

**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 G



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

VOLUME G
Revised Statutes of Nova Scotia
2023

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CHAPTER G-1

An Act Continuing the Gaelic College Foundation

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Short title

1 This Act may be cited as the *Gaelic College Foundation Act* or *Achd Fonndas Colaisde na Gàidhlig*. 2018, c. 5, s. 1.

Interpretation

2 In this Act,

“Board” means the Board of Governors of the Foundation;

“College” means the Gaelic College or, in the Gaelic language, Colaisde na Gàidhlig;

“Chair” means the Chair of the Board;

“former Act” means Chapter 89 of the Acts of 1980, the *Gaelic College Foundation Act*;

“Foundation” means the Gaelic College Foundation or, in the Gaelic language, Fonndas Colaisde na Gàidhlig continued by this Act;

“governor” means a member of the Board;

“member” means an individual who obtains membership in the Foundation in accordance with this Act;

“Vice-chair” means the Vice-chair of the Board. 2018, c. 5, s. 2.

Foundation continued

3 The Foundation established by the former Act as the Gaelic College Foundation or, in the Gaelic language, Fonndas Colaisde na Gàidhlig is continued. 2018, c. 5, s. 3.

Objects of Foundation

4 The objects of the Foundation are to preserve and foster the customs, traditions, culture and language of immigrants from the Highlands and Islands of Scotland who settled in the Province and, without restricting the generality of the foregoing, include

- (a) to provide and conduct classes and courses of teaching and instruction in Gaelic literature, language, culture, history, music, customs, dance and crafts, and to grant diplomas and certificates in those subjects;
- (b) to function as a source of inspiration and diffusion of knowledge of Gaelic history, literature and culture; and
- (c) to own, operate, develop and promote the facility known as the Gaelic College at St Ann’s in the County of Victoria and to manage the affairs of the College. 2018, c. 5, s. 4.

Membership

5 (1) All persons who are 18 years of age or over and who express a genuine desire to further the objects of the Foundation are eligible to become members of the Foundation.

(2) The Foundation may have an unlimited number of members.

(3) A person who is eligible for membership in accordance with subsection (1) becomes a member of the Foundation upon

- (a) filing with the Foundation an application in the form set out in the bylaws;
- (b) paying to the Foundation the membership fee as may be determined from time to time; and
- (c) having the person’s name entered on the membership registry established and maintained by the Board.

(4) Subject to the bylaws, memberships expire one year from the date that the membership fee was paid. 2018, c. 5, s. 5.

Member entitled to attend meetings

6 Every member of the Foundation is entitled to attend all meetings of the Foundation. 2018, c. 5, s. 6.

Voting at Foundation meetings

7 (1) Only members who are in good standing are entitled to vote at a meeting of the Foundation.

- (2) No member is permitted to vote by proxy. 2018, c. 5, s. 7.

Board of Governors

8 (1) The promotion of the objects, conduct of the affairs and general administration of the Foundation is vested in a Board of Governors.

(2) The Board shall, at all times, act in accordance with its mandate and ensure that its actions and decisions are in the best interests of the Foundation.

(3) The Board is composed of

(a) subject to subsection (5), not more than seven governors elected by and from the members of the Foundation, in the manner and for the term set out in the bylaws of the Foundation;

(b) one governor appointed by the Governor in Council for a term of three years; and

(c) honorary non-voting governors elected by and from the members of the Foundation, in the manner and for the term set out in the bylaws of the Foundation.

(4) Where the immediate past Chair is willing and able to act, the immediate past Chair continues to be a governor.

(5) Where the immediate past Chair continues as a governor pursuant to subsection (4), only six governors may be elected under clause (3)(a). 2018, c. 5, s. 8.

Meetings of Board

9 The Board shall hold meetings a minimum of four times per fiscal year. 2018, c. 5, s. 9.

Quorum at meeting of Board

10 Subject to the bylaws, the quorum for a meeting of the Board is a majority of the governors, excluding honorary governors. 2018, c. 5, s. 10.

Voting at Board meetings

11 (1) Every governor in good standing, other than an honorary governor, is entitled to vote at any meeting of the Board.

(2) No governor may vote by proxy. 2018, c. 5, s. 11.

Executive of Board

12 (1) The Board shall elect from among its number the following officers of the Board to be the Executive of the Board:

- (a) a Chair;
- (b) a Vice-chair;
- (c) a Treasurer;
- (d) an Executive Governor.

(2) In addition to the officers elected pursuant to subsection (1), where the immediate past Chair continues as a governor pursuant to subsection 8(4), the immediate past Chair is an officer of the Executive of the Board.

(3) The Chair is responsible for the management of the Board and for organizing and conducting all meetings in accordance with this Act and such direction or procedures as may be adopted by the Foundation.

(4) The Vice-chair shall act in place of the Chair upon request of the Chair or if it is impossible for the Chair to act.

(5) The Treasurer shall serve as chair of the Foundation's audit committee.

(6) The Executive Governor shall represent the broad interests of the Gaelic language in Board proceedings. 2018, c. 5, s. 12.

Code of conduct

13 All members of the Foundation, the Board and any committee of the Board shall comply with the Foundation's code of conduct. 2018, c. 5, s. 13.

Powers of Foundation

14 The Foundation may

(a) purchase, lease or acquire real and personal property and have, occupy, sell, convey, lease, mortgage or otherwise deal with the same;

(b) make and enter into any agreement or contract for the purpose of the Foundation and may do all things necessary or incidental to the carrying out of the same, including the giving of any security;

(c) draw, make, accept, endorse, discount, execute or issue promissory notes, bills of exchange, cheques or other negotiable or transferable instruments;

(d) borrow money with or without security;

(e) do such matters and things as may be necessary for or conducive to the carrying out of the objects of the Foundation or the exercise of its powers. 2018, c. 5, s. 14.

Bylaws

15 (1) Subject to subsection (2), the Board may make bylaws respecting

(a) the promotion of the objects of the Foundation and the conduct of the affairs and administration of the Foundation;

(b) the creation and maintenance of a code of conduct applying to members of the Foundation, the Board and any committee of the Board and determining what constitutes good standing for members and governors;

(c) governors, including their manner of election and terms of office;

- (d) honorary governors, including their manner of election and terms of office;
 - (e) officers of the Board and their manner of election and term of office;
 - (f) the powers and duties of the Executive of the Board and the officers of the Board, including delegating to the Executive any power of the Board, and the terms and conditions under which powers and duties may be exercised;
 - (g) the number of meetings of the Board;
 - (h) the percentage of meetings of the Board that a governor is required to attend;
 - (i) the quorum required at
 - (i) meetings of the Board,
 - (ii) meetings of the Executive of the Board,
 - (iii) meetings of committees of the Board,
 - (iv) annual meetings of the Foundation, and
 - (v) special meetings of the Foundation;
 - (j) the creation of committees of the Board and the responsibilities of each committee;
 - (k) the annual membership fee for membership in the Foundation;
 - (l) the expiry of memberships;
 - (m) the determination and selection of personnel required for the operation of the Foundation and the College.
- (2)** Bylaws and amendments to bylaws must
- (a) receive approval from a majority of the Board before being submitted at an annual meeting of the Foundation; and
 - (b) be submitted at an annual meeting of the Foundation for approval by a majority of the members. 2018, c. 5, s. 15.

Fiscal year

16 The fiscal year of the Foundation is the period beginning on April 1st in each year and ending on March 31st in the immediately succeeding year. 2018, c. 5, s. 16.

Annual meeting

17 (1) No later than September 1st in each year, there must be an annual meeting of the Foundation held at a time and place determined by the Board.

(2) The Board shall cause public notice of the time and place of each annual meeting to be given no fewer than two weeks prior to the meeting. 2018, c. 5, s. 17.

Business at annual meeting

18 The business to be conducted at an annual meeting of the Foundation is

- (a) to receive the reports of the Board;
- (b) to receive audited financial statements for the year;
- (c) to elect governors;
- (d) to elect officers;
- (e) to appoint officers who have signing authority;
- (f) to appoint auditors; and
- (g) to deal with any other business that may properly come before the members. 2018, c. 5, s. 18.

Quorum at annual or special meeting

19 The quorum for each annual or special meeting of the Foundation is as set out in the bylaws of the Foundation. 2018, c. 5, s. 19.

Special meeting

20 A special meeting of the Foundation may be called at any time by the Board, or must be called by the Board when requested in writing by at least 25 members of the Foundation, but may not be called until two weeks public notice of the time, place and purpose of such meeting has been given. 2018, c. 5, s. 20.

CHAPTER G-2

An Act Respecting Gaming Control and the Nova Scotia Gaming Corporation

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Short title

- 1 This Act may be cited as the *Gaming Control Act*. 1994-95, c. 4, s. 1.

Purpose of Act

- 2 The purpose of this Act is to
- (a) establish a framework for conducting, managing, controlling, regulating and investing in casinos, other lottery schemes and related businesses so as to increase the level of sustainable economic activity within the Province and increase the net revenue of the Province;
 - (b) ensure that casinos and other lottery schemes are conducted in a socially responsible manner; and
 - (c) ensure that any measures taken with respect to casinos and other lottery schemes are undertaken for the public good and in the best interests of the public. 1994-95, c. 4, s. 2; 2012, c. 23, s. 1; 2022, c. 47, s. 1.

Interpretation

- 3 In this Act,
- “Board” means the Board of Directors of the Corporation;
 - “casino” means a place that is kept for the purpose of playing or operating blackjack, roulette, baccarat, mini-baccarat, keno, video poker, video blackjack, video keno or similar game of chance or a slot machine and is conducted and managed by the Corporation as an agent of the Crown in right of the Province;
 - “Corporation” means the Nova Scotia Gaming Corporation;
 - “designated game of chance” means a game of chance designated by the regulations for the purpose of this Act;

“designated goods and services” means goods and services designated for the purpose of this Act;

“Executive Director” means the Executive Director appointed pursuant to Section 35;

“game of chance” means a game of chance or mixed chance and skill and, for greater certainty, includes a slot machine, and includes any game, machine, device or contrivance prescribed by the regulations as a game of chance;

“gaming event” means an occasion on which a game of chance is played;

“gaming premises” means a place that is kept for the purpose of playing or operating games of chance and, for greater certainty, includes a casino;

“licence” means a licence, issued pursuant to this Act and the regulations and the *Criminal Code* (Canada) by or under the authority of the Governor in Council, to conduct and manage a lottery scheme;

“licensed lottery scheme” means a lottery scheme for which a licence is issued;

“lottery scheme” means a lottery scheme within the meaning of the *Criminal Code* (Canada);

“partnership” means a partnership as defined by the *Partnerships and Business Names Registration Act*;

“person” includes a partnership;

“registered gaming assistant” means a gaming assistant registered pursuant to Part II;

“registered supplier” means

(a) the operator of a casino pursuant to an agreement under Part I; or

(b) a supplier of goods and services to a lottery scheme,

who is registered pursuant to Part II;

“Utility and Review Board” means the Nova Scotia Utility and Review Board. 1994-95, c. 4, s. 3; 2011, c. 63, s. 1; 2012, c. 23, s. 2; 2018, c. 4, s. 6.

Act binds Crown

4 This Act binds the Crown in right of the Province. 1994-95, c. 4, s. 4.

Restriction on assignment of administration

5 Notwithstanding the *Public Service Act*, the administration of Parts I and II may not be assigned to the same member of the Executive Council. 1994-95, c. 4, s. 5.

PART I

NOVA SCOTIA GAMING CORPORATION

Interpretation of Part

- 6** In this Part,
- “Civil Service” has the same meaning as in the *Civil Service Act*;
 - “Department” means the Department of Finance and Treasury Board;
 - “Departmental employee” means an employee of the Department who supports the operations of the Corporation in accordance with Section 14;
 - “Deputy Minister” means the Deputy Minister of Finance and Treasury Board;
 - “Minister” means the Minister of Finance and Treasury Board. 2022, c. 47, s. 2.

Supervision of Part

- 7** The Minister has the general supervision and management of this Part. 1994-95, c. 4, s. 7.

Nova Scotia Gaming Corporation

- 8** The Nova Scotia Provincial Lotteries and Casino Corporation is continued as a body corporate under the name Nova Scotia Gaming Corporation. 2018, c. 4, s. 8.

Agent of Crown

- 9** The Corporation is for all purposes of this Act an agent of the Crown in right of the Province and the powers of the Corporation may only be exercised as such an agent. 1994-95, c. 4, s. 9.

Objects of Corporation

- 10** The objects of the Corporation are to
- (a) develop, undertake, organize, conduct and manage casinos and other lottery schemes on behalf of the Province or on behalf of the Province and another province of Canada;
 - (b) provide for the operation of casinos and any business that the Corporation considers reasonably related to operating a casino, including any business that offers goods or services to persons playing games of chance in a casino;
 - (c) ensure that lottery schemes conducted and managed by the Corporation are conducted and managed in accordance with the *Criminal Code* (Canada) and this Act and the regulations; and
 - (d) do such other things within the expertise of the Corporation in respect of casinos, lottery schemes and lottery and gaming services in order to increase the net revenue of the Province. 1994-95, c. 4, s. 10; 2012, c. 23, s. 6; 2022, c. 47, s. 3.

Management and control of Corporation

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

(2) The Minister may, subject to this Act and the regulations, exercise the powers of the Corporation. 2022, c. 47, s. 4.

Personal liability

12 A person who was a member of the Board or an employee of the Corporation prior to December 1, 2022, 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. 1994-95, c. 4, s. 16; 2022, c. 47, s. 5.

Head office

13 The head office of the Corporation is at such place in the Province as the Minister determines. 1994-95, c. 4, s. 17; 2012, c. 23, s. 11.

Operations of Corporation

14 The operations of the Corporation are to be supported by the Department, the employees of the Department referred to in Section 15 and persons hired on or after December 1, 2022, by the Department to support the operations of the Corporation. 2022, c. 47, s. 6.

Transfer of employees

15 (1) Effective December 1, 2022, every employee of the Corporation is deemed to be an employee of the Province in accordance with the *Civil Service Act*, and any enactment applicable to employees of the Civil Service applies to such employees.

(2) Subsection (1) operates notwithstanding the *Civil Service Act* with respect to appointments to or promotions and vacancies within the Civil Service.

(3) For greater certainty, the operation of subsection (1) is deemed not to

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

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

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

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

(4) For any question involving the determination of service or seniority of an employee to whom subsection (1) applies, the period of employment

with the Corporation prior to December 1, 2022, is deemed to be employment with the Province and to be continuous with the period of employment with the Province commencing on December 1, 2022.

(5) Notwithstanding anything to the contrary in any enactment applicable to the Civil Service, and subject to the regulations, every employee to whom subsection (1) applies is employed by the Province on the same or equal terms and conditions of employment as applied to the employee immediately prior to December 1, 2022, until such time as any terms and conditions are changed in accordance with any enactment applicable to the Civil Service.

(6) For greater certainty, every employee to whom subsection (1) applies is deemed to be a person employed in the public service for the purpose of the *Public Service Superannuation Act* and service in the employment of the Corporation is deemed to be employment in the public service for the purpose of that Act. 2022, c. 47, s. 6.

Oath of office

16 Where required by the regulations, Departmental employees shall, before taking office or entering into employment, take an oath or affirmation as prescribed by the regulations. 1994-95, c. 4, s. 22; 2022, c. 47, s. 7.

Security clearance

17 Where required by the regulations, Departmental employees shall, as a term of their appointment, supply such information and be subject to such investigations and security clearance as the regulations may prescribe and, for greater certainty, subject to the *Members and Public Employees Disclosure Act*. 1994-95, c. 4, s. 23; 2022, c. 47, s. 8.

Duties of Corporation and tabling of report

18 (1) The Corporation shall

(a) subject to this Act and the regulations, comply with any direction given to it by the Governor in Council;

(b) conduct and manage casinos and other lottery schemes in accordance with this Act and the regulations and the *Criminal Code* (Canada);

(c) make available to the public a copy of the rules of play for games of chance offered in a casino as approved pursuant to Part II;

(d) report forthwith to the Minister of Service Nova Scotia any defect, abuse, illegality or criminal activity in relation to casinos and other lottery schemes; and

(e) prepare an annual report respecting the administration, operation and management by or on behalf of the Corporation of casinos or other lottery schemes in the Province, including the matters referred to in clause (d).

(2) Within 60 days of completion of the report referred to in clause (1)(e), the Minister shall table it in the House of Assembly or, if the Assem-

bly is not then sitting, with the Clerk of the Assembly. 1994-95, c. 4, s. 24; 2011, c. 63, s. 3; 2012, c. 23, s. 14; 2022, c. 47, s. 9.

Powers of Corporation

19 (1) Subject to this Act and the regulations, the Corporation has the capacity, rights, powers and privileges of a natural person necessary to carry out its objects in accordance with this Act and the regulations and, without limiting the generality of the foregoing, the Corporation may

(a) develop, undertake, organize, conduct and manage lottery schemes on behalf of the Government of the Province or on behalf of the Government of the Province and the government of another province of Canada;

(b) enter into an agreement with a person to operate a casino or other lottery scheme on behalf of the Corporation upon such terms and conditions as the Minister determines;

(c) enter into an agreement with a person to develop, undertake, organize, conduct and manage a lottery scheme or with the Government of Canada or the government of another province of Canada, or an agent of either of them;

(d) enter into an agreement for the purpose of this Act with the Government of Canada, the government of another province of Canada or a municipality, or a department or agent of any of them;

(e) enter into an agreement with a government of another province of Canada, or an agency thereof, to incorporate a body to undertake, conduct and manage a lottery scheme on behalf of the Corporation and that government;

(f) enter into any other agreement or take any other action that the Board considers necessary, incidental or conducive to meeting its objects or exercising its powers;

(g) conduct and manage lottery schemes within the Province and another province of Canada pursuant to an agreement;

(h) establish bank accounts;

(i) make payments to trust or special purpose funds as authorized by this Act and the regulations;

(j) subject to this Act and the regulations, make bylaws for the management of its affairs, including rules for the conduct of the meetings of the Board, the use of its seal, the execution of documents by the Corporation and the establishment of committees.

(2) The *Companies Act* does not apply to the Corporation except to the extent that the Governor in Council determines.

(3) The Corporation may not acquire, hold, sell, lease or otherwise dispose of an interest in real property except with the approval of the Governor in Council.

(4) A person who enters into an agreement with the Corporation pursuant to clause (1)(b), (c) or (f) is, with respect to, and only with respect to, the

conduct and management of a lottery scheme in accordance with that agreement, an agent of the Crown in right of the Province and

- (a) the authority of that person to conduct and manage a lottery scheme pursuant to that agreement may only be exercised as such an agent;
- (b) the authority may not be delegated; and
- (c) notwithstanding Section 14 of the *Interpretation Act*, the person is bound by all laws applicable in the Province except as otherwise provided by this Act. 1994-95, c. 4, s. 25; 2012, c. 23, s. 15; 2022, c. 47, s. 10.

Operating expenses

20 The cost of operating the Corporation, including administration expenses, the cost of operating casinos and other lottery schemes and any cost associated with the exercise of the Corporation's powers pursuant to clause 19(1)(f), must be paid out of the revenues of the Corporation. 1994-95, c. 4, s. 26; 2012, c. 23, s. 16.

Taxation

21 (1) The Corporation, its wholly-owned subsidiaries and the property of the Corporation and its wholly-owned subsidiaries are exempt from taxation under or pursuant to any Act of the Legislature.

(2) The Corporation may, with the approval of the Governor in Council, with respect to land owned by the Corporation and on which a casino is located, pay to the municipality in which the land is situate a grant in lieu of property taxes not exceeding the taxes that would be payable if the land were not exempt from taxation. 1994-95, c. 4, s. 27; 2012, c. 23, s. 17.

Fiscal year

22 The fiscal year of the Corporation is the same as the fiscal year of the Province. 1994-95, c. 4, s. 28.

Priority of payment of revenue

23 (1) The Corporation shall make payments out of its revenue as follows and in the following order of priority:

- (a) reimbursement to the operator of a casino for payments of winnings to players of games of chance;
- (b) payments required by the regulations to the General Revenue Fund;
- (c) reimbursement to the operator of a casino for operating expenses as approved by the Corporation;
- (d) payments to the operator of a casino as provided by the agreement between the operator and the Corporation;
- (e) payments pursuant to Section 20;
- (f) payments designated by the regulations to special purpose funds and trust funds established pursuant to the *Finance Act*; and

(g) payment of the balance to the General Revenue Fund.

(2) The Minister shall publish in the public accounts of the Province for each fiscal year of the Province a statement showing the disposition of the revenues of the Corporation pursuant to subsection (1) for the Corporation's corresponding fiscal year. 1994-95, c. 4, s. 29; 2010, c. 2, s. 103; 2012, c. 23, s. 18.

Accounting system and financial reports

24 (1) The Corporation shall establish and maintain an accounting system in accordance with generally accepted accounting principles.

(2) The Corporation shall submit quarterly financial reports to the Minister.

(3) The Minister shall table the quarterly financial reports in the House of Assembly within 14 days of submission to the Minister if the Assembly is then sitting or, if it is not then sitting, with the Clerk of the Assembly. 1994-95, c. 4, s. 30.

Annual audit

25 (1) The Auditor General shall annually examine and audit and prepare a report on the accounts of the Corporation.

(2) The report must be in such form and contain such information as the Auditor General requires.

(3) The Corporation shall submit the report to the Minister within 90 days of the end of the fiscal year to which it relates.

(4) The Minister shall table the report in the House of Assembly within 14 days of its submission to the Minister if the Assembly is then sitting or, if it is not then sitting, with the Clerk of the Assembly. 1994-95, c. 4, s. 31.

Additional reports

26 The Corporation shall submit to the Minister such additional reports as the Minister requires. 1994-95, c. 4, s. 32.

Availability and status of documents of operator

27 (1) The Corporation shall ensure that every person, with whom it has entered into an agreement for the operation of a casino or related business on behalf of the Corporation, makes available to the Corporation at all times all reports, accounts, records and other documents in respect to the operation of the casino or related business.

(2) The reports, accounts, records and other documents referred to in subsection (1) are deemed to be part of the accounts of the Corporation. 1994-95, c. 4, s. 33.

Books of account

28 The Corporation shall keep and maintain or cause to be kept and maintained proper books and records of its affairs and such records and accounts of its finances as the Minister may require. 1994-95, c. 4, s. 34.

