute autre mesure qu'il estime nécessaire ou utile pour assurer la réalisation de la vocation et de l'objet de la présente loi.

(2) Les règlements visés au paragraphe (1) sont des règlements au sens de la loi intitulée *Regulations Act*. 2004, ch. 26, art. 10.

#### Droits linguistiques existants

11 Il est entendu que la présente loi ne saurait porter atteinte aux droits linguistiques existants des membres de la collectivité acadienne et francophone. 2004, c. 26, art. 11.

## CHAPTER F-30

# An Act Respecting the Fur Industry

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

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### Short title

1 This Act may be cited as the *Fur Industry Act*. 2010, c. 4, s. 1.

### Interpretation

2 In this Act,

“Administrator” means the Administrator appointed by the Minister;

“Department” means the Department of Agriculture;

“designated professional” means an individual or a member of an organization or group of individuals designated by the Minister for the purpose of this Act or the regulations;

“Farm Practices Board” means the Farm Practices Board established by the *Farm Practices Act*;

“fur-bearing animal” means mink, fox, chinchilla and such other fur-bearing animals as may be designated in the regulations;

“fur farm” means a property upon which live fur-bearing animals are held for commercial purposes, and includes any building or structure used to house the animals or store waste;

“inspector” means an inspector appointed by the Minister;

“Minister” means the Minister of Agriculture;

“operator” means a person or partnership that operates a fur farm;

“prescribed animal” means a type of fur-bearing animal designated as a prescribed animal by the regulations;

“waste” means feces, waste feed or carcasses from fur-bearing animals generated on a fur farm during normal farming activities. 2010, c. 4, s. 2; 2012, c. 58, s. 1.

### Supervision and management

**3 (1)** The Minister has the general supervision and management of this Act and the regulations.

**(2)** The Minister may designate persons to act on behalf of the Minister.

**(3)** The Minister may delegate to a person designated by the Minister any power conferred or duty imposed on the Minister by this Act. 2010, c. 4, s. 3.

### Powers of Minister

**4** The Minister may, for the purpose of the administration and enforcement of this Act,

(a) establish and administer policies, programs and guidelines respecting the development of the fur industry in the Province;

(b) consult with and coordinate the work and efforts of departments and agencies of the Province respecting any matter relating to the maintenance and development of the fur industry in the Province;

(c) develop scientific databases, including databases of information, with respect to determining the impact of the fur industry on the environment;

(d) gather, compile, publish and disseminate information, including statistical data, relating to the maintenance and development of the fur industry in the Province;

- (e) conduct economic analyses to determine the costs and benefits of the fur industry in the Province;
- (f) convene conferences and conduct seminars and educational programs relating to the sustainability of the fur industry in the Province;
- (g) give financial assistance to any person, group, society or association for purposes related to the sustainability of the fur industry in the Province;
- (h) establish fees for the provision, registration or filing of any information, documents, returns and reports, any application for, processing and issuance of an approval, certificate, licence or permit, any inspection or investigation and any services or material provided in the course of the administration of this Act;
- (i) prescribe forms for the purpose of this Act;
- (j) take such measures as the Minister considers necessary for the development of the fur industry in the Province. 2010, c. 4, s. 4; 2012, c. 58, s. 2.

#### **Administrator**

**5** The Administrator necessary for the administration of this Act must be appointed by the Minister in accordance with the *Civil Service Act*. 2012, c. 58, s. 3.

#### **Inspectors**

**6 (1)** The Minister may appoint, as an inspector, a person who has the qualifications and experience to be an inspector for the purpose of all or part of this Act.

**(2)** A person appointed pursuant to subsection (1) must be appointed in accordance with the *Civil Service Act*.

**(3)** An appointment under subsection (1) 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. 2010, c. 4, s. 5; 2012, c. 58, s. 4.

#### **Inspector to produce identification card**

**7** On entering any place, an inspector shall, on request, produce an identification card provided by the Department and provide reasons for the entry. 2010, c. 4, s. 6.