Further audit or investigation

29 (1) The Governor in Council or the Minister may, at any time, order an audit or investigation into the accounts or affairs of the Corporation.

(2) Where the Governor in Council or the Minister orders an audit or investigation pursuant to subsection (1), the Governor in Council or the Minister, as the case may be, shall designate a person to make the audit or investigation.

(3) The books, records and accounts of the Corporation must at all reasonable times be open for inspection by any person acting under the authority of the Governor in Council or the Minister. 1994-95, c. 4, s. 35.

Proceedings against the Crown Act

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

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

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

(b) a reference to the Minister is to be construed as a reference to the Chair of the Board.

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

(4) Where a document or notice must be served upon or given to the Corporation pursuant to this Section or the *Proceedings against the Crown Act*, it must be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or by delivering a copy to a barrister or solicitor designated for that purpose by the Attorney General, and such service is deemed to be service upon the Corporation. 1994-95, c. 4, s. 36.

Duties of casino operator

31 (1) The operator of a casino shall comply with all building code, safety, construction, fire, environmental, health and other standards under any enactment but, for greater certainty,

(a) Parts VIII and IX of the *Municipal Government Act* do not apply to a casino or proposed casino; and

(b) no building permit is required for the construction of, addition to, renovation of or repair of a casino before March 31, 1999.

(2) Section 47 of the *Liquor Control Act* does not apply to a casino. 1994-95, c. 4, s. 37; 2003, c. 4, s. 14; 2012, c. 23, s. 19.

PART II

GAMING CONTROL

“Department” and “Minister” defined

32 In this Part,

“Department” means the Department of Service Nova Scotia;

“Minister” means the Minister of Service Nova Scotia. 2011, c. 63, s. 4; 2014, c. 34, s. 10.

Supervision of Part

33 The Minister has the general supervision of this Part. 1994-95, c. 4, s. 39.

Minister responsible

34 The Minister is responsible for regulating casinos and other lottery schemes and for administering this Part in the public interest and in accordance with the principles of honesty and integrity. 2011, c. 63, s. 5.

Executive Director

35 (1) The Minister shall appoint an Executive Director in accordance with the *Civil Service Act* to perform the duties and functions and exercise the powers and authorities imposed or conferred upon the Executive Director by this Act or the regulations or as otherwise prescribed by the Minister.

(2) The Minister may designate a person in the public service to act in the place of the Executive Director due to the absence or incapacity of the Executive Director.

(3) The Executive Director may delegate in writing to a person in the public service or a class of persons in the public service any of the powers, duties and functions of the Executive Director and shall, when so delegating, specify the powers to be exercised, the duties or functions to be performed and any conditions imposed on the exercise of the powers or performance of the duties or functions. 2011, c. 63, s. 5.

Appointment of Directors

36 (1) The Minister shall appoint

(a) a Director of Registration; and

(b) a Director of Investigation and Enforcement,

in accordance with the *Civil Service Act*.

(2) A Director appointed pursuant to subsection (1) shall, in addition to the powers and duties set out in this Act, the regulations or the Director's appointment, exercise any powers and perform any duties of the Executive Director delegated to the Director by the Executive Director, subject to any conditions imposed by the Executive Director.

(3) The Minister may designate a person in the public service to act in the place of a Director due to the absence or incapacity of the Director. 2011, c. 63, s. 5.

Oath of office and security clearance

37 The Executive Director, the Director of Registration, the Director of Investigation and Enforcement and any other employee of the Department who is directed to do so by the Executive Director, as a condition of employment, shall

- (a) take the oath or affirmation prescribed by the regulations; and
- (b) supply the information and be subject to the investigations and security clearance prescribed by the regulations. 2011, c. 63, s. 5.

Duties of Minister and Utility and Review Board

38 (1) The Minister shall

- (a) perform such duties as are imposed upon the Minister by this Act or the regulations;
- (b) ensure that casinos and other lottery schemes conducted and managed by the Corporation are conducted and managed in accordance with this Act and the regulations and the *Criminal Code* (Canada); and
- (c) carry on a continuous study of the operation and administration of casinos, other lottery schemes and gaming control laws in effect in other jurisdictions, including the *Criminal Code* (Canada), that may affect the operation and administration of casinos or other lottery schemes in the Province.

(2) The Minister shall cause an annual report to be prepared respecting the matters referred to in clauses (1)(b) and (c) and table the report in the House of Assembly or, if the Assembly is not then sitting, file the report with the Clerk of the Assembly.

(3) The Utility and Review Board may hear appeals of decisions of the Executive Director, the Director of Registration and the Director of Investigation and Enforcement on registrations and compliance orders and on such other matters as may be prescribed by the regulations.

(4) Notwithstanding any appeal to the Utility and Review Board, the decision under appeal takes effect immediately unless the Utility and Review Board grants a stay until disposition of the appeal. 1994-94, c. 4, s. 56; 2011, c. 63, s. 6.

Reference to Utility and Review Board

39 (1) Where the Executive Director, the Director of Registration or the Director of Investigation and Enforcement is in doubt as to what disposition should be made of any matter that that person is empowered by this Act or the regulations to decide, the Executive Director, the Director of Registration or the Director of Investigation and Enforcement, as the case may be, may refer the matter to the Utility and Review Board, and the Utility and Review Board shall hold a hearing and make any decision that it considers proper.

(2) A decision of the Utility and Review Board pursuant to subsection (1) is final and is not open to question in any court except with respect to jurisdiction and natural justice. 1994-95, c. 4, s. 57; 2011, c. 63, s. 7.

Rules for hearing before Executive Director

40 (1) The Minister may make general rules respecting practice and procedure for hearings before the Executive Director and the publication of decisions of the Executive Director made with respect to those hearings.

(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. 63, s. 8.

Policy statements, rules and interpretation notes

41 (1) The Executive Director may issue policy statements, rules and interpretation notes.

(2) Policy statements, rules and interpretation notes issued pursuant to subsection (1) are not regulations within the meaning of the *Regulations Act* and do not constitute a predetermined exercise of a discretion pursuant to this Act. 2011, c. 63, s. 9.

LICENSED LOTTERY SCHEMES

Lottery scheme licence

42 (1) Upon application in accordance with the regulations, the Executive Director may, where authorized by the Governor in Council, issue a licence for a lottery scheme pursuant to paragraph 207(1)(b), (c), (d) or (f) of the *Criminal Code* (Canada).

(2) Every applicant for a licence shall notify the Executive Director of any change in the information contained in the application for the licence within 15 days of the change.

(3) A licence is subject to such terms and conditions as may be prescribed by the regulations or by the Executive Director. 1994-95, c. 4, s. 67; 2011, c. 63, s. 11; 2016, c. 21, s. 1.

Expiration date

43 Every lottery ticket sold, or offered for sale, in the Province, other than a lottery ticket sold or offered for sale under a licence issued pursuant to subsection 42(1), must have its expiration date marked and clearly visible on it. 2008, c. 57, s. 1.

Consequences of contravention

44 (1) Where a licensee fails to comply with any of the terms and conditions of a licence issued pursuant to subsection 42(1), has contravened this Act or the regulations or is convicted of an offence under the *Criminal Code* (Canada) or a quasi-criminal statute, the Executive Director, in accordance with the process prescribed in the regulations, may

- (a) impose terms and conditions on the licence or rescind or amend existing terms and conditions of the licence in accordance with this Act and the regulations;
- (b) suspend the licence for the time period that the Executive Director considers appropriate; or
- (c) cancel all or any part of the licence.

(2) The licensee may appeal a decision made by the Executive Director pursuant to this Section to the Utility and Review Board in accordance with the appeal process prescribed by the regulations.

(3) On appeal, the Utility and Review Board may confirm, vary or revoke the decision of the Executive Director. 2011, c. 63, s. 12.

REGISTRATION OF SUPPLIERS AND GAMING ASSISTANTS

Supply of designated goods or services

- 45 (1) In this Section, “services” include
- (a) the providing of gaming premises;
 - (b) the providing of management or consulting services with respect to the playing of games of chance;
 - (c) the supplying of the services of a person who, for consideration, participates in or facilitates in any manner the playing of a game of chance;
 - (d) the making, fabricating, printing, distributing or otherwise supplying of materials or equipment for the playing of games of chance; and
 - (e) the providing of services relating to the construction, maintenance, repair, surveillance and security equipment or business of a casino.

(2) Except as provided in this Act and the regulations, no person shall provide designated goods or services with respect to the playing or operating of a lottery scheme or hold out as providing those goods or services unless that person is a registered supplier and a list of registered suppliers is available for public inspection in accordance with Section 62.

(3) Except as provided in this Act and the regulations, no person shall provide designated goods or services to any business operated by, on behalf of or under contract with the Corporation or hold out as providing those goods or services unless that person is a registered supplier and a list of registered suppliers is available for public inspection in accordance with Section 62. 1994-95, c. 4, s. 68.

Trade union

46 In addition to any provision of the *Trade Union Act*, no trade union within the meaning of that Act, that has been certified to represent persons employed in a casino, may represent persons employed in a casino unless the trade union and such of its officers, officials and agents, as are prescribed by the regulations, are registered suppliers. 1994-95, c. 4, s. 69.

Gaming assistants

47 (1) Except as provided in this Act and the regulations, no person shall, for consideration, participate in or facilitate in any manner the playing or operating of a designated game of chance unless the person is registered as a gaming assistant.

(2) This Section does not apply to

- (a) registered suppliers; or
- (b) the employees of registered suppliers who are not operators of casinos,

who are acting in accordance with this Act, the regulations and the terms of their registration.

(3) No person who is not an individual is eligible to be a registered gaming assistant.

(4) No person shall use or provide the services of a gaming assistant unless

- (a) that person is a registered supplier; and
- (b) the gaming assistant is a registered gaming assistant of that person.

(5) This Section does not apply to the players of a game of chance. 1994-95, c. 4, s. 70.

Registration or renewal

48 (1) Upon application in accordance with the regulations, the Director of Registration may register or renew the registration of a person, who has attained the age of 19 years, as a supplier or as a gaming assistant.

(2) An applicant shall supply to the Director of Registration such information with respect to the application, including information relating to personal identification, as the Director determines or the regulations prescribe and in such form as the Director of Registration determines or the regulations prescribe.

(3) The Director of Registration may make such other decisions as the Director considers necessary with respect to the making of applications. 1994-95, c. 4, s. 71.

Person deemed interested in another person

49 For the purpose of Sections 50 to 52, a person is deemed to be interested in another person if

- (a) that person has, or the Director of Registration on reasonable grounds believes that that person has, a beneficial interest in the business of the other person;
- (b) that person exercises, or the Director of Registration on reasonable grounds believes that that person exercises, control, either directly or indirectly, over the business of the other person; or

(c) that person has provided, or the Director of Registration on reasonable grounds believes that that person has provided, financing, either directly or indirectly, to the business of the other person. 1994-95, c. 4, s. 72.

Investigation by Director of Registration

50 (1) The Director of Registration may make such inquiries and conduct such investigations into the honesty and integrity, financial history and competence of an applicant for registration or renewal of registration, a registrant or a person interested in the applicant or registrant, as are necessary to determine whether the applicant meets the requirements of this Part and the regulations.

(2) Where an applicant or registrant is a corporation or a partnership, the Director of Registration may make inquiries into or conduct investigations of the officers, directors or partners of the applicant or registrant.

(3) An applicant or registrant shall pay the reasonable costs of the inquiries or investigations required by this Section or provide security to the Director of Registration in a form acceptable to the Director for the payment.

(4) The Director of Registration may require information or material from any person who is the subject of the inquiries or investigations required by this Section and may request information or material from any person who the Director of Registration has reason to believe can provide information or material relevant to the inquiries or investigations.

(5) The Director of Registration may require that any information provided under subsection (4) be verified by statutory declaration.

(6) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, any person requested by the Director of Registration to supply information or material regarding any person who is the subject of an inquiry or investigation shall disclose to the Director of Registration the information or material that the Director of Registration requires under this Section. 1994-95, c. 4, s. 73.

Grounds for refusal to register supplier

51 The Director of Registration shall refuse to register an applicant as a supplier or to renew the registration of an applicant as a supplier if

(a) there are reasonable grounds to believe that the applicant will not be financially responsible in the conduct of the business, having regard to the financial history of

(i) the applicant or persons interested in the applicant, or

(ii) the officers, directors or partners of the applicant or, in the case of an applicant that is a corporation or partnership, persons interested in those officers, directors or partners;

(b) there are reasonable grounds to believe that the applicant will not act as a supplier in accordance with the law, with honesty and integrity or in the public interest, having regard to the past conduct of

(i) the applicant or persons interested in the applicant,

- (ii) the officers, directors or partners of the applicant or, in the case of an applicant that is a corporation or partnership, persons interested in those officers, directors or partners, or
- (iii) in the case of an applicant that is a trade union within the meaning of the *Trade Union Act* and that has been certified to represent persons employed in a casino, officers, officials or agents of the applicant, or such other persons as are prescribed by the regulations;
- (c) the applicant is carrying on activities that are, or will be if the applicant is registered, in contravention of this Part, the regulations or the terms of the registration; or
- (d) the applicant fails to disclose information or material required by the Director of Registration to conduct inquiries or investigations pursuant to this Act or the regulations. 1994-95, c. 4, s. 74.

Grounds for refusal to register gaming assistant

52 The Director of Registration shall refuse to register an applicant as a gaming assistant or to renew the registration of an applicant as a gaming assistant if

- (a) there are reasonable grounds to believe that the applicant will not act as a gaming assistant in accordance with law, with honesty and integrity or in the public interest, having regard to the past conduct of the applicant or persons interested in the applicant;
- (b) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Part, the regulations or the terms of the registration; or
- (c) the applicant fails to disclose information or material required by the Director of registration to conduct inquiries or investigations pursuant to this Act or the regulations. 1994-95, c. 4, s. 75.

Terms and conditions of registration

53 (1) A registration is subject to such terms and conditions, to give effect to the purpose of this Part, as the Director of Registration proposes and the applicant consents to, the Minister imposes or the regulations prescribe.

(2) The Director of Registration may require, as a term or condition of registration, that an applicant for registration or renewal of registration pass such examinations or attain such standards, or possess such qualifications and certification, as may be prescribed by the regulations. 1994-95, c. 4, s. 76; 2011, c. 63, s. 13.

Suspension or revocation of registration

54 (1) The Director of Registration may propose to suspend or to revoke a registration for any reason that would disentitle the registrant to registration or renewal of registration under Section 51 or 52 if the registrant were an applicant.

(2) Where a registrant refuses or neglects to comply with this Part or the regulations, the Director of Registration may suspend or revoke the certificate of registration of the registrant or require, for its maintenance, renewal or reinstatement,

ment, that the registrant fulfill the conditions the Director may require. 1994-95, c. 4, s. 77.

Notice of proposed order by Director of Registration

55 (1) Where the Director of Registration refuses to grant or renew a registration or proposes to suspend or revoke a registration, the Director shall serve notice of the proposed order, together with written reasons, on the applicant or registrant.

(2) The notice of a proposed order must inform the applicant or registrant, as the case may be, that the person is entitled to an informal hearing before the Executive Director and a formal hearing before the Utility and Review Board.

(3) To request a hearing, the person entitled to the hearing shall serve a written request on the Director of Registration, the Executive Director and the Utility and Review Board within 15 days after the Director of Registration serves the notice of the proposed order.

(4) The Director of Registration may make the proposed order if the person does not request a hearing within the time permitted by subsection (3).

(5) Where a person entitled to a hearing requests an informal hearing, the Executive Director shall schedule and hold the hearing. 1994-95, c. 4, s. 78; 2011, c. 63, s. 14.

Utility and Review Board hearing

56 (1) Where a matter is not resolved by the Executive Director to the satisfaction of the person requesting the informal hearing, the person may request a formal hearing and the Utility and Review Board shall schedule and hold the hearing.

(2) The Director of Registration, the person who requested a hearing and such other persons as the Executive Director or the Utility and Review Board may specify are parties to the hearing. 1994-95, c. 4, s. 78; 2011, c. 63, s. 14.

Order of Executive Director or Utility and Review Board

57 (1) After holding a hearing pursuant to this Section, the Executive Director or the Utility and Review Board, as the case may be, may, by order,

(a) confirm or set aside the proposed order; or

(b) direct the Director of Registration to take such action as the Executive Director or the Utility and Review Board, respectively, considers the Director of Registration ought to take to give effect to the purpose of this Part.

(2) In making an order pursuant to subsection (1), the Executive Director or the Utility and Review Board may substitute the opinion of the Executive Director or the Utility and Review Board, respectively, for that of the Director of Registration.

(3) The Executive Director or the Utility and Review Board may attach such terms to an order or to a registration as the Executive Director or the Utility and Review Board, respectively, considers appropriate.

(4) An order of the Executive Director or the Utility and Review Board takes effect immediately unless the Executive Director or the Utility and Review Board, respectively, orders otherwise.

(5) A decision and order of the Utility and Review Board is final and is not open to question in any court except with respect to jurisdiction and natural justice. 1994-95, c. 4, s. 78; 2011, c. 63, s. 14.

Immediate suspension of registration

58 (1) The Director of Registration may, by order, suspend a registration without serving a proposed order under Section 55 if the Director considers it to be necessary in the public interest.

(2) The Director of Registration shall serve a copy of the order made, together with written reasons for it, on the registrant and the order is effective immediately upon being served.

(3) The hearing provisions in Sections 55 and 56 apply to an order pursuant to subsection (1) in the same way as to a proposed order under that Section.

(4) Where the registrant requests a hearing, the order expires on the day the order of the Executive Director or the Utility and Review Board, as the case may be, takes effect.

(5) Where the Director of Registration makes an order pursuant to this Section with respect to a registrant before a hearing is held under Section 55 or 56 with respect to a notice of a proposed order that the Director has served on the registrant, the Executive Director or the Utility and Review Board, as the case may be, may hold only one hearing to deal with both the order made and the proposed order. 1994-95, c. 4, s. 79; 2011, c. 63, s. 15.

Continuation of registration

59 Where within the time prescribed by the regulations or, where no time is prescribed, before the expiry of the registrant's registration a registrant applies in accordance with the regulations for renewal of registration and pays the fee set out in the regulations, the registration is deemed to continue

(a) if the Director of Registration grants the renewal, until the renewal is granted;

(b) if the Director of Registration refuses to grant the renewal and the registrant does not request a hearing under Section 55, until the time for requesting a hearing has expired; or

(c) if the Director of Registration refuses to grant the renewal and the registrant requests a hearing under Section 55, until the Executive Director or the Utility and Review Board, as the case may be, has made its order. 1994-95, c. 4, s. 80; 2011, c. 63, s. 16.

Cancellation of registration on request

60 The Director of Registration may cancel a registration upon the request in writing of the registrant and Section 55 does not apply. 1994-95, c. 4, s. 81.

Waiting period after refusal or revocation

61 (1) No person who is refused registration, who is refused renewal of a registration or whose registration is revoked may apply to the Director of Registration for registration until at least two years have passed since the refusal or revocation.

(2) No person whose registration is suspended may apply to the Director of Registration for registration during the suspension.

(3) Notwithstanding Section 55, the Director of Registration may, without giving written reasons, reject an application made after the time period specified in subsection (1) if, in the opinion of the Director, the application discloses no substantial new evidence or no material change in circumstances since the refusal, revocation or suspension took effect. 1994-95, c. 4, s. 82.

Register

62 (1) The Director of Registration shall keep a register listing the names, addresses and purpose of all licences and registration certificates issued pursuant to this Act.

(2) The register, upon payment of five dollars, must be open to public inspection during regular business hours of the Department.

(3) The Director of Registration shall make available to the public, in such form as the Director determines, a list of all persons registered under this Part. 1994-95, c. 4, s. 83; 2011, c. 63, s. 17.

Certificate of Director of Registration

63 (1) The Director of Registration may issue a signed certificate that contains information concerning

- (a) the registration or non-registration of any persons;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Director of Registration;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director of Registration;
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing.

(2) The certificate is, without proof of the office or signature of the Director of Registration, receivable in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the certificate. 1994-95, c. 4, s. 84.

REGULATION OF REGISTERED SUPPLIERS
AND GAMING ASSISTANTS

Notice of change of address

64 Every registered supplier and registered gaming assistant shall, not later than five days after any change in address for service, serve the Director of Registration with a written notice of the change. 1994-95, c. 4, s. 85.

Disclosure of change in officers or directors or interests

65 (1) Within 15 days of any change in the officers or directors of a corporation that is a registered supplier or in the membership of a partnership that is a registered supplier, the corporation or partnership, as the case may be, shall disclose the change by filing a disclosure form with the Director of Registration.

(2) Within 15 days of

(a) a person acquiring a beneficial interest in the business of the operator of a casino;

(b) a person exercising control, either directly or indirectly, over the business of the operator of a casino; or

(c) a person providing financing, either directly or indirectly, to the business of the operator of a casino,

the operator of the casino shall disclose that information by filing a disclosure form with the Director of Registration. 1994-95, c. 4, s. 86.

Name to be used by registered supplier

66 No registered supplier shall provide designated goods or services under a name other than the name under which the supplier is registered. 1994-95, c. 4, s. 87.

Gaming premises to be supplied by registered supplier

67 No registered supplier shall provide designated goods and services to gaming premises except at a place that is named in the supplier's registration. 1994-95, c. 4, s. 88.

Designated goods and services

68 (1) No registered supplier or registered gaming assistant shall provide designated goods or services related to the conduct, management or operation of a lottery scheme, other than those goods or services prescribed by the regulations.

(2) A registered supplier or registered gaming assistant, who provides designated goods and services in relation to a lottery scheme, shall ensure that the goods or services do not contravene the requirements or standards prescribed by the regulations or, in the case of a licensed lottery scheme, the terms of the licence for the lottery scheme. 1994-95, c. 4, s. 89.

Restriction on fees for designated goods or services

69 (1) No registered supplier shall provide or offer to provide any designated goods or services in relation to a lottery scheme on payment of a fee or

other consideration that exceeds the amount prescribed by the regulations or, in the case of a licensed lottery scheme, permitted by the licence for the lottery scheme.

(2) Where two or more licensees conduct a gaming event in concert with one another, no registered supplier shall charge more for any designated goods or services provided in relation to the event than the fee or other consideration prescribed by the regulations for a single event. 1994-95, c. 4, s. 90.

Management of gaming premises by registered supplier or gaming assistant

70 (1) A registered supplier who provides gaming premises shall manage the premises directly or shall ensure that the premises are managed by a registered gaming assistant of the supplier.

(2) A registered supplier who provides gaming premises shall ensure that the premises are operated in accordance with this Part, the regulations, the terms of the supplier's registration and, in the case of a licensed lottery scheme, the licence for any gaming event held in the premises.

(3) A registered gaming assistant who is managing gaming premises shall ensure that the premises are operated in accordance with this Part, the regulations, the terms of the registration of the supplier of the premises, the terms of the registration of the gaming assistant and, in the case of a licensed lottery scheme, the licences for any gaming event held in the premises. 1994-95, c. 4, s. 91.

Enforcement of rules of play

71 (1) No registered supplier who provides gaming premises, other than a casino, or registered gaming assistant who provides services to the registered supplier shall permit the playing of a game of chance in the premises except in accordance with such rules of play and other requirements as may be prescribed by the regulations for that game of chance.

(2) No operator of a casino or registered gaming assistant who provides services to an operator of a casino shall permit the playing of a game of chance in the casino except in accordance with

(a) the rules of play prescribed by the regulations or, where none have been prescribed by the regulations, the rules of play approved in writing by the Executive Director for the casino; and

(b) such other requirements as may be prescribed by the regulations,

for that game of chance.

(3) No registered supplier who provides services relating to the operation of a casino or registered gaming assistant who provides services to the registered supplier shall handle money or money equivalents received from players of games of chance held in the casino except in accordance with the rules prescribed by the regulations. 1994-95, c. 4, s. 92; 2011, c. 63, s. 18.

Inducement of breach of licence or contract or of violation

72 (1) No registered supplier, registered gaming assistant or other person shall induce or cause, or attempt to induce or cause, any breach of the terms of a licence.

(2) No registered supplier, registered gaming assistant or other person shall induce, or attempt to induce, any party to a contract for gaming services to break the contract for the purpose of entering into another contract for gaming services.

(3) No person shall offer or give money or any other consideration to the Corporation, a member of the Board, an employee of the Corporation, the Minister, a member of the Utility and Review Board, the Executive Director, the Director of Registration, the Director of Investigation and Enforcement or any other employee of the Department who has responsibilities under this Act to induce any of them to violate this Act or the regulations or to compromise the honesty and integrity of any of them. 1994-95, c. 4, s. 93; 2011, c. 63, s. 19.

Identification card

73 Subject to the regulations, a registered supplier or registered gaming assistant shall, while performing duties, carry an identification card that the Director of Registration has issued to the person under this Act and shall produce it for inspection upon request. 1994-95, c. 4, s. 94.

Records of registered supplier

74 (1) Every registered supplier shall keep such records as are prescribed by the regulations with respect to each gaming premises named in the supplier's registration and with respect to each lottery scheme for which the supplier provides designated goods or services.

(2) Every registered supplier shall keep financial records in such form and containing such information as is prescribed by the regulations.

(3) Every registered supplier shall keep the records required under this Part in the Province at the business premises identified in the supplier's application for registration.

(4) Notwithstanding subsection (3), the Director of Registration, upon a request in writing, may authorize the records to be kept in any other location on such terms as the Director may impose. 1994-95, c. 4, s. 95.

Trust account

75 (1) Every registered supplier shall maintain, for the benefit of licensees to whom the supplier provides designated goods or services, an account designated as a trust account in a bank listed in Schedule I or II to the *Bank Act* (Canada), loan or trust corporation or credit union as defined in the *Credit Union Act*.

(2) A registered supplier who receives money described in subsection (3) or (4) shall hold it in trust for the benefit of the licensees to whom the supplier supplies designated goods or services under a contract.

(3) A registered supplier shall deposit in the trust account all money a licensee pays in advance to the supplier under a contract for the supply of designated goods or services and shall not pay it out except for expenses that the supplier actually incurred under the contract or except in accordance with the terms of the supplier's contract with the licensee.

(4) A registered supplier who receives money to pay licence fees on behalf of the licensee shall deposit the money in the trust account and not pay it out except to a licence issuer in accordance with the terms of the supplier's contract with the licensee.

(5) A registered supplier shall at all times keep money held in trust separate from money belonging to the supplier and shall disperse the money only in accordance with this Part and the regulations. 1994-95, c. 4, s. 96.

Audited financial statement and review engagement report

76 (1) A registered supplier of over \$500,000 of goods or services annually shall file each year with the Director of Registration an audited financial statement showing the matters specified by the Director.

(2) A registered supplier of \$500,000 or less of goods or services annually shall file each year with the Director of Registration a review engagement report showing the matters specified by the Director. 1994-95, c. 4, s. 97.

Records of registered gaming assistant

77 Every registered gaming assistant shall keep such records of the services that the gaming assistant provides to the registered suppliers in relation to gaming events and shall comply with such other requirements as are prescribed by the regulations. 1994-95, c. 4, s. 98.

GAMING PREMISES

Written direction to refuse access

78 (1) In accordance with the regulations, the Utility and Review Board may issue a written direction to the Corporation requiring it to refuse access to a casino to any individual who meets the criteria prescribed by the regulations.

(2) A direction issued pursuant to subsection (1) must name the individual to whom access to a casino is to be refused.

(3) A direction issued pursuant to subsection (1) is final and not open to question in any court.

(4) Upon issuing a direction, the Utility and Review Board shall, in accordance with the regulations, serve a copy of it on the individual named in it.

(5) No person named in a direction shall enter or remain in a casino after being served with a copy of the direction. 1994-95, c. 4, s. 99; 2011, c. 63, s. 20.

Person under age of majority

79 No person under the age of majority shall play a game of chance in a casino. 1994-95, c. 4, s. 100.

Rules of play

80 The Executive Director may approve, in writing, rules of play for the playing of games of chance at a gaming event or in a gaming premises if the regulations have not prescribed rules of play for them. 1994-95, c. 4, s. 101; 2011, c. 63, s. 21.

INVESTIGATION AND ENFORCEMENT**Registrants to facilitate investigation**

81 It is a term of registration that every registered supplier and registered gaming assistant facilitate investigations under this Part. 1994-95, c. 4, s. 102.

Investigator

82 (1) The Minister may appoint any person to be an investigator for the purpose of determining whether there is compliance with this Act, the regulations, the terms of a licence or the terms of a registration.

(2) The Minister shall issue to every investigator a certificate of appointment bearing the Minister's signature or a facsimile of it.

(3) Peace officers, by virtue of their office, are investigators for the purpose of this Part and the regulations, and subsection (2) does not apply to them.

(4) Every investigator who exercises powers under this Part shall, upon request, produce the certificate of appointment as an investigator or identification as a peace officer, as the case may be. 1994-95, c. 4, s. 103; 2011, c. 63, s. 22.

"record" defined for Sections 84 to 88

83 In Sections 84 to 88, "record" includes a book of account, bank book, voucher, invoice, receipt, contract, correspondence and any other document, regardless of whether the record is on tape or is in electronic, photographic or other form. 1994-95, c. 4, s. 104.

Powers of investigator

84 (1) For the purpose of carrying out an investigation, an investigator may

(a) subject to subsection (2), enter a gaming premise and any other place that is being used in relation to a gaming event by a licensee, a registered supplier or a registered gaming assistant, if the investigator believes on reasonable grounds that the records or other things relevant to the investigation are located in that place;

(b) inquire into all financial transactions, records and other matters that are relevant to an investigation;

(c) demand the production for inspection of anything relevant to the investigation, including things used in playing games of chance, records and cash;

(d) inspect anything relevant to the investigation, including things used in the playing of games of chance, records and cash;

(e) conduct such tests as are reasonably necessary for the investigation.

(2) For the purpose of carrying out an investigation, an investigator shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under Section 4 of the *Summary Proceedings Act*.

(3) An investigator shall not use force in carrying out an investigation unless the investigator believes on reasonable grounds that

(a) there is sufficient evidence for the issue of a warrant under Section 4 of the *Summary Proceedings Act*; and

(b) delay in obtaining a warrant could lead to the destruction, removal or loss of the evidence.

(4) In using force to carry out an investigation, an investigator shall use only such force as is necessary to carry out the investigation.

(5) An investigator shall exercise the powers set out in subsection (1) only during normal business hours to enter the gaming premises and any other place that the investigator has entered. 1994-95, c. 4, s. 105.

Demand for production and use of things removed

85 (1) A demand referred to in clause 84(1)(c) must be in writing and must include a statement of the nature of the things required.

(2) Where an investigator makes a demand under clause 84(1)(c), the person having custody of the things demanded shall produce them to the investigator.

(3) On issuing a written receipt, the investigator may remove the things that are produced and may

(a) review or copy any of them; or

(b) bring them before a justice of the peace, in which case Sections 19 to 28 of the *Summary Proceedings Act* apply.

(4) The investigator shall carry out any reviewing or copying pursuant to subsection (3) with reasonable dispatch, and shall forthwith after the reviewing or copying, return the things to the person who produced them.

(5) A copy certified by an investigator as a copy made under subsection (3) is admissible in evidence to the same extent and has the same evidentiary value as the thing copied. 1994-95, c. 4, s. 105.

Additional powers of investigator

86 (1) An investigator may call upon any expert for such assistance as the investigator considers necessary in carrying out an investigation.

(2) For the purpose of carrying out an investigation, an investigator may use any data storage, processing or retrieval device or system belonging to the persons being investigated, in order to produce a record in readable form. 1994-95, c. 4, s. 105.

Warrant

87 (1) A justice of the peace may issue a warrant authorizing an investigator named in the warrant to exercise any of the powers set out in subsection 84(1), with respect to a place described in that subsection and named in the warrant, if the justice of the peace is satisfied on information under oath that there are reasonable grounds to believe that the issuance of a warrant is necessary for the enforcement of this Part or the regulations and

(a) the investigator has been denied entry to the gaming premises and any other place or has been obstructed in exercising any other of those powers with respect to the gaming premises and any other place; or

(b) there are reasonable grounds to believe that the investigator will be denied entry to the gaming premises or any other place or obstructed in exercising any other of those powers with respect to the gaming premises and any other place.

(2) A warrant issued under this Section must name a date on which it expires, which date must not be later than 30 days after its issue.

(3) A justice of the peace may extend the date on which a warrant expires for an additional period of not more than 30 days, upon application without notice by the investigator named in the warrant.

(4) A warrant issued under this Section authorizes the investigator named in the warrant to call upon peace officers as necessary and to use whatever force is necessary to execute the warrant.

(5) Unless otherwise ordered, a warrant issued under this Section must be executed only during normal business hours for the gaming premises or place named in the warrant.

(6) Sections 84 to 86 apply with necessary changes to an investigator executing a warrant issued under this Section. 1994-95, c. 4, s. 106.

Obstruction of or assistance to investigator

88 (1) No person shall obstruct an investigator who is carrying out duties under this Part.

(2) A person who is required to produce a record for an investigator shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce the record in a readable form. 1994-95, c. 4, s. 107.

Exemption from testifying

89 No person employed in the administration or enforcement of this Act may be required to give testimony in any civil proceeding, except in a proceeding under this Act, with regard to information obtained in the discharge of the person's duties. 1994-95, c. 4, s. 108.

Order to retain money

90 (1) The Director of Investigation and Enforcement may order a person who holds money or other assets on behalf of another person to retain the money or assets if

(a) an individual makes a statutory declaration to the Director in which the individual alleges, setting out facts supporting the allegation, that the person, on whose behalf the money or assets are held,

(i) has contravened, is contravening or is about to contravene this Part or the regulations,

(ii) is subject to criminal proceedings or proceedings in relation to a contravention of any Act that are connected with or arise out of doing things for which registration is required under this Part, or

(iii) is the subject of an investigation under this Part; and

(b) the Director, based on the statutory declaration, finds reasonable grounds to believe that the interests of the person on whose behalf the money or assets are held require protection.

(2) Where the Director of Investigation and Enforcement believes on reasonable grounds that it is advisable to make an order to ensure that a licensee uses money or assets in accordance with the terms of the licence, the Director may

(a) order the licensee who holds the licensee's own money or assets, or the person who holds money or assets of the licensee on behalf of the licensee, to retain the money or assets so held; or

(b) order the licensee to refrain from withdrawing the licensee's own money or assets that another person holds on behalf of the licensee.

(3) An order made under this Section takes effect immediately upon being served on the person against whom it is made.

(4) An order made against a bank, a loan or trust corporation or other financial institution applies only to the office, branch or agency named in the order.

(5) A person ordered to hold money or assets under this Section shall hold the money or assets in trust for the beneficial owner until the Director of Investigation and Enforcement revokes or varies the order or the court makes an order under Section 91.

(6) The Director of Investigation and Enforcement may vary or revoke an order made under this Section and may require that the person whose money or assets are subject to the order file security with the Director in a form and an amount acceptable to the Director. 1994-95, c. 4, s. 109.

Application to Supreme Court

91 (1) Where the Director of Investigation and Enforcement has made an order under Section 90, any party, on notice to the other parties, may make

an application to the Supreme Court of Nova Scotia for an order concerning the disposition of the money or assets.

- (2) The parties to an application are
 - (a) the Director of Investigation and Enforcement;
 - (b) the persons whose money or assets are the subject of the order;
 - (c) any person against whom the order is made; and
 - (d) any other person specified by the Supreme Court.

(3) On hearing the application, the Supreme Court may direct the disposition of the money or assets, set aside or vary the order of the Director of Investigation and Enforcement, or make any other order it considers appropriate. 1994-95, c. 4, s. 110.

Order of Director of Investigation and Enforcement

92 (1) The Director of Investigation and Enforcement may propose to make an order that a person stop contravening this Part and the regulations or not contravene this Part and the regulations if

- (a) an individual makes a statutory declaration to the Director in which the individual alleges, setting out facts that support the allegation, that the person is contravening, has contravened or is about to contravene this Part or the regulations; and
- (b) the Director, based on the statutory declaration, finds reasonable grounds to believe the allegation.

(2) The Director of Investigation and Enforcement shall serve notice of the proposed order together with written reasons for it on each person to be named in the order.

(3) The notice of the proposed order must inform each person receiving it that the person is entitled to request an informal hearing by the Executive Director and a formal hearing by the Utility and Review Board.

(4) To request a hearing, the person entitled to the hearing shall serve a written request on the Director of Investigation and Enforcement, the Executive Director and the Utility and Review Board within 15 days after the Director of Investigation and Enforcement serves the notice of the proposed order.

(5) The Director of Investigation and Enforcement may make the proposed order if the person does not request the hearing within the time permitted by subsection (4). 1994-95, c. 4, s. 111; 2011, c. 63, s. 23.

Immediate order

93 (1) The Director of Investigation and Enforcement may order a person to stop contravening this Part and the regulations or not to contravene this Part and the regulations without serving a proposed order under Section 92 if

- (a) an individual makes a statutory declaration to the Director in which the individual alleges, setting out facts that support

the allegation, that the person is contravening, has contravened or is about to contravene this Part or the regulations;

(b) the Director, based on the statutory declaration, finds reasonable grounds to believe the allegation; and

(c) the Director believes it necessary to make an immediate order to protect the public.

(2) The Director of Investigation and Enforcement shall serve a copy of the order made, together with written reasons for it, on each person named in it and the order is effective immediately upon being served.

(3) The copy must inform each person receiving it that the person is entitled to an informal hearing by the Executive Director and a formal hearing by the Utility and Review Board.

(4) To request a hearing, the person shall serve a written request on the Director of Investigation and Enforcement, the Executive Director and the Utility and Review Board within 15 days after the Director of Investigation and Enforcement serves the copy of the order.

(5) Where a person requests a hearing, the order expires on the day the order of the Executive Director or the Utility and Review Board, as the case may be, takes effect under Section 94. 1994-95, c. 4, s. 112; 2011, c. 63, s. 24.

Informal hearing

94 (1) Where a person requests a hearing under Section 92 or 93, the Executive Director shall hold an informal hearing on request of that person or the Utility and Review Board shall schedule and hold the formal hearing.

(2) The Director of Investigation and Enforcement, the person who requested the hearing and such other persons as the Executive Director or the Utility and Review Board may specify are parties to the respective hearing.

(3) The Executive Director or the Utility and Review Board may, by order,

(a) confirm or set aside a proposed order of the Director of Investigation and Enforcement; and

(b) order the Director of Investigation and Enforcement to take such action as the Executive Director or Utility and Review Board respectively considers such Director ought to take to give effect to the purpose of this Part.

(4) In making an order, the Executive Director or the Utility and Review Board may substitute the opinion of the Executive Director or the Utility and Review Board, respectively, for that of the Director of Investigation and Enforcement.

(5) The Executive Director or the Utility and Review Board may attach any terms or conditions to the order that the Executive Director or the Utility and Review Board, respectively, considers proper to give effect to the purpose of this Part.

(6) An order of the Executive Director or the Utility and Review Board takes effect immediately unless the Executive Director or the Utility and Review Board, respectively, orders otherwise.

(7) A decision and order of the Utility and Review Board is final and is not open to question in any court. 1994-95, c. 4, s. 113; 2011, c. 63, s. 25.

Duty of licensee or registrant

95 (1) A holder of a licence or certificate of registration shall comply with any terms and conditions imposed respecting the licence or certificate of registration by this Act or the regulations.

(2) Where a person fails to comply with an order of the Executive Director, the Director of Registration, the Director of Investigation and Enforcement or the Utility and Review Board made under this Act, the Executive Director, either Director or the Utility and Review Board may, in addition to any other rights, make an application to a judge of the Supreme Court of Nova Scotia for an order directing the person to comply with the order of the Executive Director, Director of Registration, Director of Investigation and Enforcement or Utility and Review Board, as the case may be.

(3) On hearing the application, the judge may make such order as the judge thinks fit.

(4) An appeal lies to the Nova Scotia Court of Appeal from the judge's order.

(5) No proceedings under this Section may be instituted except with the consent or under the direction of the Attorney General. 1994-95, c. 4, s. 114; 2011, c. 63, s. 26.

Administrative penalty

96 Where the Executive Director or Utility and Review Board, after a hearing, determines that a person has contravened a provision of this Act or the regulations or a term or condition of a registration, and considers it to be in the public interest to make the order, the Executive Director or Utility and Review Board may order the person to pay an administrative penalty of not more than \$5,000 in the case of a person other than a corporation and not more than \$50,000 in the case of a corporation. 1994-95, c. 4, s. 115; 2011, c. 63, s. 27.

Service

97 (1) Anything required to be served under this Part is sufficiently served if delivered personally or sent by registered mail addressed to the person on whom service is required to be made at the latest address for service appearing on the records of the Director of Registration for the person's registration under this Part or on the application for registration under this Part.

(2) Service made by registered mail is deemed to have been made on the third day after the day of mailing, unless the person being served establishes that the thing being served was not received until a later date because of absence, accident, illness or other cause beyond the person's control.

(3) In addition to the methods of service mentioned in subsection (1), the Utility and Review Board may order any other method of service in respect of any matter before the Utility and Review Board. 1994-95, c. 4, s. 116; 2011, c. 63, s. 28.

Statement as evidence

98 For the purpose of this Act and the regulations, a statement as to

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material; or
- (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Executive Director or the Utility and Review Board, purporting to be certified by the Executive Director or a member of the Utility and Review Board, respectively,

is, without proof of the office or signature of the person certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceedings or prosecution. 1994-95, c. 4, s. 117; 2011, c. 63, s. 29.

Method of filing

99 Where this Act or the regulations require that material be filed, the filing is effected, unless provided otherwise herein or in the regulations, by depositing the material, or causing it to be deposited, with the Executive Director. 1994-95, c. 4, s. 118.

PART III**GENERAL****“Department” and “Minister” defined**

100 In this Part,

“Department” means the Department of Service Nova Scotia;

“Minister” means the Minister of Service Nova Scotia. 2011, c. 63, s. 30.

Contravention of Part II

101 Every person who contravenes or fails to comply with Part II is guilty of an offence. 1994-95, c. 4, s. 119.

False information or failing to comply with order

102 Every person is guilty of an offence who

- (a) knowingly furnishes false information in any application under Part II or in any statement or return required to be furnished under Part II or the regulations; or

- (b) fails to comply with any order made under Part II. 1994-95, c. 4, s. 120.

Person prohibited from playing in casino

103 (1) Every person who is prohibited from playing a game of chance in a casino who plays a game of chance in a casino is guilty of an offence.

(2) Every operator of a casino who knowingly permits a person who is prohibited from playing a game of chance in a casino to play a game of chance is guilty of an offence. 1994-95, c. 4, s. 121.

Person prohibited from access to casino

104 (1) Every person who is prohibited from access to any casino who enters a casino is guilty of an offence.

(2) Every operator who knowingly permits a person who is prohibited from access to any casino to enter or remain in a casino is guilty of an offence. 1994-95, c. 4, s. 122.

Penalties respecting Sections 101 to 104

105 (1) Every person convicted of an offence under Section 101, other than with respect to subsection 42(2) or Section 64 or 65, or under Section 102 is liable on summary conviction to

(a) in the case of a person other than a corporation, a fine of not more than \$25,000 or to imprisonment for not more than one year, or to both fine and imprisonment; or

(b) in the case of a corporation, a fine of not more than \$500,000.

(2) Every person convicted of an offence under Section 101 with respect to subsection 42(2) or Section 64 or 65 or under Section 103 or 104 is liable on summary conviction to

(a) in the case of a person other than a corporation, a fine of not more than \$5,000 or to imprisonment for not more than two months, or to both fine and imprisonment; or

(b) in the case of a corporation, a fine of not more than \$50,000.

(3) No proceeding under clause 102(a) may be commenced more than one year after the facts upon which it is based first came to the knowledge of the Director of Registration.

(4) No proceeding under Section 101 or clause 102(b) may be commenced more than two years after the time when the subject-matter of the proceeding arose. 1994-95, c. 4, s. 123.

Contravention of regulations

106 Every person who contravenes or fails to comply with the regulations is guilty of an offence and liable on summary conviction to the penalty set out in

subsection 105(1) except where the regulations provide for a lesser penalty. 1994-95, c. 4, s. 124.