#### **Agreements**

**8** The Minister may, on behalf of the Province, enter into an agreement with the Government of Canada, the government of a province of Canada or the government of a foreign country, or state thereof, or an agency of any of the foregoing, or with a municipality or local government district or any society, group, organization, person or individual for

- (a) the joint management of the fur industry or mutual assistance in the enforcement of laws related to the fur industry;
- (b) the development and implementation of joint informational, educational or training programs;

(c) the conduct of joint scientific investigations,  
and the agreement may provide for contributions towards the cost of implementing the agreement. 2010, c. 4, s. 8.

### General prohibition

**9 (1)** No person shall operate a fur farm without a valid operating licence.

**(2)** No person shall, unless exempted pursuant to the regulations, operate a fur farm on which there are prescribed animals without

- (a) a valid operating licence; and
- (b) a valid site approval permit.

**(3)** No operating licence or site approval permit is valid if

- (a) the prescribed fees have not been paid; or
- (b) the licence or permit has been suspended or revoked.

2010, c. 4, s. 9; 2012, c. 58, s. 6.

### Operating licence

**10 (1)** A person may apply to the Administrator, in the manner prescribed by the Minister, for an operating licence.

**(2)** An application for an operating licence must be accompanied by the information required by the regulations.

**(3)** The Administrator may require an applicant for an operating licence to submit any additional information the Administrator considers necessary.

**(4)** Where the Administrator considers an application to be incomplete, the application may not be processed until the information required is submitted.

**(5)** Where required pursuant to subsection 9(2), the Administrator may not issue an operating licence without confirmation in writing that the applicant has a valid site approval permit.

**(6)** Subject to this Act and the regulations, the Administrator may issue an operating licence for the period of time prescribed by the regulations.

**(7)** An operating licence may be renewed on application to the Administrator.

**(8)** The rights attached to any operating licence are subject to any terms and conditions provided in this Act or the regulations or required by the Administrator.

**(9)** No person shall contravene the terms and conditions of an operating licence. 2010, c. 4, s. 10; 2012, c. 58, s. 7.

**Site approval permit**

**11 (1)** A person may apply to the Administrator, in the manner prescribed by the Minister, for a site approval permit.

**(2)** An application for a site approval permit must be accompanied by the information required by the regulations.

**(3)** The Administrator may require an applicant for a site approval permit to submit any additional information the Administrator considers necessary.

**(4)** Where the Administrator considers an application to be incomplete, the application may not be processed until the information required is submitted.

**(5)** The Administrator may issue or amend a site approval permit if a fur farm meets the requirements established by the regulations.

**(6)** The holder of a site approval permit shall apply for an amended site approval permit for alterations to a site if those alterations are to anything or procedure relating to a fur farm that is addressed in requirements established by the regulations.

**(7)** A site approval permit is subject to any terms and conditions provided in this Act or the regulations or required by the Administrator.

**(8)** No person shall contravene the terms and conditions of a site approval permit. 2010, c. 4, s. 11; 2012, c. 58, s. 8.

**Amendment of operating licence or site approval permit**

**12 (1)** Any operating licence or site approval permit issued pursuant to this Act may be amended at any time by the Administrator.

**(2)** Terms and conditions attached to any operating licence or site approval permit issued pursuant to this Act may be amended at any time by the Administrator. 2010, c. 4, s. 12; 2012, c. 58, s. 9.

**Issuance or transfer of operating licence or site approval permit discretionary**

**13 (1)** The issuance or transfer of any operating licence or site approval permit pursuant to this Act or the regulations is at the discretion of the Administrator.

**(2)** The Administrator may refuse to issue or transfer an operating licence or site approval permit to any person found guilty of an offence pursuant to

(a) this Act or the regulations; or

(b) any other enactment prescribed in the regulations.

2010, c. 4, s. 13; 2012, c. 58, s. 10.

**Suspension or revocation of operating licence or site approval permit**

**14 (1)** The Minister may, at any time, suspend or revoke an operating licence or site approval permit issued pursuant to this Act or the regulations.

(2) The Minister may reinstate any operating licence or site approval permit suspended or revoked pursuant to this Act or the regulations, subject to any terms and conditions the Minister considers appropriate.