Director or officer of corporation

107 Every director or officer of a corporation who caused, authorized, permitted, or participated or acquiesced in the commission by the corporation of an offence is guilty of an offence, whether or not the corporation has been prosecuted or convicted, and is liable on summary conviction to

(a) with respect to a provision of this Act other than subsection 42(2) or Section 64, 65, 103 or 104, a fine of not more than \$25,000 or to imprisonment for not more than one year, or to both fine and imprisonment;

(b) with respect to subsection 42(2) or Section 64, 65, 103 or 104, a fine of not more than \$5,000 or to imprisonment for not more than two months, or to both fine and imprisonment; or

(c) with respect to the regulations, a fine of not more than \$25,000 or to imprisonment for not more than one year, or to both fine and imprisonment, or such lesser penalty as the regulations may prescribe. 1994-95, c. 4, s. 125.

Costs of investigation

108 (1) A person convicted of an offence contrary to this Act or the regulations is liable, after the taxing and filing of a certificate pursuant to this Section, for the costs of the investigation of the offence.

(2) The Executive Director may prepare a certificate setting out the costs of the investigation of an offence, including the cost of the time spent by the Utility and Review Board, the Executive Director, the Director of Registration, the Director of Investigation and Enforcement and employees of the Department and any fees paid to an expert investigator or witness, external auditors or external legal counsel.

(3) The Executive Director may apply to the Supreme Court of Nova Scotia to tax the certificate pursuant to the *Civil Procedure Rules* as if the certificate were a bill of costs, and on the taxation, the Court shall review the costs and may vary them if the Court considers that they are unreasonable or not related to the investigation.

(4) The tariff of costs in the *Civil Procedure Rules* does not apply to a certificate taxed pursuant to this Section.

(5) On the taxation, the Court shall take into account any fees already paid by the defendant in respect of the same investigation.

(6) A tariff of costs for the purpose of this Section may be prescribed by the regulations. 1994-95, c. 4, s. 126; 2011, c. 63, s. 31.

No action lies

109 (1) Notwithstanding anything in this Act, the regulations or any other enactment, no action or other proceeding lies or may be commenced or maintained against the Crown in right of the Province, the member of the Executive Council assigned responsibility for Part I, the Minister of Service Nova Scotia, the

Corporation, the Atlantic Lottery Corporation or the operator of a casino, or a director, officer, employee or agent of any of them, acting in good faith, for anything done or omitted to be done under this Act or the regulations in the exercise or intended exercise of their powers or in the performance or intended performance of their duties respecting lottery schemes, including video lottery terminals.

(2) Subsection (1) does not relieve the Atlantic Lottery Corporation or a casino operator, or a director, officer, employee or agent of either of them, of any liability to which any of them would otherwise be subject in respect of an action for damages arising from a negligent act or omission of the Atlantic Lottery Corporation, casino operator or the director, officer, employee or agent.

(3) Nothing in subsection (2) makes the Atlantic Lottery Corporation or a casino operator, or a director, officer, employee or agent of either of them, liable for punitive damages or exemplary damages in an action for damages referred to in that subsection.

(4) An action for damages referred to in subsection (2) may not be instituted under the *Class Proceedings Act* or as part of any other representative proceeding. 2020, c. 2, s. 3.

Regulations

- 110 (1) The Governor in Council may make regulations
- (a) prescribing games, machines, devices or contrivances to be games of chance;
 - (b) respecting agreements entered into by the Corporation;
 - (c) respecting payments by the Corporation to trust or special purpose funds;
 - (d) requiring the Corporation to pay into the General Revenue Fund specified percentages of the revenue that it receives from its activities reimbursing and paying the operator of a casino as required by this Act and prescribing the time for making such payments;
 - (e) establishing and prescribing the terms and conditions of special purpose funds to be designated pursuant to the *Finance Act*;
 - (f) respecting the frequency of payments by the Corporation to the General Revenue Fund;
 - (g) prescribing the types of agreement that the Corporation may enter into for purposes of percentages of revenue to be set aside in special purpose funds under the *Finance Act*;
 - (h) respecting oaths or affirmations to be taken by the Executive Director and the other officers and employees of the Department who have responsibilities under this Act or the regulations, including who is required to take an oath or affirmation;
 - (i) respecting information to be supplied by the Executive Director and the other officers and employees of the Department who

have responsibilities under this Act or the regulations and the investigations and security clearance to which they are subject;

(j) prescribing security, pre-employment and post-employment conflict of interest requirements and other requirements for the Executive Director and the other officers and employees of the Department who have responsibilities under this Act or the regulations;

(k) respecting terms and conditions of employment that apply to employees of the Corporation who are deemed to be employees of the Province under subsection 15(1);

(l) prescribing additional matters in respect of which the Utility and Review Board is authorized and empowered to hold hearings;

(m) prescribing requirements and criteria and authorizing or requiring the Utility and Review Board to hold hearings for the purpose of subsection 78(1);

(n) respecting applications for licences;

(o) prescribing terms and conditions of licences;

(p) respecting the amounts and values of prizes in licensed lottery schemes and the terms and conditions to be attached thereto;

(q) respecting the consideration to be paid or given to secure a chance to win prizes in licensed lottery schemes;

(r) respecting agents and sellers and the fees or commissions to be given to them in respect of the distribution or sale of tickets or other chances in any licensed lottery schemes;

(s) respecting the manner in which tickets or other chances in any licensed lottery schemes are to be sold or made available to the public;

(t) prescribing the process by which the Executive Director may take action under Section 44 and the procedures for appealing a decision of the Executive Director made under Section 44 to the Utility and Review Board;

(u) governing applications for registration or renewal of registration of suppliers and gaming assistants;

(v) prescribing terms and conditions of registration for suppliers and gaming assistants;

(w) authorizing, governing and determining the effect of the interim registration of suppliers and gaming assistants and determining the extent to which other provisions of the regulations apply in respect of interim registration;

(x) prescribing the fees payable upon application for registration and renewal of registration and any other fees in connection with the administration of Part II and the regulations;

(y) requiring registrants to provide security in such form and on such terms as are prescribed, and providing for the forfeiture of the security and the disposition of the proceeds;

(z) prescribing the goods or services related to the conduct, management or operation of a gaming event that a registered supplier or registered gaming assistant may provide;

(aa) prescribing the fees or other consideration that registered suppliers may charge;

(ab) respecting the conduct and management of lottery schemes;

(ac) notwithstanding any enactment, prescribing the days and hours during which casinos or other gaming premises may be open;

(ad) notwithstanding the definition of “casino” in Section 3, prescribing the kinds of games of chance that may be played in casinos;

(ae) prescribing or authorizing the Executive Director to prescribe the operation, testing and security requirements for machines and equipment to be used for games of chance in casinos;

(af) regulating the use of alcoholic beverages in casinos;

(ag) prescribing classes of persons who are prohibited from playing games of chance in a casino;

(ah) prescribing classes of persons who are prohibited from access to any casino;

(ai) respecting the self-exclusion of individuals from casinos, including their reinstatement and the consequences of those individuals entering a casino in contravention of the self-exclusion, which consequences may include disentitlement to prizes or winnings and forfeiture of wagers;

(aj) notwithstanding Section 97, prescribing requirements for the service of documents for the purpose of subsection 78(4) and the date on which the service is deemed to have been made;

(ak) requiring and setting standards for security and surveillance at gaming events;

(al) prescribing rules governing the use of credit extended to players of games of chance held in casinos;

(am) requiring and governing books, accounts and other records to be kept by registered suppliers and registered gaming assistants, including prescribing time schedules for which registered suppliers and registered gaming assistants are to retain those books, accounts and other records;

(an) governing trust accounts of registered suppliers, including the holding and disbursement of money in respect of those accounts;

(ao) prescribing the manner in which registered suppliers maintain their trust accounts and other records;

(ap) requiring registered suppliers or registered gaming assistants to make returns and furnish information to the Director of Registration;

- (aq) requiring any information required to be furnished or contained in any form or return to be verified by statutory declaration;
- (ar) designating educational institutions in the Province for purposes of training, examining and qualifying employees, staff and gaming assistants;
- (as) prescribing or authorizing the Minister to prescribe standards and conditions respecting educational institutions and their instructors and courses or programs of instruction as a prerequisite to designation of an educational institution pursuant to this clause;
- (at) prescribing restrictions on advertising of gaming;
- (au) prescribing record-keeping and reporting requirements in relation to large cash transactions;
- (av) designating games of chance for the purpose of Part II;
- (aw) designating goods and services for the purpose of Part II;
- (ax) exempting any person or class of persons from any or all of Part II and the regulations;
- (ay) prescribing or authorizing the Executive Director to prescribe forms and providing for their use;
- (az) subject to Section 106, prescribing the penalty for the contravention or failure to comply with a provision of the regulations;
- (ba) prescribing anything that is referred to in Part II as being prescribed by the regulations;
- (bb) defining any word or expression used and not defined in this Act;
- (bc) 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 Minister may make regulations

- (a) prescribing, and requiring the posting of, rules of play for games of chance;
- (b) prescribing the requirements for making available copies of rules of play respecting games of chance;
- (c) prescribing examinations to be passed, standards to be attained and qualifications and certification to be possessed by suppliers and gaming assistants as a term or condition of registration;
- (d) prescribing requirements or standards for goods or services provided by registered suppliers and registered gaming assistants in relation to gaming events;
- (e) prescribing educational training requirements for employees of casinos;
- (f) prescribing rules related to the scheduling of gaming events;

(g) prescribing rules relating to the handling of money and money equivalents at casinos or other gaming events.

(3) A regulation may apply to all persons, lottery schemes, games of chance, gaming events or gaming premises or to a class of persons, lottery schemes, games of chance, gaming events or gaming premises and there may be different regulations for different classes of persons, lottery schemes, games of chance, gaming events or gaming premises and, without limiting the generality of the foregoing, regulations for licensed lottery schemes different from regulations for lottery schemes conducted and managed by the Corporation as an agent of the Crown in right of the Province.

(4) A regulation made under clause (1)(k) may be made retroactive to a date not earlier than December 1, 2022.

(5) The exercise by the Governor in Council or the Minister of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*, 1994-95, c. 4, s. 127; 2010, c. 2, s. 84; 2011, c. 63, s. 32; 2018, c. 34, s. 1; 2022, c. 47, s. 11.

Dissolution of Lottery Commission

111 (1) In this Section, “Lottery Commission” means the Nova Scotia Lottery Commission.

(2) The Lottery Commission is dissolved.

(3) Subject to subsection (5), all right, title and interest of the Lottery Commission in any real or personal property is vested in the Nova Scotia Gaming Control Commission.

(4) Any right, title or interest in property vested by subsection (3) in the Nova Scotia Gaming Control Commission or a body with which it was amalgamated, and not transferred to another person, is vested in the Crown in right of the Province.

(5) All rights, obligations and liabilities of the Lottery Commission with respect to the Atlantic Lottery Corporation Inc. are the rights, obligations and liabilities of the Corporation.

(6) Subject to this Act, the rights, obligations and liabilities of the Lottery Commission are the rights, obligations and liabilities of the Crown in right of the Province.

(7) Subject to this Act, a reference in any rule, order, regulation, bylaw, ordinance or proceeding or in any document whatsoever to the Lottery Commission, whether such reference is by official name or otherwise, is to be construed, as regards any subsequent transaction, matter or thing, to be a reference to the Corporation, the Minister or the Crown in right of the Province, as the case may be.

(8) For greater certainty, all regulations made by the Governor in Council pursuant to Chapter 266 of the Revised Statutes, 1989, the *Lottery Act*, are, in so far as they are not inconsistent with this Act or regulations made pursuant to

this Act, continued until amended or repealed by regulations made pursuant to this Act. 1994-95, c. 4, s. 128; 2011, c. 63, s. 33.

CHAPTER G-3

An Act Respecting the Delivery and Sale of Natural Gas in the Province

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Short title

- 1** This Act may be cited as the *Gas Distribution Act*. 1997, c. 4, s. 1.

Purpose of Act

- 2** The purpose of this Act is to
- (a) provide a framework for the orderly development and operation of a gas-delivery system in the Province; and
 - (b) allow for fair competition in the sale of gas for consumption in the Province. 1997, c. 4, s. 2.

Interpretation

- 3 (1)** In this Act,
- “Board” means the Nova Scotia Utility and Review Board;
 - “exempt gas customer” means a person
 - (a) to whom gas for ultimate consumption is delivered
 - (i) outside a franchise area,
 - (ii) within a franchise area, from a supplier who has delivered gas to that person on a continuous basis since immediately before the franchise was granted,
 - (iii) within a franchise area, if the gas being delivered is liquefied petroleum gas and the gas delivered by the franchise holder is natural gas, or
 - (iv) within a franchise area, if the gas being delivered is natural gas and the gas delivered by the franchise holder is liquefied petroleum gas;
 - (b) who is declared by the Board under Section 27 to be an exempt gas customer; or
 - (c) who is prescribed by the Governor in Council to be an exempt gas customer;

“exempt gas-delivery system” means any compressor station, decanting station, pipe, equipment, apparatus, mechanism, machinery, instrument or ancillary facility, or any building or structure that houses or protects any of the foregoing, used to deliver gas for ultimate consumption

(a) to an exempt gas customer at a single location;
or

(b) in such circumstances as may be prescribed by the Governor in Council, to an exempt gas customer, or two or more closely related exempt gas customers, at multiple locations;

“franchise” means a franchise granted pursuant to this Act to construct and operate a gas-delivery system;

“franchise area” means the geographic area that is planned to be served within 10 years by the franchise holder;

“gas” means

- (a) odourized sales gas;
- (b) liquefied petroleum gas;
- (c) hydrogen gas intended to be used by an end-user as fuel;
- (d) any substance prescribed by the regulations to be gas; or
- (e) any substance declared by the Board to be gas;

“gas-delivery system” means any compressor station, decanting station, pipe, equipment, apparatus, mechanism, machinery, instrument or ancillary facility, or any building or structure that houses or protects any of the foregoing, used to deliver gas for ultimate consumption, but does not include an exempt gas-delivery system;

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

“person” includes a partnership;

“prescribed” means, except where the context otherwise requires, prescribed by the Board by regulation.

(2) An exempt gas customer is closely related to another exempt gas customer if

- (a) they are affiliates within the meaning of subsection 2(2) of the *Companies Act*; or
- (b) the relationship between them is prescribed by the Governor in Council as being a close relationship. 1997, c. 4, s. 3; 2002, c. 18, s. 1; 2014, c. 48, s. 1; 2022, c. 55, s. 31.

Supervision by Minister

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may establish and administer policies, programs, standards, guidelines, objectives and directives under this Act. 2002, c. 18, s. 2.

GRANTING OF FRANCHISE

Requirement for franchise

5 Notwithstanding any enactment, no person shall construct or operate a gas-delivery system except pursuant to a franchise. 1997, c. 4, s. 4.

Limit on delivery by franchise holder

6 Subject to subsection 7(1), no franchise holder shall deliver gas for ultimate consumption to any person except pursuant to a franchise. 2014, c. 48, s. 3.

Exempt gas-delivery system

7 (1) A franchise holder who, immediately before November 30, 2014, was delivering gas by an exempt gas-delivery system may continue to deliver gas by the exempt gas-delivery system.

(2) Where a franchise holder continues to deliver gas by an exempt gas-delivery system as permitted pursuant to subsection (1), the franchise holder may, at any time, apply to the Board to amend its franchise to permit the franchise holder to operate the exempt gas-delivery system, or any portion of it, as part of the franchise holder's gas-delivery system.

(3) Where an application is made pursuant to subsection (2), the Board may amend the franchise to permit the franchise holder to operate the exempt gas-delivery system, or any portion of it, as part of the franchise holder's gas-delivery system, subject to such terms and conditions as the Board considers appropriate.

(4) For greater certainty, upon the Board amending a franchise to permit the franchise holder to operate an exempt gas-delivery system, or any portion of it, as part of the franchise holder's gas-delivery system, the exempt gas-delivery system or the portion of it, as the case may be, ceases to be an exempt gas-delivery system. 2014, c. 48, s. 3.

Application for franchise

8 (1) A person may apply to the Board, in the time and in the manner prescribed, for a franchise.

(2) Notwithstanding subsection (1), the Board may invite applications for a franchise in the time and in the manner prescribed. 1997, c. 4, s. 5.

Required information

9 When submitting an application pursuant to Section 8, the applicant shall provide to the Board the prescribed information. 1997, c. 4, s. 6.

Public comment and hearing

10 (1) Upon receipt of an application pursuant to subsection 8(1), the Board shall give notice to the public of the receipt of the application.

(2) Upon receipt of an application pursuant to Section 8, the Board shall invite public comment on the application and, where in the opinion of the Board it is advisable to do so, hold a public hearing.

(3) Notwithstanding subsection (2), no single end-user licence outside of an existing franchise area may be granted by the Board unless a socio-economic impact study, considered in the opinion of the Board to be appropriate to the location and scale of the franchise applied for, has been completed. 1997, c. 4, s. 7; 2002, c. 18, s. 3.

Grant of franchise

11 (1) The Board may grant a franchise.

(2) Before granting a franchise, the Board must be satisfied that the granting of the franchise is in the public interest and must take into consideration the following factors:

- (a) the existence of markets, actual or potential;
- (b) the availability of adequate gas supplies;
- (c) the economic feasibility of the proposed gas-delivery system;
- (d) the financial capability of the applicant;
- (e) related experience of the applicant in the delivery of gas;
- (f) the plans of the applicant to provide service in the franchise area; and
- (g) such other factors as are prescribed by the Governor in Council.

(3) The granting of a franchise by the Board is subject to the approval of the Governor in Council. 1997, c. 4, s. 8; 2002, c. 18, s. 4.

Terms and conditions of franchise

12 (1) A franchise

- (a) is for a term of 25 years and may be renewed in accordance with the regulations; and
- (b) is subject to such terms and conditions as may be specified by the Board or prescribed by the Governor in Council.

(2) Section 91 of the *Public Utilities Act* applies with necessary changes to the holder of a franchise within or partly within a regional municipality, town or a municipality of a county or district. 1997, c. 4, s. 9; 2002, c. 18, s. 5.

Amendment and consolidation of franchise

13 (1) The holder of a franchise may apply to the Board, in the time and in the manner prescribed, to

- (a) amend the terms or conditions of the franchise;

- (b) alter the geographical boundaries of the franchise area;
- (c) consolidate non-contiguous franchises granted to the applicant.

(2) Upon receipt of an application pursuant to subsection (1), the Board shall give notice to the public of receipt of the application in the manner prescribed and may hold a public hearing on the application. 1997, c. 4, s. 10; 2002, c. 18, s. 6.

Restriction on transfer and assignment

14 No person shall transfer or assign a franchise without the approval of the Board. 1997, c. 4, s. 11.

Restriction on certain actions

15 Except in the ordinary course of maintenance or repair, no gas-delivery system, or part thereof, may be taken up, removed or abandoned without the consent of the Board. 1997, c. 4, s. 12.

Rights of franchise holder

16 Subject to Section 17, a person to whom a franchise is granted has the exclusive right to construct and operate a gas-delivery system within the geographical area to which the franchise extends. 1997, c. 4, s. 13.

Application for franchise within a franchise area

17 (1) In this Section,

“producer class franchise” means a franchise granted to a company that produces onshore gas, or to a company that is wholly owned by the gas-producing company or that wholly owns the gas-producing company, for delivery to a single end-user;

“single end-user class franchise” means a franchise granted to a company where the gas is consumed solely by the franchise holder, a company that is wholly owned by the franchise holder or a company that wholly owns the franchise holder.

(2) A person may at any time apply to the Board for the following types of franchise within an existing franchise:

- (a) a producer class franchise;
- (b) a single end-user class franchise whose gas supply comes solely from a producer class franchise;
- (c) a single end-user class franchise that takes gas through facilities that are not interconnected to an interprovincial or international gas transmission pipeline.

(3) The Board shall give notice to the existing franchise holder and the public of an application received pursuant to this Section and may hold a public hearing on the application.

(4) The Board shall not grant a franchise pursuant to this Section unless the Board is satisfied that the granting of the franchise

(a) is in the public interest; and

(b) complies with the requirements prescribed by the Governor in Council.

(5) Upon the granting of a franchise pursuant to this Section, the boundaries of the existing franchise must be amended accordingly by the Board. 1997, c. 4, s. 14; 2002, c. 18, s. 7.

Discrimination

18 The holder of a franchise shall not make any undue discrimination in rates, tolls, charges, service or facilities against any person or locality. 1997, c. 4, s. 15.

Burden of proof respecting discrimination

19 Where it is shown that the holder of a franchise makes any discrimination in rates, tolls, charges, service or facilities against any person or locality, the burden of proving that the discrimination is not undue lies on the holder of the franchise. 1997, c. 4, s. 16.

Duties of holder of franchise

20 Subject to such exemptions or conditions as prescribed, the holder of a franchise shall, without delay and with due care and diligence, receive, transport and deliver or store, without discrimination, all gas offered to its gas-delivery system. 1997, c. 4, s. 17.

Requirement to extend or improve

21 (1) Where the Board finds such action necessary or desirable in the public interest, the Board may direct the holder of a franchise to extend or improve its gas-delivery system if the Board finds that no undue burden will be placed on the holder of the franchise.

(2) Subsection (1) does not empower the Board to compel the holder of a franchise to deliver gas to additional customers if to do so would impose undue burden on its existing customers or impair its ability to render adequate service to its existing customers. 1997, c. 4, s. 18.

CONSTRUCTION AND OPERATION OF GAS-DELIVERY SYSTEM

Prohibited acts

22 A person to whom a franchise is granted shall not

(a) construct a gas-delivery system or any part thereof, except pursuant to a permit; or

(b) operate a gas-delivery system, except pursuant to a licence, issued by the Board pursuant to the *Pipeline Act*. 1997, c. 4, s. 19.

Application of Pipeline Act

23 The *Pipeline Act* applies to a gas-delivery system. 2002, c. 18, s. 8.

RATES**Approved tariff**

24 (1) The holder of a franchise shall not impose, observe or follow rates, tolls or charges except those that are specified in a tariff that has been filed with the Board and approved by an order of the Board.