(3) The Minister may suspend or revoke any operating licence or site approval permit by having a notice served personally on the holder of the operating licence or permit or by mailing by registered mail or transmitting by electronic communication a notice to the address of the holder as noted on the application for the licence or permit or to another address provided by the holder for that purpose.

(4) A notice of suspension or revocation is effective on the date of delivery by hand, five business days after the mailing of the notice, or three days after transmission of electronic communication of the notice, after which the operating licence or site approval permit is suspended or revoked, as the case may be. 2010, c. 4, s. 14; 2012, c. 58, s. 11.

### Reporting

15 An operator shall submit any reports prescribed by the regulations to the Department. 2010, c. 4, s. 15; 2012, c. 58, s. 12.

### Record keeping

16 (1) Every operator shall keep such books and records as are prescribed by the regulations.

(2) Every operator shall permit an inspector or a designated employee of the Department to examine any books or records required by the regulations to be kept. 2010, c. 4, s. 16; 2012, c. 58, s. 13.

### Right of entry and inspection

17 (1) For the purpose of the administration of this Act, an inspector may, at any reasonable time,

(a) enter and inspect any fur farm to determine compliance with this Act and the regulations;

(b) enter and inspect any place that the inspector has reasonable grounds to believe is likely to contain documents related to an activity or thing that is, or is required to be, the subject of a licence or permit;

(c) enter and inspect any place that the inspector has reasonable grounds to believe is, or is required to be, the subject of a licence or permit;

(d) stop and inspect any vehicle or vessel to determine whether it is being used to transport prescribed animals or waste from prescribed animals in compliance with this Act or the regulations;

(e) require the production of any documents that are required to be kept pursuant to this Act.

(2) An inspector and a person 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) It is a condition of every operating licence or site approval permit that the operator shall forthwith on request allow inspectors to carry out inspections authorized pursuant to this Act or the regulations of any fur farm, other than a dwelling.

(4) Subject to the regulations, the Administrator may and, where required by the regulations, shall publish the results of inspections carried out pursuant to this Act and the regulations.

(5) An inspector and every person accompanying an inspector shall thoroughly cleanse and disinfect all their footwear and equipment before entering a fur farm.

(6) An operator shall give an inspector all reasonable assistance necessary to enable the inspector to carry out any action authorized by law and shall furnish the inspector with any information the inspector requires to carry out that action.

(7) No person shall obstruct an inspector who is acting as authorized by this Act. 2010, c. 4, s. 17; 2012, c. 58, s. 14.

#### **Right to seize and take samples**

**18 (1)** In order to determine compliance with this Act or the regulations, an inspector

(a) may seize any article, fur-bearing animal or record that the inspector requires for the purpose of an inspection; and

(b) where property has been seized pursuant to clause (a), shall give a receipt to any operator from whom property is seized setting out a description of the property seized.

(2) An inspector may take samples during the course of inspection, including

(a) biological samples from any fur-bearing animal found during the inspection;

(b) water samples; and

(c) soil samples. 2010, c. 4, s. 18; 2012, c. 58, s. 15.

#### **Detention of seized property**

**19 (1)** Subject to subsection (2), property seized by an inspector pursuant to subsection 18(1) must not be detained after

(a) this Act, the regulations or an order or direction, as the case may be, has, in the opinion of the inspector, been complied with; or

(b) the expiration of 90 days from the day of seizure,

unless before that time proceedings have been instituted in respect of an offence, in which case the property may be detained until all proceedings with respect to the offence are finally concluded.

- (2) An inspector may
- (a) return the seized property to the person from whom it was seized or to whom it belongs before it is dealt with in the courts;
  - (b) in the case of a live fur-bearing animal,
    - (i) in accordance with the direction of the Administrator, keep it in captivity or deliver it to another person to have it kept in captivity, kill it or otherwise dispose of it, or
    - (ii) dispose of it in any manner agreed to by the owner.

(3) Where a live fur-bearing animal is delivered to another person, the Administrator may assess the costs of keeping the fur-bearing animal in captivity to the owner or person in possession of the animal, or both, and that cost must be paid on demand by the person assessed and is recoverable by the Minister as a debt due to the Crown.