(2) Where the holder of a franchise has submitted, for the approval of the Board, a schedule of rates, tolls and charges, or a proposed change in any existing schedule of rates, tolls and charges, that, in the opinion of the Board,

(a) constitutes a reduction in the existing schedule of rates, tolls and charges at the time being paid by the majority of the customers of such franchise affected by such change in the class of service to which such proposed change applies; or

(b) applies only in respect of a service for which no rates, tolls or charges have been previously approved,

the Board may, at any time before finally approving or disapproving the schedule or change, grant an interim approval with or without conditions.

(3) The schedule of rates, tolls and charges of the franchise, as approved by the Board pursuant to subsection (2), must be filed with the Board and are the only lawful rates, tolls and charges of the franchise until altered or modified in accordance with Section 25.

(4) Notwithstanding anything contained in this Act, the interim approval granted pursuant to subsection (2) may be given *ex parte* and without public hearing or notice.

(5) Where the holder of a franchise has been granted an interim approval pursuant to subsection (2), the holder of the franchise shall make an application to the Board within 180 days for final approval.

(6) Where the holder of a franchise is the only customer of that franchise, the Board may exempt the holder of the franchise from the requirements of subsection (1). 1997, c. 4, s. 21; 2002, c. 18, s. 9.

Approval and fixing of rates, tolls and charges

25 (1) The Board may, on its own initiative or on the application of a person having an interest, by order in writing, approve or fix just and reasonable rates, tolls or charges for the delivery of gas by a gas-delivery system, including related services.

(2) Before approving or fixing rates, tolls or charges pursuant to subsection (1) and subject to the authority of the Board pursuant to subsections 24(2) to (5), the Board shall invite public comment on the application and, where in the opinion of the Board it is desirable to do so, hold a public hearing.

(3) In approving or fixing rates, tolls or charges, the Board shall give due regard to the following criteria and may give appropriate weight to each of them relative to the others:

- (a) the related practical attributes of simplicity, understandability, public acceptability and feasibility of application;
- (b) freedom from controversies as to proper interpretation;
- (c) effectiveness in yielding total revenue requirements under the just and reasonable return standard;
- (d) revenue stability from year to year;
- (e) stability of the rates, tolls or charges themselves, with a minimum of unexpected changes seriously adverse to existing customers;
- (f) competition;
- (g) fairness of the specific rates, tolls or charges in the apportionment of total costs of service among the different consumers;
- (h) avoidance of undue discrimination in rate relationships;
- (i) efficiency of the rates, tolls or charges in discouraging wasteful use of service while promoting all justified types and amounts of use; and
- (j) such other matters as the Board considers appropriate.

(4) Notwithstanding subsection (3), the Board may, by order in writing, approve or fix just and reasonable rates, tolls or charges that

- (a) are intended to result in cost savings or other benefits to be allocated between the owner of the gas-delivery system and its customers; and
- (b) are otherwise in the public interest.

(5) The Board may specify terms and conditions that apply to an order made pursuant to subsection (1) or (4). 1997, c. 4, s. 22; 2002, c. 18, s. 10.

Consumer advocate

26 (1) Where the Governor in Council directs or the Board on its own motion decides, the Board shall appoint a person to act as a consumer advocate in a hearing before the Board.

- (2) A consumer advocate appointed pursuant to subsection (1)
 - (a) shall participate in all aspects of the hearing before the Board and represent the interests of residential consumers as a full intervenor with power to enter into settlement agreements with other parties; and
 - (b) has all the powers and authorities necessary to carry out the duties of a consumer advocate pursuant to this Section.

(3) The Board may fix fees and expenses of a consumer advocate in performing the functions and duties of a consumer advocate pursuant to this Section.

(4) The fees and expenses referred to in subsection (3)

(a) must be paid to the Board by the applicant or applicants in such proportion as is determined by the Board; and

(b) may include the cost of retaining experts and legal counsel to provide the consumer advocate with advice, including testimony, on technical and legal matters.

(5) The Board may make rules respecting practice and procedure, scope of work, fees and expenses and other matters respecting a consumer advocate appointed pursuant to subsection (1).

(6) The Governor in Council may make regulations respecting the qualifications and experience of a consumer advocate. 2005, c. 25, s. 2.

EXEMPT GAS CUSTOMER

Application for declaration

27 (1) A person may apply to the Board to be declared to be an exempt gas customer.

(2) Where the Board determines that a franchise holder is unlikely, within a reasonable period, to be able to deliver gas, within its franchise area and from its gas-delivery system, to an applicant under subsection (1), the Board may declare the applicant to be an exempt gas customer if the Board considers it to be in the public interest to do so, subject to such terms and conditions as the Board considers appropriate. 2014, c. 48, s. 4.

SALE OF GAS

Requirement for licence

28 (1) No person shall act or purport to act as a natural gas marketer unless that person has been issued a licence by the Board.

(2) Notwithstanding subsection (1), a person may market natural gas to a prospective exempt gas customer without a licence issued by the Board. 1997, c. 4, s. 24; 2002, c. 18, s. 12; 2014, c. 48, s. 5.

Application for licence

29 (1) A person may apply, in the time and in the manner prescribed, for a licence.

(2) A franchise applicant may apply for a licence at the same time as making the franchise application. 1997, c. 4, s. 25; 2002, c. 18, s. 13.

Terms and conditions of licence

30 The Board may issue a licence upon such terms and conditions as the Board considers appropriate or as are prescribed. 1997, c. 4, s. 26.

Application for amendment of licence

31 (1) The Board may amend a licence upon application by the holder in the time and in the manner prescribed.

(2) Where an application is made pursuant to subsection (1), the Board may

- (a) amend the licence, subject to such terms and conditions as the Board considers appropriate;
- (b) cancel the licence and grant a new licence, subject to such terms and conditions as the Board considers appropriate; or
- (c) deny the amendment. 1997, c. 4, s. 27.

Powers of Board on own motion

32 The Board may, in its discretion or as prescribed, amend, suspend, reinstate or cancel a licence. 1997, c. 4, s. 28.

Restriction on transfer and assignment

33 No person shall transfer or assign a licence without the approval of the Board. 1997, c. 4, s. 29.

Upstream transportation of gas

34 (1) In this Section, “upstream transportation of gas” means the transportation of gas to be ultimately supplied to a gas-delivery system before the gas enters the gas-delivery system.

(2) A franchise holder who has been issued a licence may apply to the Board to enter into a contract for the upstream transportation of gas for the holder’s gas-delivery system.

(3) Where an application is made pursuant to subsection (2), the Board shall, subject to such terms and conditions it considers appropriate, approve the application if

- (a) the proposed contract is for a term longer than two years; and
- (b) the Board determines that entering into the contract is prudent and in the public interest.

(4) Where an application is approved under subsection (3), the franchise holder is entitled to recover its costs incurred under the contract in the rates, tolls and charges approved or fixed by the Board under subsection 25(1). 2017, c. 11, s. 1.

GENERAL

Costs

35 At the conclusion of a hearing, the Board may award such costs as the Board considers appropriate. 1997, c. 4, s. 31; 2002, c. 18, s. 15.

Interim orders

36 The Board may make interim orders pending final disposition of matters before it. 1997, c. 4, s. 32.

Inquiries

37 (1) The Board may hold an inquiry as to whether any breach of a term or condition of a franchise has occurred.

(2) The Board shall give notice of an inquiry pursuant to this Section to the holder of the franchise and such other persons as the Board may determine in the time and in the manner prescribed.

(3) After an inquiry pursuant to this Section, the Board may, if it finds that a breach of a term or condition of a franchise has occurred, amend or cancel the franchise.

(4) The amendment or cancellation of a franchise pursuant to subsection (3) has no force or effect until it is approved by the Governor in Council. 1997, c. 4, s. 33.

Investigations

38 The Board may, on its own initiative or at the request of the Governor in Council, investigate any matter concerning a gas-delivery system and may make all necessary examinations and inquiries and keep itself informed as to the compliance of the holder of a franchise with the provisions of law and has the right to obtain from the holder of a franchise all information necessary to enable the Board to fulfill its duties. 1997, c. 4, s. 34.

Duties of Board on a complaint

39 (1) Upon complaint made to the Board by any person that

(a) any rate, toll or charge is in any respect unduly discriminatory;

(b) the holder of a franchise is not complying with the terms or conditions of the franchise;

(c) service is inadequate or unobtainable,

the Board shall notify the franchise holder and proceed, with or without notice, to make such investigation as the Board considers necessary or expedient, and the Board may order

(d) the rates, tolls or charges reduced, modified or altered;

(e) that the holder of the franchise comply with the terms or conditions of the franchise;

(f) that the holder of the franchise furnish reasonably adequate service and facilities and make such repairs, enhancements or extensions as may be required.

(2) Before making an order pursuant to subsection (1), the Board shall hold a public hearing if, in the opinion of the Board, it is in the public interest to do so.

(3) The Board, when called upon to institute an investigation, may, in its discretion, require from the complainant the deposit of a reasonable amount of money or other security to cover the costs of the investigation and that money or security must be dealt with as the Board directs if the decision is given against the complainant. 1997, c. 4, s. 35; 2002, c. 18, s. 16.

Conflict of interest

40 (1) No member of the Board may be directly or indirectly employed by or interested in a gas-delivery system or interested in a share, stock, bond, mortgage, security or contract of the holder of a franchise or licence and, where a member of the Board voluntarily becomes so interested, the member's office becomes vacant or, where the member becomes so interested otherwise than voluntarily, the member shall, within a reasonable time, dispose of the interest.

(2) Where a member of the Board fails to dispose of an interest as required by subsection (1), the Governor in Council may declare the office of the member vacant.

(3) No member of the Board is disqualified by reason only of being a consumer of gas. 1997, c. 4, s. 36.

Contravention or failure

41 (1) A person who contravenes or fails to comply with

- (a) this Act or the regulations;
- (b) a term or condition of a franchise or licence;
- (c) any order or direction given by the Board pursuant to this Act or the regulations,

is guilty of an offence and liable on summary conviction to a penalty not exceeding \$100,000 or imprisonment for a term not exceeding two years.

(2) Where an offence referred to in subsection (1) is committed by a person on more than one day or is continued for more than one day, it is a separate offence for each day on which the offence is committed or continued. 1997, c. 4, s. 37.

Interference

42 No person shall prevent, hinder, obstruct, molest or otherwise interfere with a member of the Board or a person authorized by the Board in the exercise of powers pursuant to this Act. 1997, c. 4, s. 38.

False statement

43 No person shall knowingly make a false statement in any record required to be kept or any document required to be submitted pursuant to this Act or the regulations. 1997, c. 4, s. 39.

Conflict with other enactments

44 Where there is a conflict between this Act and any other enactment, this Act prevails. 1997, c. 4, s. 40.

Board regulations

45 (1) The Board may make regulations

- (a) respecting procedures and forms to be used for an application or proposal;
- (b) respecting fees pertaining to any matter provided for pursuant to this Act or the regulations;
- (c) respecting the information to be provided by an applicant for a franchise;
- (d) respecting the giving of public notice;
- (e) respecting the transfer or assignment of a franchise;
- (f) respecting the amendment of a franchise;
- (g) respecting exemptions or conditions for the purpose of Section 13 or 20;
- (h) respecting procedures and forms to be used for the issuing of a permit or licence;
- (i) respecting fees pertaining to the issuing of a permit or licence, including renewal fees and financial security;
- (j) respecting terms and conditions of a permit or licence;
- (k) respecting rates, tolls or charges imposed by the holder of a franchise;
- (l) respecting the amendment, suspension or reinstatement of a licence;
- (m) respecting the transfer or assignment of a licence;
- (n) respecting information to be kept and maintained by the holder of a franchise.

(2) The exercise by the Board of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1997, c. 4, s. 41; 2002, c. 18, s. 17.

Governor in Council regulations

46 (1) The Governor in Council may make regulations

- (a) prescribing persons to be exempt gas customers;
- (b) prescribing a substance to be gas;

(c) prescribing the circumstances in which gas may be delivered to an exempt gas customer, or two or more closely related exempt gas customers, at multiple locations for the purpose of the definition of “exempt gas-delivery system”;

(d) prescribing relationships as being close relationships for the purpose of determining whether exempt gas customers are closely related;

(e) respecting the approval of a franchise;

(f) prescribing criteria to be taken into consideration by the Board prior to granting a franchise;

(g) respecting the renewal of a franchise;

(h) respecting terms and conditions of a franchise;

(i) providing for different classes of franchises;

(j) exempting certain applicants from some or all of the terms and conditions of a franchise as prescribed by the Board;

(k) respecting cost recovery for services provided by the Board;

(l) prescribing requirements for the purpose of Section 17;

(m) respecting orders and directives issued by the Board;

(n) conferring powers and duties on the Board;

(o) respecting the approval of the amendment or cancellation of a franchise;

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

(q) 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*. 1997, c. 4, s. 42; 2002, c. 18, s. 18; 2014, c. 48, s. 6; 2022, c. 55, s. 32.

CHAPTER G-4

An Act Respecting the Municipal Taxation of a Natural Gas Distribution System

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WHEREAS the Nova Scotia Energy Strategy released in December, 2001, called for the implementation of a Province-wide taxation agreement in respect of the taxation of natural gas distribution assets;

AND WHEREAS the Nova Scotia Federation of Municipalities has endorsed the concept of a uniform taxation model and engaged municipal units in an effort to identify a taxation model that will respond to the greenfield nature of the natural gas distribution system and allocate taxes fairly between urban and rural municipalities:

Short title

1 This Act may be cited as the *Gas Distribution System Municipal Taxation Act*. 2004, c. 27, s. 1.

Interpretation

2 In this Act,

“franchisee” means the grantee of a full regulation class franchise pursuant to the *Gas Distribution Act*;

“gas distribution property” means the gas distribution system including a high-pressure distribution pipeline or a pressure reduction station and all other assets, but does not include buildings used to distribute natural gas and land associated with buildings used to distribute natural gas, whether located on public or private property;

“gas distribution system” includes any pipeline used or useful in the transportation, transmission or distribution of natural gas and any related systems used solely for supporting the operation of the system;

“gross distribution revenues” means those revenues that were earned by a franchisee for the transportation and delivery of gas within a municipality, net of goods and services tax charged to a customer and net of the commodity cost of gas delivered and excluding any allowance for uncollectables, but does not include any earnings assigned as a result of accrual accounting;

“high-pressure distribution pipeline” means steel pipelines designed, or that would ordinarily be designed, with the capacity to operate at a maximum operating pressure of greater than 275 pounds per square inch gauge;

“interprovincial pipeline” means the Maritimes & North East pipeline that received a Certificate of Public Convenience and Necessity GC-95 approved by the Governor in Council by Order in Council P.C. 1997-98, dated December 16, 1997;

“municipality” means a municipality as defined in the *Municipal Government Act*;

“pipeline” includes any pipe, main, service, trap, vent, vault, man-hole, gauge, regulator, valve, appliance, attachment, appurtenance and any property located in, upon, along, across, under or over a highway, road, street or public or private right-of-way and any easement or real property owned or leased by the franchisee in which the pipeline is located;

“pressure reduction station” includes a district regulating station, town border station, regulator station or custody transfer station or any easement or real property owned or leased by the franchisee on which the pressure reduction station is located;

“single end-user” means a user that takes gas directly from an interprovincial pipeline, does not share the use of the interconnecting distribution pipeline with any other users and is the only user in its rate class;

“village” means a village as defined in the *Municipal Government Act*. 2004, c. 27, s. 2.

Tax rates on gas distribution property

3 Notwithstanding clause 20(a) and Section 25 of the *Assessment Act*, all gas distribution property of a franchisee, either owned or occupied by the franchisee, except a high-pressure distribution pipeline or a pressure reduction station, is exempt from taxation based on assessment and must be taxed at a rate of two per cent on the gross distribution revenues attributable to the property for years 2004 to 2013, four per cent for years 2014 to 2018 and five per cent thereafter. 2004, c. 27, s. 3.

Assessment of high-pressure distribution pipeline or pressure reduction station

4 (1) Notwithstanding that a high-pressure distribution pipeline or pressure reduction station is located on, in, under, along or across lands exempt from taxation or lands that are non-assessable, the pipeline or pressure reduction station, as the case may be, is liable for assessment.

(2) Notwithstanding Section 36 of the *Assessment Act*, but subject to Section 5, a high-pressure distribution pipeline must be assessed according to the following pipe sizes at the following cost-per-metre rate multiplied by the length of pipe:

- (a) 102mm (4 inch), \$296;

- (b) 152mm (6 inch), \$390;
- (c) 203mm (8 inch), \$431;
- (d) 254mm (10 inch), \$533;
- (e) 304mm (12 inch), \$634.

(3) Where the size of a pipe does not match a size of pipe set out in subsection (2), the cost per metre for the purpose of subsection (2) must be obtained by interpolation or extrapolation, if possible, and, if interpolation or extrapolation is not possible, the cost is the actual cost of constructing and installing the pipeline, exclusive of goods and services tax.

(4) The size of a pipe is the nominal outside diameter of the pipe.

(5) Assessed values determined pursuant to subsection (2) or (3) must be revised using the average installed cost per metre by March 31, 2009, if the average installed cost of the respective pipe sizes differs by more than 10% from the assessed values, as determined from materials filed with the Nova Scotia Utility and Review Board as of December 1, 2008, and the revision is retroactive to the date the first assessed values were assigned and replaces those assessed values.

(6) The assessed value of a high-pressure distribution pipeline installed after January 1, 2009, is the cost per metre pursuant to subsection (2), (3) or (5) multiplied by the length of pipe, increased or decreased by the percentage change in the Nelson-Farrar Index of pipeline construction costs between January 1, 2009, and the date the construction and installation of the pipeline was completed.

(7) Notwithstanding clause 20(1) and Section 25 of the *Assessment Act*, a high-pressure distribution pipeline or pressure reduction station must be assessed to the franchisee in the municipality in which the pipeline or station is located and notice of the assessment must be served in accordance with Section 48 of the *Assessment Act*.

(8) Notwithstanding Section 36 of the *Assessment Act*, a pressure reduction station must be assessed based on the assessed value determined from the total actual cost of the design, construction and land acquisition costs, including overhead but excluding goods and services tax, which actual costs must be determined, where possible, from the franchisee's filings with the Board, and the assessment made pursuant to this subsection is effective on the date construction of the pressure reduction station was completed.

(9) All high-pressure distribution pipeline and pressure reduction stations are subject to business occupancy assessment and taxation and all applicable area rates levied by the municipality in which they are located. 2004, c. 27, s. 4.

Exemption where single end-user

5 (1) Notwithstanding Section 4, a high-pressure gas distribution pipeline and pressure reduction station serving a single end-user is exempt from taxation based on assessment and must be taxed at a rate of eight per cent of the gross distribution revenues attributable to the pipeline and pressure reduction station, until November 1, 2014.

(2) Where the high-pressure gas distribution pipeline connecting the single end-user to the interprovincial pipeline is located within more than one municipality, the tax owing pursuant to subsection (1) must be payable to each municipality within which the pipeline is located in the same proportion as the assessed value of the pipeline or pressure reduction station referred to in subsection (1) within each municipality is to the total assessed value of the pipeline or pressure reduction station referred to in subsection (1). 2004, c. 27, s. 5.

Depreciation

6 (1) Subject to subsection (4), a high-pressure distribution pipeline shall be depreciated commencing the year following the year in which construction is completed using a straight line method at a rate of 2.56% per year.

(2) Subject to subsection (4), a pressure reduction station shall be depreciated using a straight line method at a rate of 3.74% per year commencing the year following the year construction was completed.

(3) The depreciation of a pipeline or pressure reduction station shall be calculated annually as of December 1st of each year.

(4) Only a pipeline or pressure reduction station that has been in service for at least one year as of the depreciation calculation date referred to in subsection (3) may be allowed a deduction for depreciation.

(5) Depreciation may only be taken pursuant to this Section until the amount of depreciation equals 50% of the assessed value as determined pursuant to Section 4. 2004, c. 27, s. 6.

Depreciation for economic obsolescence

7 Notwithstanding Section 6,

(a) each high-pressure distribution pipeline or pressure reduction station must be depreciated for economic obsolescence by 65% commencing in the year of construction completion, by 50% in the year following construction completion and 20% in the subsequent year and, thereafter, no economic depreciation shall be applied; and

(b) the depreciation taken pursuant to clause (a) includes the amount of annual depreciation referred to in Section 6. 2004, c. 27, s. 7.

Annual statement by franchisee

8 (1) A franchisee shall, on or before February 28th of each year, furnish to the clerk of each municipality in which the franchisee has gas distribution property a written statement in the prescribed form, which statement shall show the gross distribution revenues in that municipality in which any gas distribution property may exist for the previous year.

(2) The Minister of Municipal Affairs and Housing may make regulations prescribing the form of the statement for the purpose of subsection (1). 2004, c. 27, s. 8.

Taxes payable quarterly

9 Taxes payable pursuant to this Act must be paid by quarterly instalments 30 days after the conclusion of the previous quarter, such quarters being March 31st, June 30th, September 30th and December 31st, respectively. 2004, c. 27, s. 9.

Assessment of buildings and land

10 For greater certainty, any buildings and land associated with buildings used to distribute natural gas and land and buildings not forming part of the gas distribution property of the franchisee is subject to the *Assessment Act* in respect of the assessment of real property. 2004, c. 27, s. 10.

Agreement with village

11 A municipality of a county or district may agree to share taxes paid pursuant to Section 3 or 5 with a village located in the municipality if assets taxed pursuant to Section 3 or 5 are located in the village. 2004, c. 27, s. 11.

Act effective for twenty-five years

12 This Act has effect for a period of 25 years commencing January 1, 2004. 2004, c. 27, s. 14; 2023, c. 12, s. 2.

CHAPTER G-5

An Act Respecting the Geoscience Profession

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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 *Geoscience Profession Act*. 2002, c. 7, s. 1.