(4) The Administrator is not liable for damages or costs for property wrongfully seized and detained if there were reasonable and probable grounds for the seizure.

(5) Notwithstanding anything contained in this Act, the Administrator may sell or give away a fur-bearing animal but any money received by the Administrator as a result of selling that animal must be returned to the owner of the animal that was seized, less any amount to cover expenses properly incurred by the Administrator with respect to that animal. 2010, c. 4, s. 19; 2012, c. 58, s. 16.

#### **Compliance order**

**20** Where the Administrator or an inspector believes, on reasonable and probable grounds, that an operator has contravened or will contravene this Act, the Administrator or inspector may issue an order requiring an operator, at that operator's own expense, to

- (a) install, replace or alter any structure, facility, system or process designed to manage waste on a fur farm;
- (b) install, replace or alter any structure, facility, system or process designed to manage water on a fur farm;
- (c) alter the procedures to be followed for the management of waste on a fur farm or part thereof;
- (d) alter the procedures to be followed for the management of water on a fur farm or part thereof;
- (e) install, replace or alter any structure, facility, system or process designed to prevent the escape of fur-bearing animals from captivity;
- (f) carry out clean-up and disinfection of any site in accordance with directions set out in the order;
- (g) obtain veterinary care for the fur-bearing animals held at a fur farm;
- (h) isolate, conduct health testing of or destroy fur-bearing animals exhibiting symptoms of disease;

- (i) provide adequate food, clean fresh water and shelter to fur-bearing animals held at a fur farm;
- (j) do all things and take all steps necessary to comply with this Act. 2010, c. 4, s. 20; 2012, c. 58, ss. 17, 18.

**Orders**

**21** In addition to any other requirements that may be included in an order issued pursuant to this Act, an order may

- (a) require an operator, at that operator's own expense, to undertake tests, investigations, surveys and other action and report results to the Administrator;
- (b) fix 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;
- (c) include any other measure that the Administrator considers necessary to facilitate compliance with the order. 2010, c. 4, s. 20; 2012, c. 58, ss. 17, 19.

**Compliance with order**

**22 (1)** When an order is served on an operator to whom it is directed, that operator 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 operator to whom an order is directed does not comply with the order or part thereof, the Administrator may take whatever action the Administrator considers necessary to carry out the terms of the order.

**(3)** Reasonable costs, expenses or charges incurred by the Administrator pursuant to this Section are recoverable by order of the Administrator

- (a) against the person to whom the order was directed;
- (b) authorizing deduction from money recovered from the sale of seized property; or
- (c) directing any person who has purchased real property from an operator to whom the order was directed to pay to the Administrator from any money that is still owed to the operator, 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 Administrator pursuant to clause (3)(c) is discharged from any obligation to pay that amount to the operator.

**(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 Administrator setting out the amount of costs, expense or charge is admissible in evidence and is, in the absence of evidence to the contrary, proof of the amount of the cost, expense or charge set out in the certificate.

(7) Where an order to pay is issued by the Administrator pursuant to subsection (3), the order may be filed with the prothonotary of the Supreme Court of Nova Scotia and, when so filed,

(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.

(9) Notice of an order must be served personally on the operator or by mailing by registered mail or transmitting by electronic communication a notice to the address of the operator as noted on the operator's application for a licence or permit pursuant to this Act or to another address provided by the operator for that purpose.

(10) A notice served in accordance with subsection (9) is served on the date of delivery by hand, five business days after the mailing of the notice or three days after the electronic transmission of the notice. 2010, c. 4, s. 21; 2012, c. 58, s. 20.

### Penalty

23 (1) A person who fails to comply with or otherwise contravenes this Act or the regulations, and a director or officer of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and upon summary conviction is liable to a fine of not less than \$1,000 or to imprisonment for a period of not more than six months, or to both a fine and imprisonment.

(2) 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.

(3) No prosecution under this Act may be commenced more than two years after the day upon which the offence was committed. 2010, c. 4, s. 22; 2012, c. 58, s. 21.