Interpretation

2 In this Act,
“Association” means the Association of Professional Geoscientists of
Nova Scotia;

“Board” means the Admissions Board of the Association or such members of the Board as may be delegated by the Council to examine credentials or conduct examinations;

“bylaws” means bylaws of the Association;

“certificate of authorization” means a certificate in force under this Act that is issued to a partnership, association of persons or a body corporate that meets the requirements of this Act for the practice of professional geoscience;

“certificate of registration” means a certificate in force under this Act that is issued to a member of the Association who meets the requirements of this Act for the practice of professional geoscience;

“complaint” means a complaint, allegation or other report or information made pursuant to this Act respecting unprofessional conduct or incompetence on the part of a member of the Association, a person licensed to practice or a member-in-training;

“Complaints Committee” means the Complaints Committee established pursuant to this Act, and includes a panel of the Complaints Committee;

“Council” means the Council of the Association;

“Discipline Committee” means the Discipline Committee established pursuant to this Act, and includes a panel of the Discipline Committee;

“geoscience” means the performing of any activity that requires the application of the principles of the geological sciences, and that concerns the safeguarding of public welfare, life, health, property or economic interests, including

(a) investigations, interpretations, evaluations, consultations or management aimed at the discovery or development of metallic or non-metallic minerals, rocks, nuclear or fossil fuels, precious stones or water resources; or

(b) investigations, interpretations, evaluations, consultations or management relating to geoscientific properties, conditions or processes that may affect the well-being of the general public, including those pertaining to the preservation of the natural environment;

“geoscientist” means a person who, through specialized education, training and experience, is skilled in the principles and practice of geoscience;

“licence to practise” means a licence to practise issued and in force under this Act, and includes a licence to practise professional geoscience;

“licensed to practise” means holding a licence to practise;

“member-in-training” means a person enrolled as a geoscientist-in-training in good standing;

“member of the Association” means the holder of a certificate of registration;

“practice of professional geoscience” means the performance of any act within or involving geoscience for gain, hire or hope of reward, either directly or indirectly;

“President” means the President of the Association;

“professional geoscientist” means a person who engages in the practice of professional geoscience;

“Registrar” means the Registrar of the Association;

“Secretary” means the Secretary of the Association;

“Treasurer” means the Treasurer of the Association;

“Vice-president” means the Vice-president of the Association. 2002, c. 7, s. 2.

Rights and obligations unaffected

3 (1) Nothing in this Act affects the rights or obligations under the *Engineering Profession Act* of members of the Association of Professional Engineers of Nova Scotia or of the holders of licences to practise professional engineering.

(2) Without limiting the generality of subsection (1) or any other provision of this Act, nothing in this Act limits the right of any person or entity authorized under the *Engineering Profession Act* to undertake the practise of professional engineering or the application of engineering to perform in accordance with that Act activities that constitute the practice of professional geoscience. 2002, c. 7, s. 3.

Association continued

4 The Association of Professional Geoscientists of Nova Scotia, established pursuant to the *Societies Act*, is continued as a body corporate under the name “Association of Professional Geoscientists of Nova Scotia” and has perpetual succession and a common seal. 2002, c. 7, s. 4.

Head office

5 The head office of the Association must be within the Halifax Regional Municipality. 2002, c. 7, s. 5.

Objects

6 The objects of the Association are to

(a) promote and improve the proficiency of professional geoscientists in all matters relating to the profession;

(b) establish, maintain and develop standards of knowledge and skill among professional geoscientists;

(c) establish, maintain and develop standards of qualification and standards for the practice of geoscience;

(d) establish, maintain and develop standards of professional ethics among members of the Association, persons licensed to practise and members-in-training;

(e) do all such matters and things as will advance and protect the interests of professional geoscientists in the profession;

(f) assure the general public of the proficiency and competency of professional geoscientists in the practice of the profession; and

(g) do all such other matters and things as may be necessary for or incidental or conducive to the welfare of professional geoscientists and their usefulness to the public. 2002, c. 7, s. 6.

Powers

7 The Association has all of the powers vested in a company under the *Companies Act* and, in addition, is authorized and empowered to

(a) provide for the government, regulation, discipline and honour of members of the Association, persons licensed to practise and members-in-training;

(b) acquire, hold and dispose of real and personal property or any part thereof;

(c) borrow money for the purpose of carrying out any of the objects of the Association and give security for any money so borrowed on any of the real, personal or mixed property of the Association by way of mortgage, pledge, charge or otherwise;

(d) establish and maintain a register of professional geoscientists which is the official register of persons entitled to practise professional geoscience;

(e) fix and collect the fees payable by any person upon being admitted as a member of the Association, licensed to practise or enrolled as a member-in-training, fix and collect the fees payable by any person desiring to write any examination prescribed by the Association with a view to becoming a member of the Association or being enrolled as a member-in-training, fix and collect the annual dues payable by members of the Association, persons licensed to practise and members-in-training, and exempt any person from the payment of any fees or dues for such reason and upon such terms and conditions as the Council may determine;

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

(g) prescribe the nature and extent of the education and practical experience that must be possessed by any person before being permitted to practise professional geoscience or before being enrolled as a member-in-training;

(h) adopt and require adherence to standards of practise, competence and conduct, and performance standards and technical standards, for members of the Association, persons licensed to practise and members-in-training;

(i) provide facilities for determining by examination or other means the competency of persons seeking to practise professional geoscience or to be enrolled as members-in-training and grant certificates of registration and licences to practise to persons qualified to practise;

(j) arrange and establish ways and means by which persons may be trained in the profession of geoscience;

(k) negotiate for and on behalf of any member of the Association or member-in-training in any matter pertaining to the professional welfare of the member or member-in-training;

(l) enter into agreements on behalf of the Association or members of the Association or members-in-training with any person or association of persons as may be necessary for or incidental or conducive to the carrying out of the objects of the Association;

(m) prescribe conditions, requirements and procedures for the registration of members of the Association, the enrolment of members-in-training and the issuance of licences to practise, and the renewal and reinstatement thereof;

(n) subject to the approval of the Governor in Council, make, amend and repeal bylaws

(i) relating to the objects or powers of the Association, including matters within or reasonably incidental to any object or power,

(ii) respecting any matter or thing expressly required or authorized by this Act to be the subject of a bylaw,

(iii) defining any word or expression used but not defined in this Act or better defining any word or expression defined in this Act,

(iv) generally, as considered necessary or advisable by the Council for the carrying into effect of this Act;

(o) do all other matters and things as may be necessary for or incidental or conducive to the welfare of professional geoscientists and their usefulness to the public. 2002, c. 7, s. 7.

Meetings

8 (1) The Association shall, in the manner provided by the bylaws, hold an annual meeting in each calendar year and such other meetings as are required.

(2) Only a member of the Association is entitled to vote at a meeting of the Association. 2002, c. 7, s. 8.

Corporate seal and personal seals

9 (1) The Association shall have a corporate seal.

(2) Every person registered as a member of the Association shall have a seal, the impression of which must bear the words "The Association of Professional Geoscientists of Nova Scotia" and the registration number of the member and with which the member shall stamp all official documents prepared by the member.

(3) Every person licensed to practise shall have a seal bearing the words "The Association of Professional Geoscientists of Nova Scotia" and the licence to practise number of the person licensed to practise and the person licensed to practise shall stamp all official documents prepared by that person. 2002, c. 7, s. 9.

Membership

10 (1) Any person is entitled to be registered as a member of the Association upon filing with the Registrar satisfactory proof that the person has tendered the fees and dues prescribed by the bylaws, has met any other conditions or requirements prescribed by the bylaws relating to registration and

(a) is a citizen of Canada, is lawfully admitted to Canada for permanent residence or is otherwise eligible to be registered as a member by reason of falling within such other class or category of citizenship or residence as prescribed by the bylaws;

(b) has obtained the knowledge requirements as established by the Council and has had, in the opinion of the Council, four years of relevant experience;

(c) is a registered member of an association of geoscientists, which association, 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 such other documentation as may be required by the bylaws;

(d) has passed examinations prescribed by the Council and has had a sufficient number of years of relevant experience to qualify the person, in the opinion of the Council, to practise professional geoscience; or

(e) has had, in the opinion of the Council, outstanding experience in geoscience.

(2) Every person who, in the opinion of the Council expressed by a resolution of the Council, has complied with subsection (1), shall, in the manner prescribed by this Act and the bylaws, be registered as a member of the Association. 2002, c. 7, s. 10.

Qualifications for licence

11 (1) Any person is entitled to a licence to practise upon tendering the fees and dues prescribed by the bylaws and filing with the Registrar satisfactory proof that any other conditions or requirements prescribed by the bylaws have been met and that

(a) the person is a registered member in good standing of an association of geoscientists which association, in the opinion of the Council, is similarly constituted and has similar membership requirements to the Association; or

(b) the person is qualified to practise professional geoscience but is a resident of a province, state or country in which there is no association similarly constituted.

(2) Every person who, in the opinion of the Council expressed by a resolution of the Council, has complied with subsection (1) shall, in the manner prescribed by this Act and the bylaws, be licensed to practise professional geoscience. 2002, c. 7, s. 11.

Member-in-training

12 (1) Any person who has obtained the knowledge requirements as established by the Council or who has passed examinations prescribed by the Council, may, with the approval of the Council, be enrolled with the Association as a member-in-training.

(2) A person who, in the opinion of the Council, has complied with subsection (1) shall, in the manner prescribed by this Act and the bylaws, be enrolled as a member-in-training.

(3) A member-in-training is subject to the control of the Council in the manner provided by this Act and the bylaws. 2002, c. 7, s. 12.

Act does not apply

13 (1) For greater certainty, this Act does not apply to any person while a member of and on duty with any branch of the Canadian Armed Forces.

(2) This Act does not apply to a person engaged in the practice of geoscience as a member-in-training while employed or engaged and under the direct supervision of a professional geoscientist who assumes full responsibility for the work.

(3) Nothing in this Act prevents a person from assisting in the performance of any professional geoscience service or work while the person is employed or engaged, if the service or work is under the direct supervision of a professional geoscientist who assumes full responsibility for the work.

(4) Nothing in this Act prohibits or precludes any person from practising any profession, carrying out any inspection or working in any trade or calling with respect to which the person is registered, licensed or otherwise authorized under any other enactment. 2002, c. 7, s. 13.

Partnerships, associations and bodies corporate

14 (1) A partnership, association of persons or body corporate may not be registered as a member of the Association or licensed to practise.

(2) A partnership, association of persons or body corporate may undertake and carry out the application of geoscience in its own name if one of its principal and customary functions is the application of geoscience and such application of geoscience is carried on under the supervision of a member or full-time permanent employee of the partnership, association or body corporate who holds a certificate of registration or a licence to practise.

(3) A partnership, association of persons or body corporate that, in the opinion of the Council expressed by a resolution of the Council, has complied with subsection (2) shall, in the manner prescribed by this Act and the bylaws, be issued a certificate of authorization. 2002, c. 7, s. 14.

Council

15 (1) The Council consists of

(a) the President, immediate Past-president and the Vice-president, who must be members of the Association and who are elected and hold office as provided by the bylaws;

(b) six other members of the Association who are elected and hold office as provided by the bylaws; and

(c) two persons who are not members of the Association or licensed to practice, who are appointed by the Governor in Council and hold office as prescribed by the bylaws.

(2) No person may be elected or appointed to the Council or hold office as a member of the Council unless that person meets all the requirements of this Act and the bylaws relating to the qualifications, nomination, appointment and election of persons to the Council and is a resident of the Province.

(3) A majority of the members of the Council constitutes a quorum.

(4) For greater certainty,

(a) a vacancy in the membership of the Council, including a vacancy within the category referred to in clause (1)(c), does not affect the ability of the Council to discharge its powers and duties, if the number of members of the Council remaining in office is not fewer than a quorum;

(b) the absence of a member of the Council from any meeting, including persons appointed pursuant to clause (1)(c), does not affect the ability of a quorum of the Council to discharge any of the powers and duties of the Council.

(5) The President holds office until a successor is elected and shall act as presiding officer at the meetings of the Council and of the Association, voting only when the votes are evenly divided.

(6) The Vice-president has all the powers of the President in the absence of the President.

(7) The Council shall appoint annually a Registrar, a Secretary and a Treasurer, who shall perform the duties assigned to them by this Act and the bylaws and the Council may appoint one person to any one or more of the offices of Registrar, Secretary and Treasurer.

(8) The Council shall appoint annually such other officers as may be necessary for carrying out this Act and the bylaws.

(9) The members of the Council, officers and examiners appointed under this Act and the bylaws must be paid such fees and expenses as prescribed by the bylaws.

(10) The Council shall provide for the general management of the affairs and business of the Association in accordance with this Act and the bylaws.
2002, c. 7, s. 15.

Proposed bylaws

16 (1) A proposed new bylaw or the amendment or repeal of an existing bylaw must be presented in writing to the Council signed by at least 10 members of the Association or approved by resolution of the Association or Council.

(2) The proposed bylaw, amendment or repeal must then be sent by the Secretary, without delay, in the form of a letter ballot to every member of the Association, and the ballot must be returnable at a date to be fixed by the Council.

(3) Immediately after the date referred to in subsection (2), scrutineers appointed by the Council shall count the ballots and report the result to the Council.

(4) Where at least two thirds of the valid ballots affirmatively approve of the proposed bylaw, amendment or repeal, the Secretary shall submit the proposed bylaw, amendment or repeal to the Governor in Council for approval. 2002, c. 7, s. 16.

Admissions Board

17 The Council shall, in the manner provided by the bylaws, appoint annually an Admissions Board consisting of members of the Association who are residing within the Province and may, at any time, fill any vacancy on the Board, replace any member of the Board and add to the membership of the Board. 2002, c. 7, s. 17.

Duties of Board

18 The Board shall, in the manner provided by the bylaws,

(a) examine and report on all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration as a member of the Association, a licence to practise or enrolment as a member-in-training; and

(b) set and conduct the examinations of candidates for membership and enrolment as members-in-training and file the results of examinations. 2002, c. 7, s. 18.

Joint practice boards, education and examinations

19 (1) The Council may establish joint practice boards or reciprocal arrangements with any similarly constituted association in one or more provinces of Canada or any professional body it considers appropriate to assist in developing and maintaining a professional relationship with that body.

(2) Where any examinations are held in the Province, the Council may establish standards and qualifications for the evaluation of knowledge, experience, competence, character, professional practice and continuing education requirements in respect of the examination of candidates for membership or renewal or enrolment as a member-in-training. 2002, c. 7, s. 19.

Complaints Committee and Discipline Committee

20 (1) The Council shall, in the manner provided by the bylaws, establish a Complaints Committee and appoint the members of the Committee.

(2) There is a Discipline Committee of the Association, the members of which must be elected in the manner provided by the bylaws from a list of candidates who are considered qualified by the Council.

(3) The composition, quorum, conduct, procedure and powers and duties of the committees referred to in subsections (1) and (2), the means of appointment or election of the members of such committees, their qualifications and their term or terms of office, the filling of vacancies and the establishment of panels to exercise the powers and fulfill the duties of the committees, must be as provided by the bylaws.

(4) Without limiting the generality of subsection (9), the committees referred to in subsections (1) and (2), including, for greater certainty, panels of the committees established under the bylaws, may, to the extent provided by the bylaws, have and exercise the following powers:

(a) in the case of the Complaints Committee, power to investigate, report on, refer, dismiss or otherwise dispose of complaints;

(b) in the case of the Discipline Committee, power to hear, make findings respecting, adjudicate, dismiss or otherwise dispose of complaints, power to make orders and directions related thereto and, where the Discipline Committee makes a finding that a member of the Association or person licensed to practise is guilty of either unprofessional conduct or incompetence, or both, power to order the imposition of sanctions, penalties and remedial measures, which sanctions, penalties and remedial measures may include any one or more of the following:

(i) cancellation of the certificate of registration of a member of the Association, the licence of a person licensed to practise or the enrolment of a member-in-training,

(ii) suspension, for a fixed period, of the certificate of registration of a member of the Association, the licence of a person licensed to practise or the enrolment of a member-in-training,

(iii) suspension of the certificate of registration of a member of the Association, the licence of a person licensed to practise or the enrolment of a member-in-training until the fulfillment of such conditions as may be specified by the Discipline Committee, including payment to the Association or any fine or costs, or both, as may be imposed by the Discipline Committee,

(iv) a direction that the imposition of a sanction or remedial measure be suspended or postponed for such period and upon such terms or for such purpose as the Discipline Committee considers appropriate,

(v) the reprimanding, admonishment or counselling of a member of the Association, person licensed to practise or a member-in-training,

(vi) the imposition of a fine, not exceeding \$10,000, payable to the Association within such time as is ordered by the Discipline Committee,

(vii) the imposition of terms, conditions or limitations on the entitlement of a member of the Association or a person licensed to practise to carry on the practice of professional geoscience or to provide services within the practice of professional geoscience to the public, or both, including the successful completion of a course of study, as specified by the Discipline Committee,

(viii) the fixing and imposition of costs to be paid to the Association by the member of the Association, the person licensed to practise or the member-in-training within such time as ordered by the Discipline Committee.

(5) A fine or costs ordered to be paid to the Association pursuant to this Section is a debt due to the Association and, in addition to any other remedy that may be available for the non-payment of a fine or costs in accordance with the order of the Discipline Committee, the Association may recover the fine or costs by civil action for debt.

(6) The Complaints Committee and the Discipline Committee have all the powers, privileges and immunities of commissioners appointed under the *Public Inquiries Act*, including the same powers of taking evidence, compelling the attendance of witnesses and the production of books, papers and documents and of punishing for contempt for the failure to comply with orders of the committee.

(7) Notwithstanding anything contained in this Act, the jurisdiction and authority of the Complaints Committee and the Discipline Committee continues notwithstanding that the person who is the subject of a complaint ceases to be registered as a member of the Association, licensed to practise or enrolled as a member-in-training, as the case may be.

(8) The Council may, in the manner provided by the bylaws, appoint a mediator who has those powers and duties conferred or imposed by the bylaws respecting the investigation, mediation, settlement and referral of complaints, allegations or other reports or information respecting unprofessional conduct or incompetence on the part of a member of the Association, person licensed to practise or member-in-training.

(9) In addition to the power to make bylaws conferred by other provisions of this Act, the Association may make bylaws providing for all matters relating to the investigation, mediation, settlement, adjudication or other resolution or disposition of complaints, and the imposition of sanctions, penalties or remedial actions, including bylaws

(a) prescribing the form in which complaints must be made for the purpose of this Section or bylaws made under this Section;

(b) prescribing procedures for the investigation, mediation, settlement, adjudication or other resolution or disposition of complaints;

(c) defining unprofessional conduct and incompetence on the part of members of the Association, persons licensed to practise and members-in-training for the purpose of this Act and the bylaws and, without limiting the generality of the foregoing, defining unprofessional conduct or incompetence to include categories of acts or omissions that, in the opinion of the Discipline Committee, constitute unprofessional conduct or incompetence;

(d) providing for the appointment of a mediator and prescribing the powers and duties of the mediator for the investigation, mediation, settlement or referral of complaints, and prescribing the term of office of the mediator and the filling of vacancies in that position;

(e) establishing the Complaints Committee and providing for the establishment of panels of the Committee, and prescribing the powers and duties of that Committee to investigate, report on, refer, dismiss or otherwise dispose of complaints;

(f) providing for the establishment of panels of the Discipline Committee with power to hear, make findings respecting, adjudicate and dispose of complaints and with power to impose sanctions, penalties or remedial measures and make orders and give directions;

(g) prescribing the sanctions, penalties or remedial measures that the Discipline Committee may impose upon or require of a member of the Association, a person licensed to practise or a member-in-training in respect of whom a finding of unprofessional conduct or incompetence, or both, is made by the Discipline Committee and providing for other orders and directions that may be imposed or given by the Committee;

(h) respecting the giving of public or other notice of decisions, orders or findings of the Complaints Committee and the Discipline Committee;

(i) conferring such duties and powers on officers, committees, including the Complaints Committee and the Discipline Committee or other bodies of the Association as appear advisable for the implementation of this Section and of bylaws made under this Section;

(j) respecting the registration, licensing to practise or enrolment as a member-in-training of persons whose certificate of registration, licence to practise or enrolment as a member-in-training has been cancelled or suspended by order of the Discipline Committee. 2002, c. 7, s. 20.

Appeal to Supreme Court

21 (1) An appeal lies to a judge of the Supreme Court of Nova Scotia from any decision or order of the Discipline Committee.

(2) An appeal under subsection (1) shall be taken by notice of appeal filed with the prothonotary of the Supreme Court of Nova Scotia and served on the Registrar within 30 days of the day when the decision or order was made by the Discipline Committee.

(3) Upon receipt of a notice of appeal pursuant to subsection (2), the Registrar shall, as soon as practicable, file with the prothonotary of the Supreme Court of Nova Scotia the record of proceedings before the Discipline Committee, including all testimony given and exhibits entered in evidence before the Committee, together with a copy of the decision or order from which the appeal is taken.

(4) A judge may decide the matter on the basis of the record furnished pursuant to subsection (3) or after a hearing *de novo*, as the judge thinks fit.

(5) The judge, on hearing an appeal, may do any or all of the following:

(a) make any finding that, in the judge's opinion, ought to have been made;

(b) quash, confirm or vary the decision or order of the Discipline Committee, or any part of the decision or order;

(c) refer the matter back to the Discipline Committee, with or without directions; or

(d) make any other order that the justice of the case requires.

(6) The costs of an appeal pursuant to this Section are in the discretion of the judge. 2002, c. 7, s. 21.

Registration

22 (1) The Registrar shall, in the manner provided by the bylaws, keep a register and enrol in the register in the manner provided by the bylaws the names of all persons who are members, licensed to practise or members-in-training and the register must be open for public inspection at all times without charge.

(2) Subject to this Act and the bylaws, the Registrar shall issue a certificate of registration or a licence to practise, as the case may be, to a person whose registration as a member of the Association or to a person to whom the granting of a licence to practise, as the case may be, has been approved under this Act by resolution of the Council.

(3) All certificates of registration and licences to practise expire on December 31st of the year for which they are issued, but are renewable by the Registrar for one year, from year to year, if the holder meets the requirements of this Act and the bylaws for renewal of registration as a member of the Association or issuance of a licence to practise, as the case may be.

(4) Where the Council refuses to pass a resolution authorizing any person to be registered as a member of the Association or licensed to practise or, where the Registrar refuses to register or issue a certificate of registration or licence to practise to a person, the person aggrieved, upon serving 10 days' notice upon the Secretary, has the right to apply to a judge of the Supreme Court of Nova Scotia who, upon due cause shown, may grant an order directing the Council and the Registrar to register the name of the person as a member of the Association or to issue to the person a licence to practise or make such other order as may be warranted by the facts, and the Council shall forthwith comply with the order. 2002, c. 7, s. 22.