**Summary Proceedings Act**

**24** The *Summary Proceedings Act* and forms authorized thereunder apply to all prosecutions and proceedings pursuant to this Act and the regulations as far as they are applicable and are not inconsistent with this Act and the regulations. 2010, c. 4, s. 23.

**No entitlement to operating licence or site approval permit**

**25** Where any person has had an operating licence or site approval permit or the privilege of obtaining such a licence or permit suspended or revoked pursuant to this Act, that person is not entitled to apply for and hold any operating licence or site approval permit for such time as ordered by the Minister from the date of suspension or revocation. 2010, c. 4, s. 24; 2012, c. 58, s. 22.

**Complaints**

**26 (1)** Where the Minister receives a complaint respecting the operation of a fur farm, the Minister may refer the complaint to the Farm Practices Board to determine whether the fur farm is operating in accordance with normal farm practices.

**(2)** The findings of the Farm Practices Board made under subsection (1) are binding on the operator.

**(3)** The Minister may refuse to refer a complaint to the Farm Practices Board if the complaint is of a frivolous or vexatious nature. 2010, c. 4, s. 25; 2012, c. 58, s. 23.

**Disease designation**

**27** The Minister may designate any disease that is a significant threat to fur-bearing animals for the purpose of this Act and regulations. 2010, c. 4, s. 26.

**Disease control**

**28 (1)** The Administrator may quarantine any site, area or region found to be infected with a designated disease.

**(2)** The Administrator may order the destruction of fur-bearing animals at any site, area or region that has been quarantined pursuant to subsection (1).

**(3)** The Administrator may order the cleaning and disinfection or destruction of any site that has been quarantined pursuant to subsection (1). 2010, c. 4, s. 27; 2012, c. 58, s. 24.

**Import or export during quarantine**

**29 (1)** No person shall import fur-bearing animals into or export fur-bearing animals from a quarantined site, area or region without a permit issued by the Administrator.

**(2)** The Administrator may issue a permit to import or export into or from a quarantined site, area or region. 2010, c. 4, s. 28; 2012, c. 58, s. 25.

**Duty to report disease**

**30 (1)** Every operator who holds a fur-bearing animal that the operator

(a) knows or suspects is infected with a designated disease; or

(b) knows or suspects has been in contact with an animal infected with a designated disease,

shall immediately report that knowledge or suspicion to the Administrator.

**(2)** Every operator who holds a fur-bearing animal that the operator suspects may have died from a designated disease shall

(a) have such samples of the dead fur-bearing animal taken as are directed by the Administrator, and have those samples tested for the designated disease; and

(b) report the findings of the test to the Administrator.  
2010, c. 4, s. 29; 2012, c. 58, s. 26.

**Animals to be kept in captivity**

**31 (1)** No operator who holds fur-bearing animals shall allow those animals to

(a) roam outside an approved containment structure;

(b) escape from captivity; or

(c) be released to the wild.

**(2)** Every operator whose fur-bearing animals escape from captivity shall immediately make all reasonable efforts to restore the escaped fur-bearing animals to captivity. 2010, c. 4, s. 30.

**Animal care**

**32 (1)** Every operator who holds fur-bearing animals shall provide the animals with

(a) adequate feed;

(b) adequate clean, fresh water; and

(c) adequate shelter.

**(2)** An operator who holds fur-bearing animals shall handle the animals in a humane manner.

**(3)** An operator who holds fur-bearing animals may destroy the animals only in a humane manner. 2010, c. 4, s. 31.

**Clean and sanitary conditions**

**33** Every operator shall maintain the place where fur-bearing animals are kept in a clean and sanitary condition. 2010, c. 4, s. 32.

**Management plan**

**34 (1)** Unless exempted pursuant to the regulations, every operator of a fur farm on which there are prescribed animals shall develop and follow a management plan for the operation of the fur farm that includes provisions for minimizing water and soil contamination.

**(2)** The Minister may designate an individual or a member of an organization or group of individuals with the qualifications required by the regulations as a designated professional for the purpose of subsection (3).

**(3)** The management plan referred to in subsection (1) and any revisions to the plan must be approved by a designated professional. 2010, c. 4, s. 33; 2012, c. 58, s. 27.