Annual dues

23 (1) Every person who is a member of the Association licensed to practise or a member-in-training, shall pay on January 1st in each year to the Treasurer or any person delegated by the Council to receive it, the annual dues prescribed by the bylaws, which dues are deemed to be a debt due by the person and recoverable, with costs, in the name of the Association in any court of competent jurisdiction.

(2) Where any member of the Association, person licensed to practise or a member-in-training omits to pay the annual dues prescribed by the bylaws within six months of the date upon which the dues become due, the Registrar, after issuing 10 days' notice by registered letter addressed to the last known address of the person on the register, shall cause the name of the person to be erased from the register and the person ceases to be a member of the Association, licensed to practise or a member-in-training, as the case may be. 2002, c. 7, s. 23.

Offences

24 (1) Any person to whom a certificate of registration or a licence to practise has not been issued or whose certificate of registration or licence to practise has expired or been suspended or cancelled under this Act, who

- (a) engages in the practise of professional geoscience;
- (b) uses verbally or otherwise the title of professional geoscientist or any abbreviation of such title;
- (c) uses verbally or otherwise any name, title, description or designation that may lead any person to believe that the person is a professional geoscientist or entitled to engage in the practise of professional geoscience; or
- (d) advertises, purports to be or engages in conduct in any way that implies or leads or may lead any other person to believe that such person is a professional geoscientist or entitled to engage in the practise of professional geoscience,

is guilty of an offence and liable upon summary conviction for the first offence to a fine of not less than \$2,000 and not more than \$10,000 and costs and, on failure to pay the same, to imprisonment for a period of not more than three months and for any subsequent offence to a fine of not less than \$10,000 and not more than \$25,000 and costs, and on failure to pay the same, to imprisonment for a period of not more than six months.

(2) Subsection (1) does not apply to a person who is, or is supervised by, a member of the Association of Professional Engineers of the Province of Nova Scotia under the *Engineering Profession Act* or the holder of a licence to practise professional engineering under that Act in respect of the practice of professional engineering or the performance of any act within, involving or related to engineering. 2002, c. 7, s. 24.

Offences

25 (1) Any partnership, association of persons or body corporate, not having as a partner or full-time permanent employee a person who holds a certificate of registration or a licence to practise, that

- (a) undertakes or carries out the application of geoscience;
- (b) uses verbally or otherwise any name, title, description or designation that may lead any person to believe that the partnership, association of persons, or body corporate is qualified or entitled to undertake or carry out the application of geoscience; or
- (c) advertises, holds out or conducts itself in any way implying or intending to lead any person to believe that the partnership, association of persons or body corporate is qualified or entitled to undertake or carry out the application of geoscience,

is guilty of an offence and the partnership or any partner, the association of persons or any member of the association or the body corporate or any director of the body corporate is liable upon summary conviction for the first offence to a fine of not less than \$5,000 and not more than \$25,000 and costs, and on failure to pay the same to imprisonment for a period of not more than three months and for any subsequent offence to a fine of not less than \$10,000 and not more than \$50,000, and on failure to pay the same to imprisonment for a period of not more than six months.

(2) Subsection (1) does not apply to a partnership, association of persons or body corporate entitled under the *Engineering Profession Act* to undertake and carry out the application of engineering in respect of the application of engineering or the performance of any act within, involving or related to engineering. 2002, c. 7, s. 25.

Liability for offence by employee or member

26 (1) Any person who, or any partnership, association of persons or body corporate that, directs or permits any member or employee who does not hold a certificate of registration or a licence to practise to apply geoscience is guilty of an offence and the person, partnership or any partner, association of persons or any member of the association or body corporate or any director of the body corporate, is liable upon summary conviction for the first offence to a fine of not less than \$5,000 and not more than \$25,000 and costs, and on failure to pay the same to imprisonment for a period of not more than three months and for any subsequent offence to a fine of not less than \$10,000 and not more than \$50,000 and costs, and on failure to pay the same to imprisonment for a period of not more than six months.

(2) Subsection (1) does not apply if the member or employee so directed or permitted is, or is acting under the supervision of, a member of the Association of Professional Engineers of the Province of Nova Scotia under the *Engineering Profession Act* or the holder of a licence to practise professional engineering under that Act and the direction or permission given is to perform an act within the practice of professional engineering or otherwise within, involving or related to engineering. 2002, c. 7, s. 26.

Fine for falsification of register

27 Any person who makes or causes to be made any wilful falsification in any of the registers maintained by the Registrar under this Act or the bylaws, is liable upon summary conviction to a fine of not less than \$2,000 and not more than \$10,000 and costs, and on failure to pay the same to imprisonment for a period of not more than three months. 2002, c. 7, s. 27.

Fine for false or fraudulent representation

28 Any person who wilfully procures or attempts to procure registration as a member of the Association, a licence to practise or to be enrolled as a member-in-training, or any partnership, association of persons or body corporate that wilfully procures or attempts to procure the issuance of a certificate of authorization, by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, or any person knowingly aiding or assisting a person therein, is liable upon summary conviction to a fine of not less than \$2,000 and not more than \$10,000 and costs, and on failure to pay the same to imprisonment for a period of not more than three months. 2002, c. 7, s. 28.

Laying of information

29 Any information for the prosecution of any person under this Act may be laid by any member of the Association or any person appointed by the Council. 2002, c. 7, s. 29.

Certificate as proof

30 A certificate purporting to be certified under the seal of the Association and the hand of the Registrar must be received in evidence in any court or elsewhere without proof of the seal of the Association or of the signature or of the official character of the person appearing to have signed the certificate, and without further proof is prima facie evidence of the issuance of a certificate of registration, a licence to practise or of the non-issuance, suspension or cancellation thereof. 2002, c. 7, s. 30.

Proof

31 (1) In any prosecution under this Act, it is sufficient proof of the offence alleged if it is proved that the person, partnership, association of persons or body corporate accused has done or committed a single act of the kind complained of.

(2) An information or complaint for contravening this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding for prosecution under this Act is deemed objectionable or insufficient by reason of the fact that it relates to two or more offences. 2002, c. 7, s. 31.

Limitation period

32 No summary conviction proceeding may be commenced for any violation of this Act after five years from the date of the committing of the violation. 2002, c. 7, s. 32.

Act does not affect rights under Mineral Resources Act

33 Nothing in this Act prevents a person from carrying out prospecting and acquiring mineral rights or performing work necessary to maintain such rights under the *Mineral Resources Act*, if the person is engaged in activities that are confined to prospecting and does not purport to be out as a professional geoscientist. 2002, c. 7, s. 33.

Immunity for anything done in good faith

34 No action or other proceeding for damages may be brought against the Association, the Council or any board, panel or committee of the Association, or against a member of the Association, Council or any board, panel or committee, or against an officer, employee or agent or appointee of the Association, for anything done in good faith for or on behalf of the Association under this Act or the bylaws. 2002, c. 7, s. 34.

Former Society

35 (1) In this Section, “former Act” means the *Societies Act*.

(2) All persons who were, immediately before March 14, 2003, members of the society incorporated under the *Societies Act* on August 25, 1997, under the name the Association of Professional Geoscientists of Nova Scotia are declared to be members of the Association, and are deemed to hold certificates of registration issued for the year 2003, which certificates are deemed to remain in force until their expiry, suspension or cancellation under this Act.

(3) The bylaws of the Association made under the former Act continue in full force and effect until they are repealed or until and to the extent that they are amended in accordance with the procedure prescribed by this Act for the adoption and approval of bylaws.

(4) A proposed bylaw respecting any matter concerning which the Council has authority to make bylaws under this Act and for which approval was given before March 14, 2003, by two thirds of the members of the Association voting in accordance with the procedures prescribed in Section 16, is deemed to be a bylaw of the Association made under the former Act for the purpose of subsection (3).

(5) A certificate of registration, licence to practise or enrolment as a member-in-training issued or granted under the former Act continues in force and is deemed to be a certificate of professional geoscience registration, a licence to practise professional geoscience or enrolment as a member-in-training issued or granted for the year 2003, and is deemed to remain in force until its expiry, suspension or cancellation under this Act.

(6) Any proceedings in respect of a complaint that are commenced on or after March 14, 2003, must be dealt with under this Act and the bylaws, notwithstanding that the acts, conduct or events to which the complaint relates, occurred, in whole or in part, prior to March 14, 2003.

(7) Every order, direction or other disposition of the former complaints committee or the Council made or done in disciplinary proceedings under the former Act continue in full force and effect, notwithstanding the coming into force of this Act. 2002, c. 7, s. 35.

CHAPTER G-6

An Act to Establish a Day to Recognize the German Settlers of Nova Scotia

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

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WHEREAS Nova Scotia has a unique and rich heritage;

AND WHEREAS German settlers began to arrive in Nova Scotia in 1750 shortly after the founding of Halifax;

AND WHEREAS Lunenburg was founded in 1753;

AND WHEREAS the founding of Lunenburg is celebrated each year on June 7th;

AND WHEREAS the industriousness of the German settlers was immediately felt with the development of Lunenburg, the first predominately German-speaking settlement in Canada;

AND WHEREAS Old Town Lunenburg is a National Historic District and a UNESCO World Heritage Site;

AND WHEREAS the growth of the German heritage in Nova Scotia was not confined to the eighteenth century, but continues to the present day;

AND WHEREAS the mingling of the old and new ensures a vibrancy of German heritage throughout Nova Scotia, enriching the cultural mosaic of Nova Scotia:

Short title

1 This Act may be cited as the *German Settlers Day Act*. 2001, c. 32, s. 1.

German Settlers Day

2 Throughout the Province, in each and every year, June 7th shall be kept and observed under the name of German Settlers Day. 2001, c. 32, s. 2.

CHAPTER G-7

An Act Respecting Gold Clause Obligations

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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 *Gold Clauses Act*. R.S., c. 186, s. 1.

Application of Act

2 This Act applies to all obligations governed by the law of the Province, including obligations of the Crown. R.S., c. 186, s. 2.

Legal tender discharges obligation

3 Every obligation heretofore or hereafter incurred, whether such obligation is due, accruing due or past due, that gives or purports to give the obligee a right to require payment in gold, in a particular kind or standard of coin or currency, in an amount of money of Canada or elsewhere measured in gold or in a particular kind or standard of coin or currency, is discharged upon payment, dollar for dollar, in any coin or currency that at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. R.S., c. 186, s. 3.

Action to enforce payment

4 Notwithstanding that any obligation heretofore or hereafter incurred, whether such obligation is due, accruing due or past due, gives or purports to give the obligee the right to require payment in gold, in a particular kind or standard of coin or currency, in an amount of money of Canada or elsewhere measured in gold or in a particular kind or standard of coin or currency, no action may be brought or maintained whereby to enforce such obligation or to enforce any judgment obtained outside of the Province based on any such obligation, except to the amount of the face value of such obligation, dollar for dollar, in any coin or currency that at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. R.S., c. 186, s. 4.

CHAPTER G-8

An Act Respecting Government Annuities

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Short title

1 This Act may be cited as the *Government Annuities Act*. R.S., c. 187, s. 1.

Annuity exempt from seizure

2 The property and interest of an annuitant or of any person interested or entitled in or to any contract for an annuity, or an annuity itself, under the *Government Annuities Act* (Canada), or in or to any money payable or paid under or by reason of any such contract or annuity, is exempt from seizure, levy or attachment by or under the process of any court, and is not affected by any trust, charge or lien. R.S., c. 187, s. 2.

Conflict

3 Nothing in this Act contained is intended to conflict or be inconsistent with any enactment or provision of the *Government Annuities Act* (Canada). R.S., c. 187, s. 3.

CHAPTER G-9

An Act Respecting Government Records in Nova Scotia

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Short title

1 This Act may be cited as the *Government Records Act*. 1995-96, c. 7, s. 1.

Purpose of Act

2 The purpose of this Act is to

- (a) vest the records of public bodies in the Crown in right of the Province;
- (b) ensure comprehensive and accurate description and classification of records in the custody or under the control of a public body; and
- (c) authorize the retention and disposition of the records of public bodies. 1995-96, c. 7, s. 2.

Interpretation

3 In this Act,

- “Committee” means the Government Records Committee;
- “common records schedule” means a records schedule that is applicable to records common to more than one public body;
- “head”, in relation to a public body, means
 - (a) where the public body is a department, branch or office of the Government of the Province, the member of the Executive Council who presides over it;

(b) where the public body is a board, commission, committee, office, foundation, agency, tribunal, task force, council, association or other body of persons reporting directly to a member of the Executive Council in respect of its day-to-day operations, that member;

(c) where the public body is a board, commission, foundation, agency, tribunal, task force, council, association or other body of persons not reporting directly to a member of the Executive Council in respect of its day-to-day operations, the chair or presiding officer of the board, commission, committee, office, foundation, agency, tribunal, association or other body of persons; or

(d) in any other case, the person designated by the regulations as the head of the public body;

“Minister” means the member of the Executive Council assigned responsibility for this Act;

“municipal unit” means a regional municipality, a town, a municipality of a county or district or a village continued as a body corporate pursuant to the *Municipal Government Act*, and includes any agency, board or commission thereof;

“Public Archives” means the Public Archives of Nova Scotia;

“public body” means a Government department or a board, commission, committee, office, foundation, agency, tribunal, task force, council, 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

(a) are appointed by order of the Governor in Council; or

(b) if not so appointed or specified, in the discharge of their duties are public officers or servants of the Crown in right of the Province,

but does not include the House of Assembly, its committees, the House of Assembly Management Commission, the Office of the Speaker, the Office of the Clerk of the House, the Office of the Legislative Counsel, the Office of the Conflict of Interest Commissioner, the caucus offices, the offices of party leaders or any other offices within the jurisdiction of the House of Assembly or the Speaker and, for greater certainty, does include

(c) the Office of the Auditor General;

(d) Elections Nova Scotia; and

(e) the Office of the Ombudsman,

and includes a public body designated as a public body pursuant to clause 12(1)(f);

“records” means information in any form, created, received and maintained as evidence by a public body for business purposes and legal obligations;

“records management” means the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including

processes for capturing and maintaining evidence of, and information about, business activities and transactions;

“records schedule” means a comprehensive description and classification of the records of one or more public bodies, and includes a plan governing the life cycle of the records from creation or receipt to disposition. 1995-96, c. 7, s. 3; 2010, c. 5, s. 29; 2011, c. 5, s. 365; 2016, c. 8, s. 1.

Application of Act

4 (1) This Act applies to all records in the custody or under the control of a public body, including court administration records.

(2) This Act does not apply to

(a) 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, or judicial administration records;

(b) personal, political, party or constituency records of a member of the House of Assembly or the Executive Council; or

(c) material placed in the custody of the Public Archives by or for a person, agency or other organization other than a public body. 1995-96, c. 7, s. 4.

Responsibilities of Minister

5 (1) The Minister has the general supervision and management of this Act.

(2) The Minister is responsible for records management and related activities of public bodies, which may include

(a) developing and implementing a comprehensive records management program for public bodies;

(b) providing advice and assistance to public bodies

(i) for the development, implementation and maintenance of their records management systems, and

(ii) to ensure their compliance with this Act, the regulations and other legislation;

(c) recommending policies regarding records management that apply to public bodies;

(d) establishing records management standards, guidelines and best practices for public bodies;

(e) preparing common records schedules for use by public bodies;

(f) providing records storage and other records management services to public bodies, in accordance with the regulations, to ensure compliance with this Act, the regulations and other legislation; and

(g) any matter assigned to the Minister pursuant to the regulations. 1995-96, c. 7, s. 5; 2016, c. 8, s. 2.

Government Records Committee

- 6** There is a Government Records Committee consisting of
- (a) the Provincial Archivist;
 - (b) the Deputy Minister of Finance and Treasury Board or such other officer of the Department of Finance and Treasury Board as the Deputy Minister may designate;
 - (c) the Auditor General of Nova Scotia or such other officer as the Auditor General may designate;
 - (d) the Deputy Attorney General or such other officer of the Department of Justice as the Deputy Attorney General may designate;
 - (e) the Deputy Minister of Service Nova Scotia or such other officer of the Department of Service Nova Scotia as the Deputy Minister may designate; and
 - (f) such other persons, not exceeding two, as the Minister may appoint. 1995-96, c. 7, s. 6; 2016, c. 8, s. 3.

Duties and powers of Committee

- 7** (1) The Committee shall
- (a) review records schedules submitted to the Committee by a public body; and
 - (b) review common records schedules for use by public bodies.
- (2) The Committee may
- (a) recommend that the Minister approve records schedules, including common records schedules; and
 - (b) request that the head of a public body revise and resubmit a previously submitted records schedule. 2016, c. 8, s. 4.

Prohibition

- 8** No person shall destroy, alienate or transfer to the Public Archives the records of a public body except in accordance with a records schedule approved by the Minister pursuant to this Act for those records. 1995-96, c. 7, s. 8.

Approval by Minister and effect

- 9** (1) The Minister may approve records schedules recommended for approval pursuant to clause 7(2)(a).
- (2) A records schedule has effect upon approval by the Minister. 1995-96, c. 7, s. 11; 2016, c. 8, s. 6.

Duties of public body

- 10** The head of a public body shall
- (a) where responsible for records not included in a common records schedule, prepare and submit to the Committee for review one or more records schedules for those records;

(b) where requested by the Committee to do so, revise and resubmit to the Committee for review a previously submitted records schedule to the Committee;

(c) apply any records schedules or common records schedules approved by the Minister and applicable to the public body to the records for which the head is responsible;

(d) protect and maintain records in the custody or under the control of the public body to preserve the usefulness, accessibility, authenticity and reliability of the records; and

(e) manage records in accordance with a comprehensive records management program developed and implemented by the Minister. 2016, c 8, s. 7.

Records vested in the Crown

11 The records kept by or in the custody of a public body or any Provincial or municipal officer in pursuance of the officer's duty as such officer are vested in the Crown in right of the Province. 1995-96, c. 7, s. 13.

Regulations

12 (1) The Minister may make regulations respecting any matter or thing that in the opinion of the Minister is necessary to carry out effectively the intent and purpose of this Act and, without limiting the generality of the foregoing,

(a) designating and establishing classes of records for the purposes of retention, destruction or permanent preservation of the records of a public body;

(b) further defining "common records schedule" for the purpose of Section 3;

(c) prescribing the content of common records schedules and records schedules;

(d) assigning matters to the Minister for the purpose of clause 5(2)(g);

(e) respecting the practices to be observed in dealing with records for the purposes of disposition and retention, and respecting the transfer of records to the Public Archives for permanent preservation;

(f) designating, as a public body for the purpose of this Act,

(i) any municipal unit,

(ii) any education entity as defined in the *Education Act*,

(iii) a university or college,

(iv) any agency, association, board, commission, corporation, office, society or other body

(A) any member of which is appointed by the Governor in Council or a member of the Executive Council,

(B) 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

(C) that performs functions pursuant to an enactment,

(v) any other entity the Minister considers appropriate;

(g) respecting the procedures for submitting and reviewing records schedules;

(h) respecting the procedures of the Committee;

(i) defining any word or expression used in this Act but not defined in 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*. 1995-96, c. 7, s. 14; 2016, c. 8, s. 8; 2018, c. 1, Sch. A, s. 115.

CHAPTER G-10

An Act Respecting the Guardianship of Children

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Short title

1 This Act may be cited as the *Guardianship Act*. 2002, c. 8, s. 1.

Interpretation

2 In this Act,
“child” means a person who is unmarried and under the age of majority, and includes a child who is unborn at the death of the child’s father;
“Public Trustee” means the Public Trustee appointed pursuant to the *Public Trustee Act*;
“Supreme Court” means the Supreme Court of Nova Scotia. 2002, c. 8, s. 2.

Appointment of guardian of the property of a child

3 (1) Upon application, the Supreme Court may appoint a parent of a child or another person as a guardian of the property of the child.

(2) The Supreme Court may appoint more than one guardian.

(3) Subject to an agreement between the parents of the child or a court order, the parents are equally entitled, as between themselves, to be appointed as guardians. 2002, c. 8, s. 3.

Circumstances to be considered by court

4 In deciding an application for the appointment of a guardian of the property of a child, the Supreme Court shall consider all relevant circumstances, including

- (a) the ability of the proposed guardian to care for and manage the property;
- (b) the merits of plans of the proposed guardian for the care and management of the property; and
- (c) the views and preferences of the child if those views and preferences can be reasonably ascertained. 2002, c. 8, s. 4.

Terms of guardianship

5 Upon appointing a guardian of the property of a child, the Supreme Court may

- (a) determine any aspects of the incidents of the guardianship;
- (b) limit the length of time during which the guardianship may be exercised;
- (c) limit the property in respect of which the guardianship may be exercised;
- (d) make any other decision respecting the guardianship that the Court considers necessary. 2002, c. 8, s. 5.

Performance bond

6 (1) Subject to subsection (2), the guardian of the property of a child shall enter into a bond for the performance of the guardian's duties and such bond must be in such terms, with or without surety, as the Supreme Court may require.

(2) Where the Supreme Court is of the opinion that a bond is not required, the Court may make an order dispensing with any bond.

(3) Any bond required by this Section is to be filed with the Court.

(4) Notwithstanding subsection (1), the Public Trustee is not required to enter into a bond. 2002, c. 8, s. 6.

Powers and responsibilities

7 (1) Unless the Supreme Court orders otherwise, the guardian of the property of a child

- (a) has, after filing with the Court any bond required by the Court pursuant to this Act,

- (i) charge of and is responsible for the care and management of the property of the child, and
- (ii) the right to receive any money due and payable to the child and give a release for it; and
- (b) may appear in court and prosecute or defend any action or proceedings in which the property of the child is or may be affected.

(2) Where more than one guardian is appointed, the guardians jointly have charge of and are responsible for the care and management of the property.

(3) Where there is more than one guardian and they are unable to agree on a matter respecting the care and management of the property of the child, any of the guardians may apply to the Supreme Court for directions and thereupon the Court may make any order it considers appropriate. 2002, c. 8, s. 7.

Trustee of property

8 (1) Where a person appoints a trustee of property that the person has devised, bequeathed or given to a child, the trustee is entitled to receive and hold that property for the child in accordance with the terms of the trust.

(2) For greater certainty, where a person authorizes, in writing, another person to receive property that the first person has devised, bequeathed or given to a child, that other person is a trustee of that property within the meaning of subsection (1). 2002, c. 8, s. 8.