**Monitoring program**

**35 (1)** Every operator shall establish a monitoring program that includes regular monitoring and testing of water and soil by a person who is independent of the farm operation and has the training required by the regulations.

**(2)** Every operator shall report the results of monitoring programs as required by the regulations. 2010, c. 4, s. 34; 2012, c. 58, s. 28.

**Fur farm ceasing to be in operation**

**36 (1)** Where a fur farm ceases to be in operation, the owner of the property shall ensure that

- (a) the property is cleaned of all waste; and
- (b) all structures used for the fur farm are
  - (i) removed, or
  - (ii) maintained in adequate condition to ensure that environmental and safety hazards are minimized,

to the satisfaction of the Administrator.

**(2)** Where the Administrator believes, on reasonable and probable grounds, that a property owner is failing to comply with subsection (1), the Administrator may determine that the fur farm has ceased to be in operation and issue an order requiring the property owner, at the property owner's expense, to comply with subsection (1).

**(3)** Sections 21 and 22 apply with necessary changes to an order issued pursuant to subsection (2). 2012, c. 58, s. 30.

**No action lies**

**37** No action lies for any act or omission of a person that occurs while that person is carrying out duties or exercising powers pursuant to this Act in good faith. 2012, c. 58, s. 30.

**Regulations**

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

- (a) respecting licences;
- (b) respecting permits;
- (c) prescribing fees;
- (d) prescribing fines;
- (e) establishing standards and codes for the operation of fur farms, including standards and codes respecting animal care, odours, water, flies, feed and waste handling;
- (f) incorporating and adopting by reference, in whole or in part, a written standard, rule, regulation, code or document as it reads on a prescribed day or as it is amended from time to time;
- (g) respecting appeals;
- (h) establishing facility requirements;
- (i) establishing siting requirements;
- (j) respecting records;
- (k) respecting reporting;
- (l) respecting inspections;
- (m) requiring the Administrator to publish the results of inspections pursuant to subsection 17(4);
- (n) prescribing the manner in which the results of inspections must be published;
- (o) prescribing information that must remain confidential notwithstanding the requirement to publish the results of inspections;
- (p) prescribing additional inspection powers and duties;
- (q) designating diseases for the purpose of this Act;
- (r) respecting the qualifications required by a designated professional;
- (s) respecting quarantine of fur-bearing animals or fur farms;
- (t) respecting the transportation of fur-bearing animals;
- (u) designating fur-bearing animals for the purpose of the definition of “fur-bearing animal” in Section 2;
- (v) designating a type of fur-bearing animal as a prescribed animal;
- (w) prescribing terms and conditions for permits and licences;
- (x) respecting management plans;
- (y) prescribing enactments for the purpose of subsection 13(2);
- (z) providing for the exemption, including by the Administrator, of any person or any class of persons, fur farms, fur-bearing animals, activities, matters or things from the requirements of this

Act or the regulations and prescribing the terms and conditions of the exemption;

(aa) respecting the training required by a person to monitor a fur farm for the purpose of Section 35;

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

(ac) further defining any word or expression 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 exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2010, c. 4, s. 36; 2012, c. 58, s. 31.

#### **Conflict with Animal Health Act and Animal Protection Act**

**39** Where there is a conflict between this Act or the regulations and the *Animal Health Act*, the *Animal Protection Act* or the regulations made under either of those Acts, the *Animal Health Act*, the *Animal Protection Act* or the regulations made under those Acts prevail. 2010, c. 4, s. 37.

#### **Act prevails over Farm Practices Act and regulations**

**40** Where there is a conflict between this Act or the regulations and the *Farm Practices Act* or the regulations made under that Act, this Act or the regulations prevail. 2010, c. 4, s. 38.

#### **Act prevails over Wildlife Act with respect to fur-bearing animals on fur farm**

**41** Where, with respect to fur-bearing animals raised or held on a fur farm, there is a conflict between this Act or the regulations and the *Wildlife Act* or regulations made under that Act, this Act or the regulations prevail. 2010, c. 4, s. 39; 2012, c. 58, s. 32.