Guardian subject to Trustee Act

9 A guardian of the property of a child is subject to the *Trustee Act*. 2002, c. 8, s. 9.

Accounts

10 (1) Notwithstanding Section 43 of the *Public Trustee Act*, on the application of any person considered by the Supreme Court as an appropriate person to represent the interests of a child, the Court may require that a guardian or trustee of the property of a child submit the guardian's or trustee's accounts with respect to the administration of the property to the Court.

(2) The Supreme Court may examine and pass the accounts submitted pursuant to subsection (1).

(3) The power of the Supreme Court granted by this Section applies to a final passing of accounts after the child has attained the age of majority. 2002, c. 8, s. 10.

Transfer of property at age of majority

11 Subject to the terms of a trust, the guardian of the property of a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of majority. 2002, c. 8, s. 11.

Management fees and expenses

12 A guardian of the property of a child is entitled to payment of a reasonable amount for fees for and expense of management of the property of the child. 2002, c. 8, s. 12.

Resignation or removal of guardian

13 (1) With leave of the Supreme Court, a guardian of the property of a child may resign as guardian upon such terms and conditions as the Court may determine.

(2) A guardian of the property of a child may be removed by the Supreme Court for the same causes for which trustees may be removed or because it is in the best interest of the child. 2002, c. 8, s. 13.

Public Trustee

14 (1) Where no person has been appointed to be guardian of the property of a child and the child is entitled to receive money

- (a) as a beneficiary under a life insurance policy;
- (b) as a death benefit;
- (c) as a beneficiary on an intestacy or under a will and the executor or administrator is not empowered to act as trustee of the child's share; or
- (d) under a settlement or a trust,

and no trustee is appointed by the will or other instrument to receive the money, the money must be paid to the Public Trustee.

(2) Where a person has been appointed to be guardian of the property of a child and the child is entitled to receive money

- (a) as a beneficiary under a life insurance policy;
- (b) as a death benefit;
- (c) as a beneficiary on an intestacy or under a will and the executor or administrator is not empowered to act as trustee of the child's share; or
- (d) under a settlement or a trust,

or a trustee is appointed by the will or other instrument to receive the money, the money may be paid to the Public Trustee if the guardian or trustee, as the case may be, requests and the Public Trustee agrees.

(3) The Public Trustee shall account to the guardian of the person of the child according to the provisions of the law, will, trust or other instrument. 2002, c. 8, s. 14; 2002, c. 30, s. 8.

Cash or liquid securities

15 Where

- (a) a child's share in an estate consists of cash or liquid securities;
- and

(b) the executor or administrator of the estate or a trustee appointed in or under the will or other instrument to hold the cash or liquid securities desires to be discharged,

the Public Trustee, in the discretion of the Public Trustee, may accept the child's share on behalf of the child for care and management while the child is under the age of majority. 2002, c. 8, s. 15.

Release by Public Trustee

16 The Public Trustee may give a release for money received by the Public Trustee pursuant to Section 14 or 15 and the release is as binding and effective as if the child had executed it and been of the full age of majority at the time it was given. 2002, c. 8, s. 16.

Duty to pay money or deliver property

17 (1) Where a person is under a duty to pay money or deliver personal property to a child and a guardian of the property of the child has not been appointed, the payment of the money or the delivery of the personal property, or a combination thereof, to a value of not more than \$2,000 by that person in any one-year period to

- (a) the child, if the child has a legal obligation to support another person;
- (b) a parent with whom the child lives;
- (c) a person who has lawful custody of the child; or
- (d) a guardian of the person of the child pursuant to Section 19,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid or total value of property delivered, or combination thereof, under this subsection in respect of the same obligation may not exceed \$10,000 during the time that the child is under the age of majority.

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child lives, a person who has lawful custody of the child or the guardian of the child has the same validity as if the Supreme Court has appointed the parent or the person as a guardian of the property of the child.

(4) A parent with whom a child lives, a person who has lawful custody of a child or the guardian of the person of the child pursuant to Section 19 who receives and holds money or personal property referred to in subsection (1) has the responsibility of a guardian of the property of the child for the care and management of the money or personal property. 2002, c. 8, s. 17.

Court orders respecting property

18 (1) Upon application by a parent of a child or another person, the Supreme Court may, by order, require or approve, or both require and approve,

- (a) the disposition or encumbering of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property;
- (c) the payment of all or part of money belonging to the child or of the income from real or personal property belonging to the child, or both.

(2) An order may be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbering, sale or payment is necessary or appropriate for the support or education of the child, will substantially benefit the child or is necessary or advisable to correct or address a problem or defect in the title to a property if correcting or addressing the problem or defect does not adversely affect the child.

(3) An order under subsection (1) may be made subject to the conditions that the Supreme Court considers appropriate.

(4) The order of the Supreme Court may provide

- (a) for the investment, disposal, and application of the proceeds of the sale, mortgage, lease or other disposal of the property and of any capital appreciation and income arising therefrom, for the benefit of the child;
- (b) for the maintenance, support or education of the child;
- (c) that any sale, mortgage, lease or other disposal of the property be made by the guardian of the property of the child or person appointed by the Court;
- (d) unless an enactment otherwise provides, that the guardian or person appointed by the Court file a bond to be approved by the Court that contains such terms and conditions as are ordered;
- (e) for the submission and filing of the accounts of the guardian or other person, relating to the investment and application of the proceeds of sale, mortgage, lease or other disposal of the property, with the Court for approval annually or at such times and in such manner as the Court may order;
- (f) for the remuneration of the guardian or other person;
- (g) for such other terms or conditions as the Court thinks just.

(5) Unless it is necessary for the maintenance, support or education of the child, a sale, mortgage, lease or other disposal may not be ordered to be made that is contrary to the provisions of any last will, transfer or conveyance by which the property was devised, transferred or conveyed.

(6) Where the Supreme Court makes an order pursuant to subsection (1), the Court may order that the guardian or another person named in the order execute the documents necessary to carry out the disposition, encumbrance, sale or payment.

(7) The Supreme Court by order may give the directions that it considers necessary for the carrying out of an order made pursuant to subsection (1).

(8) A document executed in accordance with an order under this Section is as effective as if the child by whom it was executed was of the age of majority or, where executed by another person in accordance with the order, as if the child had executed it and had been of the age of majority at the time.

(9) A person does not incur and shall not be considered to incur liability by making a payment in accordance with an order under clause (1)(c). 2002, c. 8, s. 18.

Appointment of guardian of the person of a child

19 (1) A person having care and custody of a child may appoint by will or by an instrument in writing executed in the presence of two witnesses, one or more persons to be the guardian or guardians of the person of the child after the death of or for any period during the lifetime of the person having care and custody.

(2) An unmarried parent who is under the age of majority may make the appointment referred to in subsection (1).

(3) An appointment under subsection (1) is effective only if

(a) the appointment is made by all persons having care and custody of the child on the day immediately before the appointment is to take effect; or

(b) the person who made the appointment and any person having care and custody of the child die at the same time or in circumstances that render it uncertain who survived the other.

(4) Notwithstanding clause (3)(b), where different guardians would result pursuant to that clause by appointments by different persons having care and custody, all the resulting guardians are joint guardians.

(5) An appointment under subsection (1) or (2) is not effective without the consent of the person appointed.

(6) An appointment under this Section does not restrict or diminish the jurisdiction of the Supreme Court with respect to the appointment or removal of guardians of the person of the child.

(7) This Section applies in respect of

(a) any will made or other instrument executed on or after August 29, 2002; and

(b) any will made or other instrument executed before August 29, 2002, if the testator is living on that day.

(8) For greater certainty, on the death of a person having care and custody of the child, any other person having care and custody is the guardian of the person of the child unless the Supreme Court appoints a guardian of the person of the child.

(9) An appointment under this Section is effective on the death of the appointer without the grant of probate. 2002, c. 8, s. 19.

Jurisdiction of Supreme Court preserved

20 This Act does not deprive the Supreme Court of its inherent jurisdiction to make orders with respect to children. 2002, c. 8, s. 20.

Effect of order

21 An order under this Act is effective notwithstanding that an appeal is taken from the order, unless the Supreme Court or the Nova Scotia Court of Appeal orders otherwise. 2002, c. 8, s. 21.

References to guardians in instruments

22 (1) For the purpose of construing an instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child is to be construed to refer to custody of the child.

(2) Subsection (1) applies to an instrument, Act or a regulation made under an Act made or enacted before or after August 29, 2002. 2002, c. 8, s. 22.

Regulations

23 The Governor in Council may make regulations

(a) defining any word or expression used in this Act and not defined in this Act;

(b) respecting any matter or thing that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act. 2002, c. 8, s. 23.

CHAPTER G-11

An Act Respecting the Mandatory Reporting of Gunshot Wounds

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Short title

1 This Act may be cited as the *Gunshot Wounds Mandatory Reporting Act*. 2007, c. 30, s. 1.

Interpretation

2 In this Act,
“facility” means a prescribed facility;
“health authority” has the same meaning as in the *Health Authorities Act*;
“hospital” means a hospital as defined in the *Hospitals Act*;
“local police service” means the detachment of the Provincial Police or the municipal police department responsible pursuant to the *Police Act* for providing police services to the area in which a hospital, facility or service is located;
“Minister” means the member of the Executive Council who is charged with the administration of this Act by the Governor in Council;
“prescribed” means prescribed by the regulations;
“service” means an emergency ambulance service, emergency health service, fire service, medical service or prescribed service. 2007, c. 30, s. 2; 2014, c. 32, s. 117.

Mandatory disclosure

3 (1) Every hospital, facility or service that treats an individual for a gunshot wound shall disclose to the local police service

- (a) the fact that an individual is being treated, or has been treated, for a gunshot wound;
- (b) the individual’s name, if known; and
- (c) the name and location of the hospital, facility or service.

(2) Subsection (1) applies whether or not the treatment by an employee of a hospital, facility or service is at the premises of the hospital, facility or service.

(3) The disclosure required pursuant to subsection (1) must be made orally by the prescribed person as soon as it is reasonably practicable to do so without interfering with the individual's treatment or disrupting the regular activities of the hospital, facility or service. 2007, c. 30, s. 3.

Other obligations not affected

4 Nothing in this Act prevents a hospital, facility or service from disclosing information to a local police service that the hospital, facility or service, as the case may be, is otherwise by law permitted or authorized to disclose. 2007, c. 30, s. 4.

No action lies

5 No action or other proceeding lies or may be instituted against a health authority, hospital, facility or service, a director, officer or employee of a health authority, hospital, facility or service or any other person, acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any responsibility imposed by this Act or the regulations. 2007, c. 30, s. 5; 2014, c. 32, s. 118.

Regulations

- 6 (1) The Governor in Council may make regulations
- (a) prescribing facilities and services for the purpose of this Act;
 - (b) respecting the manner and timing of disclosure of information pursuant to this Act, including prescribing the person or class of persons responsible for making the disclosure on behalf of a hospital, facility or service;
 - (c) exempting any person or class of persons from all or any part of this Act, and prescribing any circumstance in which all or any part of this Act does not apply;
 - (d) defining any word or expression used in this Act but not defined in this Act;
 - (e) further defining any word or expression defined in this Act;
 - (f) respecting any other matter or thing the Governor in Council considers necessary or advisable to carry out the purpose and intent 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. 30, s. 6.

CHAPTER G-12

An Act Respecting a Tax on Income Derived from Gypsum Mining Operations

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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 *Gypsum Mining Income Tax Act*. R.S., c. 190, s. 1.

Interpretation

2 In this Act,

“gypsum” includes any gypsum-bearing substance removed from a mine;

“income derived from mining operations” means the net profit or gain derived or deemed to have been derived from mining operations by a person engaged therein;

“inspector” means an inspector appointed under this Act;

“mine” includes a quarry or any work or undertaking in which gypsum is extracted or produced;

“mining operations” means the extraction or production of gypsum from or in any mine or its transportation to, or any part of the distance to, the point of egress from the mine, including any processing thereof prior to or in

the course of such transportation, but not including any processing thereof after removal from the mine;

“Minister” means the Minister of Natural Resources and Renewables. R.S., c. 190, s. 2.

Act does not apply

3 This Act does not apply to a person whose annual income derived from mining operations does not exceed \$5,000. R.S., c. 190, s. 20.

Taxation

4 Every person who carries on mining operations shall pay to the Minister a tax on the annual income derived from those operations at the rate, in the manner and at the times fixed by or under this Act. R.S., c. 190, s. 3.

Calculation of income

5 (1) The annual income derived from mining operations is ascertained and fixed in the manner set out in this Section.

(2) The gross receipts from the year’s mining operations, or where the gypsum or any part thereof is not sold, or is treated or processed by or for the operator of the mine upon the premises or elsewhere, the actual market value of the gypsum at the point of egress from the mine or, where there is no means of ascertaining the market value, where there is no established market price or value or where the gypsum is sold to a partner or associate of the operator of the mine or to a parent or subsidiary company of an incorporated operator, the value of the same as appraised by the Minister or such person appointed by the Minister, must be ascertained, and from the amount so ascertained the following and no other expenses, payments, allowances or deductions must be deducted and made:

(a) the actual and proper working expenses of the mine, both underground and above ground, including salaries and wages of necessary superintendents, forepersons, workers, firefighters, engine operators, labourers and employees of all sorts employed at or about the mine and the actual and proper salaries and office expenses for necessary office work done at the mine and in immediate connection with the operation thereof;

(b) the cost of supplying power and light and all other means of transportation used in the mining operations or in handling the gypsum;

(c) the actual cost price of food and provisions for all employees whose salaries or wages are made less by reason of being furnished therewith;

(d) the actual cost of explosives, fuel and any other supplies necessarily used in the mining operations;

(e) any actual and proper outlay incurred in safeguarding and protecting the mine or gypsum;

(f) the cost of proper insurance upon the output, if paid or borne by the operator, and upon the plant, machinery, equipment and

buildings used for or in connection with the mining operations or for storing the gypsum;

(g) an allowance of a sum for annual depreciation by ordinary wear and tear of the said plant, machinery, equipment and buildings, such sum to be based upon the probable annual average cost of repairs and renewals necessary to maintain the same in a condition of efficiency and in no case to exceed for any year such amount as in the opinion of the Minister is reasonable in accordance with sound operating and accounting practices;

(h) the cost of actual work done in sinking new shafts, making new openings, workings or excavations of any kind, or of stripping, trenching or diamond drilling in or upon the land upon which the mine is situate, or upon any other land belonging to the same operator in the Province, or the cost of any work that, in the opinion of the Minister, has for its object the opening of mines or testing for gypsum, provided, however, that such expenditure is bona fide, and actually made or borne by the person or persons liable, or who would, but for this provision, be liable to taxation upon the said mine under this Act, and that separate accounts of such expenditure are kept and an affidavit or affidavits giving reasonable details of the nature, extent and location of such work must be furnished to the Minister with the annual statement hereinafter provided for;

(i) payments of municipal taxes upon the mine and on property in immediate connection with it;

(j) donations made in the Province for charitable, educational, religious or public purposes approved by the Minister;

(k) such other allowance as may be approved by the Minister as being in accordance with sound operating and accounting practices.

(3) No allowance or deduction may in any case be made for the cost of plant, machinery, equipment or buildings, for capital invested, or for interest or dividend upon capital or stock or investment. R.S., c. 190, s. 4.

Annual statement and books of account

6 (1) On or before March 1st in each year, every person who carried on mining operations shall, without notice or demand to that effect, in addition to any other statements which may be required, deliver to the Minister a detailed statement, in which must be set forth

- (a) the name and description of the mine;
- (b) the name and address of the person or persons owning or operating the mine as lessee, agent, occupant or otherwise;
- (c) the quantity of gypsum mined at the mining premises during the year ending on December 31st last preceding;
- (d) the value of the gypsum mined;
- (e) a complete copy of the balance sheet and profit and loss statement in the form prescribed by the Minister.

(2) Such statement and information must be made and furnished by the operator of the mine, and must also show in other columns the various expenses, payments, allowances and deductions that may properly be made under Section 5, and such statement must also show by way of summary the total receipts or market value at the mine of the year's output, and the total amount of the expenses, payments, allowances and deductions to be deducted therefrom and the balance of income for the year as is provided in Section 5.

(3) In addition to the statement mentioned in subsections (1) and (2) the Minister may, at any time of the year, require from any person connected with the operations or management of a mine, a statement under affidavit containing such information or particulars as the Minister thinks proper to require.

(4) Every person who carries on mining operations shall keep proper books of account of the gypsum taken from the mine showing the quantity, weight and other particulars of the same, and the value thereof, and showing the amount derived from the sale of the gypsum, and shall also keep proper books showing each of the several expenses, payments, allowances or deductions mentioned in Section 5 and any other facts and circumstances necessary or proper for ascertaining the amount of the tax payable under this Act.

(5) Where any doubt arises as to where such book or books must be kept, or as to how many or what books must be kept, the Minister shall determine the number and character of the books to be kept and the place or places at which they must be kept. R.S., c. 190, s. 5.

Default or incorrect statement

7 Where default is made in filing any statement required by Section 6, or where the Minister is of opinion that any return made or statement filed is incomplete or not correct, the Minister may investigate the matter or appoint some person to make any investigation considered proper and report to the Minister, and the Minister may fix and determine the quantity of gypsum mined in any mining operations and that determination is final. R.S., c. 190, s. 6.

Alternative statement

8 (1) A person who carries on mining operations may, in any year in lieu of submitting the detailed statement required by Section 6, submit to the Minister a statement showing merely the total quantity of gypsum mined by that person in the preceding year and the aggregate amount of income derived from the mining operations calculated at the rate of 52¢ per ton of the gypsum so mined.

(2) The Minister may accept a statement submitted under subsection (1) in lieu of or in substitution for a statement and return in the form required by Section 6.

(3) When a statement is submitted under this Section, the income derived from mining operations of the person submitting the statement shall, for the purpose of this Act, be the income shown on that statement. R.S., c. 190, s. 7; 2008, c. 2, s. 5.

Rate of tax

9 The tax payable by any person under this Act is at the rate of 33⅓% upon the person's income derived from mining operations. R.S., c. 190, s. 8; 2008, c. 2, s. 6.

Quarterly tax payment and return

10 (1) The tax imposed and provided by this Act becomes due and is payable to the Minister on or before the 20th day of January, April, July and October in respect of income earned on gypsum recovered during the quarter immediately preceding the first day of January, April, July and October.

(2) The tax remitted pursuant to subsection (1) must be accompanied by a sworn return stating the amount of gypsum recovered during each of the months of the quarter immediately preceding the first day of January, April, July and October and the total amount of tax payable on the income derived therefrom. R.S., c. 190, s. 9.

Interest

11 All taxes bear interest from the date on which they become due at the rate of six per cent per year. R.S., c. 190, s. 10.

Recovery of tax

12 Any tax and interest thereon payable under this Act or the regulations may be recovered by the Minister in any court of competent jurisdiction as a debt due to the Crown in right of the Province in an action that must be tried without a jury and that must be brought and prosecuted by the Minister in the Minister's name of office and may be continued by the Minister's successor as if no change had occurred. R.S., c. 190, s. 11.

Priority of claim

13 The claim of the Minister for tax and interest thereon has priority over every other charge or claim against the mine where the mining operations in respect of which the tax is payable were carried on, and against all fixtures, machinery, goods and chattels used in operating the mine, except a claim duly registered under the *Builders Lien Act*. R.S., c. 190, s. 12.

Land Registration Act

14 The claim referred to in Section 13 is not a charge against a parcel registered pursuant to the *Land Registration Act* until a certificate evidencing the claim has been recorded in the register of the parcel. 2001, c. 6, s. 109.

Inspectors

15 The Minister may appoint such person or persons in the public service as necessary to be inspectors under this Act and may assign to them such duties as the Minister considers expedient in connection with the administration of this Act and the regulations. R.S., c. 190, s. 14.

Right of entry and inspection

16 The Minister or an inspector or any person designated by the Minister may at all times enter upon mining property for the purpose of making an inspection

and obtaining information as to the amount and value of the output of the mine, and, for this purpose, may descend all pits and shafts and use all such tackle, machinery and appliances belonging to the mine as are necessary or expedient, and shall have free ingress and egress, to, from and over all buildings, erections and vessels used in connection with the mine, and may take from the mining property such samples or specimens as desired, for the purpose of determining the value of the gypsum being taken therefrom, or any product thereof, and that person shall have full and complete access to all books of account, correspondence and documents maintained or used for or in connection with the actual operations and business of the mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired may not be disclosed to anyone, except so far as may be necessary for the purpose of this Act. R.S., c. 190, s. 15.

Penalty for failure to file statement

17 Every person who fails to file or submit a statement required by this Act is liable on summary conviction to a penalty of not more than \$25 for each day of default and in default of payment to imprisonment for one day for each five dollars of the penalty imposed. R.S., c. 190, s. 16.

Penalty for various matters

18 Every person who

(a) makes or participates in the making of a false statement in any statement filed or made under this Act;

(b) to evade payment of a tax imposed under this Act, destroys, alters, mutilates, secretes or otherwise disposes of any record required to be kept by this Act or the regulations;

(c) makes or participates in the making of false or deceptive entries or omits or participates in the omission of matters required to be recorded in any record required to be kept under this Act or the regulations;

(d) fails to keep any records or accounts required to be kept under this Act or the regulations,

is liable on summary conviction to a penalty of not more than \$1,000 and in default of payment to imprisonment for not more than six months. R.S., c. 190, s. 17.

Penalty for obstruction

19 Every person who hinders or obstructs the Minister or a person designated by the Minister or an inspector engaged under this Act in making an examination or inspection of premises or records or fails to give to them or any of them information or assistance required to be given under this Act is liable on summary conviction to a penalty of not more than \$500 and in default of payment to imprisonment for not more than three months. R.S., c. 190, s. 18.

Liability of officer or agent

20 Where a corporation violates any provision of this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation is liable on summary conviction to the penalty provided for the violation, whether or not the corporation has been prosecuted or convicted. R.S., c. 190, s. 19.

Regulations

21 The Governor in Council may make regulations

(a) prescribing the duties and functions of inspectors appointed under this Act;

(b) prescribing forms of statements and returns and of other documents and records to be made, used or kept under this Act;

(c) respecting any other matter or thing that the Governor in Council considers expedient for the carrying out of this Act. R.S., c. 190, s. 13.
